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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 95–082–2]

Importation of Cut Flowers

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the cut flower regulations by eliminating the import permit and notice of arrival requirements for imported cut flowers of camellia, gardenia, rhododendron, rose, and lilac. This action eliminates an unnecessary regulatory burden. The import permit and notice of arrival requirements were used to provide information about shipments. However, much of this information is available on cargo manifests. This action will not increase the risk of imported cut flowers introducing exotic plant pests into the United States, since all cut flowers, including cut flowers of camellia, gardenia, rhododendron, rose, and lilac, are routinely inspected upon arrival in the United States and, if necessary, fumigated.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Peter M. Grosser, Senior Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road, Unit 139, Riverdale, MD 20737–1236, (301) 734–8891.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR part 319.74 through 319.74–7 (referred to below as ''the regulations'') govern the importation of certain cut flowers into the United States. These regulations, among other things, require that all cut flowers imported into the United States be inspected for injurious plant pests and, if necessary, fumigated. Sections 319.74–2a, 319.74–4, and 319.74–5 of the regulations also require that persons wishing to import cut flowers of camellia (*Camellia* spp.), gardenia (*Gardenia* spp.), rhododendron (*Rhododendron* spp. [including Azalea]), rose (*Rosa* spp.), and lilac (*Syringa* spp.) into the United States apply for and receive a permit for importation, and that a notice of arrival be submitted to the Collector of Customs immediately after a shipment of these cut flowers arrives in the United States. The regulations do not require an import permit or notice of arrival for any other types of cut flowers.

On August 2, 1996, we published in the **Federal Register** (61 FR 40362–40364, Docket No. 95–082–1) a proposal to amend the regulations by eliminating the import permit and notice of arrival requirements for imported cut flowers of camellia, gardenia, rhododendron, rose, and lilac. Because cut flowers of camellia, gardenia, rhododendron, rose, and lilac are the only types of cut flowers for which we have required an import permit or notice of arrival, we also proposed to remove all references to import permit and notice of arrival requirements from the regulations. In addition, we proposed to eliminate a provision allowing the Deputy Administrator of Plant Protection and Quarantine to deny certain importations of cut flowers into a State, Territory, or District of the United States by refusal of an import permit or by other means.

We solicited comments concerning our proposal for 30 days ending September 3, 1996. We received four comments by that date. They were from industry representatives. The comments are discussed below.

Pest Risk

All of the commenters expressed concern that the proposed removal of the import permit and notice of arrival requirements would result in an increased plant pest risk associated with imported cut flowers of camellia, gardenia, rhododendron, rose, and lilac.

We do not believe that eliminating the import permit and notification requirements for cut flowers of camellia, gardenia, rhododendron, rose, and lilac will increase the risk of plant pest introduction into the United States. The import permit and notice of arrival requirements for cut flowers of camellia, gardenia, rhododendron, rose, and lilac were only used to collect information, such as country of origin, names and addresses of the shipper and consignee, and expected arrival date, about a shipment of these types of imported cut flowers. However, much of this information is available on a conveyance's cargo manifest. We do not expect that the elimination of these requirements will increase the volume of imported cut flowers, or pests in cut flower imports, entering the United States. Our inspection, not the import permit or notice of arrival, helps prevent the introduction of plant pests into the United States by determining the condition of a shipment of imported cut flowers. If an inspector determines that a shipment of cut flowers is infested with pests of concern, that shipment is fumigated, destroyed, or re-exported to help prevent the introduction of exotic plant pests into the United States. This rule does not affect our inspection procedures. Therefore, we are making no changes in response to this comment.

Budget

One commenter expressed concern that if the import permit and notice of arrival requirements for camellia, gardenia, rhododendron, rose, and lilac are eliminated, cut flowers will enter the United States in such great numbers at so many different ports of entry that APHIS will not have the funds to keep ports staffed with experienced inspectors of cut flowers.

We do not anticipate that this action will increase the number of imported cut flowers entering the United States because the import permit and notice of arrival requirements are information collection requirements only; they do not affect the number of importations or the manner of inspection of imported cut flowers upon arrival in the United States. APHIS has adequate personnel at all ports that may receive imported cut flowers to ensure that thorough inspections of shipments are performed and regulatory requirements are met. Cut flowers already enter the United States in large numbers through more than 50 international ports of entry. Staffing levels at these international ports, and at domestic ports of entry, have increased to accommodate inspections of rising levels of plant product imports into the United States. In terms of budget issues related to

staffing levels, user fees cover all Agriculture Quarantine Inspection activities, including the inspections of cut flowers entering the United States.

Propagation of Roses

One commenter noted that cut flowers of roses are easily propagated. The commenter felt that if the import permit and notice of arrival requirements for roses were eliminated, a pathway to circumvent requirements for postentry quarantine of propagative material would be made more readily available. The commenter remarked that current import permit requirements at least make the importer accountable for the ultimate disposition of the shipment.

An import permit is not signed by the permittee; therefore, the permittee has not made any agreement with APHIS as to the ultimate disposition of a shipment. The elimination of the permit requirement does not lessen the importer's duty to comply with other regulatory requirements on disposition. If a shipment of cut flowers is imported into the United States, it must be imported in accordance with the regulations.

Cut flowers are imported into the United States as consumption products to be used or sold for decorative purposes. Cut flowers are not imported for propagation. A very limited number of consumers may try to propagate cut flowers, but we regulate the importation of cut flowers based on the product's intended use as a consumption product. Therefore, we are making no changes in response to this comment.

Rhododendron

One commenter noted that when the final rule for the importation of plants in growing media was published, action regarding *Rhododendron* spp. was deferred pending decisions on issues related to the Endangered Species Act. The commenter suggested that if these issues have not yet been resolved, it may be prudent to postpone inclusion of *Rhododendron* spp. in the final rule.

The rulemaking referred to by the commenter initially proposed to allow five new species of plants to be imported into the United States in growing media. Because we determined that additional analysis was necessary with respect to *Rhododendron* spp. and issues related to the Endangered Species Act, we did not include *Rhododendron* spp. in that final rule.

Our regulations already allow the importation of cut flowers of *Rhododendron* spp. and, under certain conditions, nursery stock in bare root of *Rhododendron* spp. (see 7 CFR 319.37–2(b)). This rule makes no changes to the requirements for importing nursery stock, and is not expected to increase the volume of cut flowers of *Rhododendron* spp. imported into the United States. Less than a dozen shipments of cut flowers of *Rhododendron* spp. have been imported into the United States since the beginning of fiscal year 1994. Therefore, we are making no changes in response to this comment.

Accordingly, based on the rationale set forth in the proposed rule and in this document, we are adopting the provisions of the proposal as a final rule without change.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. This action eliminates an unnecessary regulatory burden without increasing the risk of imported cut flowers introducing exotic plant pests, including plant diseases, into the United States. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

We are eliminating the import permit and notice of arrival requirements for imported cut flowers of camellia, gardenia, rhododendron, rose, and lilac.

The United States imported approximately $408 million worth of fresh cut flowers in 1994. Roses constituted the largest category of fresh cut flowers imported into the United States in 1994, accounting for 36 percent of the total value.

Although the United States imports cut flowers from many countries, in 1994, 5 countries represented approximately 92 percent of the total value of cut flowers imported into the United States. Colombia supplied the greatest percentage with 66 percent, followed by the Netherlands with 13 percent, Ecuador with 6.4 percent, Costa Rica with 3.7 percent, and Mexico with 3.3 percent. Also in 1994, 4 countries accounted for approximately 96.9 percent of the total value of rose imports into the United States; Colombia supplied the greatest percentage with 71.2 percent, followed by Ecuador with 13.6 percent, Mexico with 6.8 percent, and Guatemala with 5 percent.

Entities in the United States that could be affected by changes in cut flower import regulations are U.S. producers, importers, and wholesalers of cut flowers. Of the estimated 1,409 producers of cut flowers in the United States, approximately 85 percent are considered small entities. We do not expect that the volume of cut flowers imported into the United States will increase because of this rule, or that the pest risk presented by imported cut flowers will increase because of this rule. Therefore, we expect little, if any, change in the market price of cut flowers. As a result, we expect that the impact on producers of these varieties of cut flowers will be insignificant.

At this time, we cannot determine the number of importers of cut flowers. However, we do not expect this rule to affect the supply of cut flower importations, and, therefore, we expect any changes in costs or competition related to the importation of cut flowers of camellia, gardenia, rhododendron, rose, and lilac to be insignificant. As a result, we anticipate that the effect on importers of cut flowers of camellia, gardenia, rhododendron, rose, and lilac will be insignificant.

Of the estimated 3,043 wholesalers of cut flowers, approximately 96 percent are considered small entities. As stated earlier, we do not expect that the volume of cut flowers imported into the United States will increase, or that the pest risk presented by imported cut flowers will increase because of this rule. Therefore, we do not expect the price of cut flowers to be affected by this rule. As a result, we expect that the effect of this rule on wholesalers of imported cut flowers of camellia, gardenia, rhododendron, rose, and lilac will be insignificant.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings

before parties may file suit in court challenging this rule.

Paperwork Reduction Act

This rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Further, this rule eliminates the information collection or recordkeeping requirements in 7 CFR 319.74.

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

§ 319.74–1 [Amended]

2. In § 319.74–1, paragraph (c) is removed.

§ 319.74–2 [Amended]

3. Section 319.74–2 is amended as follows:

a. By removing paragraph (b).

b. By removing paragraph (c).

c. By removing the designation ''(a)'' preceding the first paragraph.

§ 319.74–2a [Removed]

4. Section 319.74–2a is removed.

§ 319.74–3 [Amended]

5. Section 319.74–3 is amended as follows:

a. By removing paragraph (b).

b. By redesignating paragraphs (c) and (d) as paragraphs (b) and (c), respectively.

c. In paragraph (a), the first sentence, by removing the words ''imported from the named foreign countries and localities, whether or not subject to permit requirements,''.

d. In paragraph (a), the second sentence, by removing the reference ''(d)'' and adding in its place the reference ''(c)''.

§ 319.74–4 [Removed]

6. Section 319.74–4 and footnote 1 are removed.

§ 319.74–5 [Removed]

7. Section 319.74–5 is removed.

§ 319.74–6 [Redesignated]

8. Section 319.74–6 is redesignated as § 319.74–4.

§ 319.74–7 [Removed]

9. Section 319.74–7 is removed.

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25486 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 96–046–3]

Importation of Fruits and Vegetables

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world. All of the fruits and vegetables, as a condition of entry, are subject to inspection, disinfection, or both, at the port of first arrival as may be required by a U.S. Department of Agriculture inspector. In addition, some of the fruits and vegetables are required to meet other special conditions. The removal of these prohibitions provides the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction and dissemination of injurious plant pests by imported fruits and vegetables.

We are also amending the regulations to extend the production area in Arava, Israel, where peppers may be grown for importation into the United States; to eliminate the distribution restrictions for peppers from Arava, Israel; to eliminate the trust fund provisions for papayas from Costa Rica; to declare all Provinces in Chile free of the Mediterranean fruit fly; and to make several nonsubstantive editorial changes to the regulations. These actions relieve restrictions while continuing to prevent the introduction of plant pests into the United States.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Campbell, Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 136, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 319.56 through 319.56–8 (referred to below as ''the regulations'') prohibit or restrict the importation of fruits and vegetables into the United States from certain parts of the world to prevent the introduction and dissemination of fruit flies and other injurious plant pests that are new to or not widely distributed within and throughout the United States.

On March 25, 1997, we published in the **Federal Register** (62 FR 14037–14044, Docket No. 96–046–1) a proposal to amend the regulations by allowing certain previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that the fruits and vegetables could introduce fruit flies or other injurious plant pests into the United States. We proposed to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses that indicated that the fruits or vegetables could be imported under certain conditions without significant pest risk.

We solicited comments concerning our proposal for 60 days ending May 27, 1997. We received 11 comments by that date. They were from representatives of industry and State governments. Six of the commenters supported the proposed rule in its entirety. The remaining 5 commenters had reservations about specific provisions of the proposed rule. Of those 5 commenters, 3 commenters had concerns about the proposed importation of papayas from Brazil. Upon further review and consideration of this issue, we are taking final action at this time on all portions of our March 27, 1997, proposed rule except the portion concerning papayas from Brazil. APHIS Docket No. 96–046–2 in this edition of the **Federal Register** seeks comment on our proposal to require a hot water treatment and require that certain actions be taken if fruit fly captures reach certain levels in the papaya production areas for the importation of papayas from both Brazil and Costa Rica. The proposal also seeks comment on any other issues involving the importation of papayas from Brazil.

The comments we have already received that raised concerns about actions other than the proposed importation of papayas from Brazil are discussed below.

Comment: Although the proposed rule mentions the risk associated with the introduction of injurious exotic insect pests and proposes criteria to prevent their movement into the United States with imported fruits and vegetables, the proposed rule does not refer to the possible introduction of exotic fungal, bacterial, and viral strains.

Response: The pest risk analysis prepared for each fruit or vegetable proposed for importation into the United States considers all of the injurious plant pests that might be associated with that fruit or vegetable. The term ''pest'' includes insect pests and all fungal, bacterial, and viral pathogens for which a plant may be a host. Our requirements for the importation of each fruit and vegetable covered in this rule present safeguards that we believe are adequate to prevent the introduction of all injurious plant pests into the United States.

Comment: More thorough pest risk analyses need to be prepared, and more thorough inspections need to be administered, to ensure that injurious plant pests do not enter the United States. Particularly without more detailed inspections, it is unreasonable to assume that any injurious plant pests will be, as stated in the proposed rule, ''readily detectable by an inspector.''

Response: All fruits and vegetables imported into the United States are subject to inspection at the port of entry in the United States by a U.S. Department of Agriculture (USDA) inspector. The inspector visually examines shipments for plant pests, or evidence of the presence of plant pests (for example, holes bored into fruit). When we say that certain plant pests are ''readily detectable by an inspector,'' we mean that these pests can be detected upon visual examination. The level of inspection we provide for a given shipment takes into account a number of factors, including pest interception records and the relative risk presented by pests associated with a particular fruit or vegetable. We believe that our inspections are conducted in a manner that provides a high degree of assurance that we will detect plant pests if they are present.

Regarding our pest risk analyses, we believe that the pest risk analyses we prepare and the safeguards we propose effectively prevent the introduction of plant pests by the commodities proposed for entry. Our pest risk analyses follow the guidelines accepted by the United Nations' Food and Agriculture Organization, International Plant Protection Convention, and North American Plant Protection Organization and provide written documentation on the pest risk potential for organisms that rank high for the likelihood of introduction and establishment. Pest risk analyses prepared for our proposed rules are available for public review and comment during the public comment period for the proposed rules.

Comment: Due to the stem nematode *Ditylenchus dispaci*, basil from Guatemala and leeks from Belgium and the Netherlands should be fumigated in accordance with the same provisions proposed for garlic from Romania before entering the United States.

Response: Ditylenchus dispaci is widespread in the United States and, therefore, is not considered an exotic plant pest. It is not subject to the same stringent measures, such as fumigation, taken to prevent the introduction of exotic plant pests into the United States.

However, there are certain factors that will mitigate the risk of *Ditylenchus dispaci* entering the United States with a shipment of leeks from Belgium or the Netherlands. Nematodes, including *Ditylenchus dispaci*, are found in soil or on the roots of plants; the plant hosts of nematodes must be planted, or must have a considerable amount of soil attached, in order for the nematodes to survive. Neither roots nor soil will be attached to basil imported from Guatemala, and though a small number of root hairs may be attached to leeks imported from Belgium or the Netherlands, those leeks will be required, under 7 CFR 330.300, to be cleaned of soil before importation to the United States. Further, basil from Guatemala and leeks from Belgium and the Netherlands will be imported into the United States for human consumption, not propagation.

For all of these reasons, we are not making any changes to the proposed rule in response to this comment.

Comment: Leeks from Belgium and the Netherlands could introduce several mites and aphids which may carry several serious pathogens, including leek yellow stripe potyvirus, shallot latent virus, and white tip disease, into the United States. Therefore, further consideration needs to be taken before these leeks are allowed to enter the United States.

Response: Leek yellow stripe potyvirus and shallot latent virus are spread by insect vectors, such as mites and aphids, but these viruses are transmitted in a nonpersistent manner, that is, the virus only survives in the vector for a few minutes. Therefore, it is unlikely that a mite or aphid associated with leeks from Belgium or the Netherlands arriving in the United States would carry an active strain of either virus.

White tip disease is not transmitted by vectors, so it is unlikely that a mite or aphid associated with leeks from Belgium or the Netherlands would introduce this disease into the United States. Therefore, we are making no changes to the proposed rule in response to this comment.

Comment: *Globodera rostochiensis* and *Globodera pallida* cysts could infest leeks from both Belgium and the Netherlands, as well as garlic from Romania. However, these pests are not mentioned in the pest risk analysis for leeks. Further analysis of the risk associated with these pests should be completed before the importation of such leeks or garlic is approved.

Response: Long considered one species, the golden nematode (*Heterodera rostochiensis*), also referred to as the potato cyst nematode, includes in fact two distinct species forming the genus Globodera: *Globodera rostochiensis* and *Globodera pallida*. Golden nematode, as a collective reference to *Globodera rostochiensis* and *Globodera pallida*, creates cysts on the roots of host crops. These nematodes are not listed in the pest risk analysis for leeks from Belgium and the Netherlands or garlic from Romania because *Allium* spp. are not host crops for these nematodes.

In addition, as discussed earlier, neither roots nor soil will be attached to leeks imported from Belgium or the Netherlands, or to garlic from Romania. Therefore, we do not believe that nematodes of any species will be associated with these imports. Also, the risk that any nematode would be introduced and become established in the United States on imported leeks is minimized by the fact that the leeks are imported for human consumption, not propagation.

In the unlikely event that golden nematode is associated with a shipment of leeks from Belgium or the Netherlands or garlic from Romania, the cysts that this pest creates are readily detectable by inspection. If, upon inspection, a shipment of leeks from Belgium or the Netherlands or garlic from Romania is determined to be infested with golden nematode, the shipment would be destroyed or returned to its country of origin. Therefore, we are not making any changes to the proposed rule in response to this comment.

Comment: In order to limit the introduction into Florida of exotic pests, such as *Retithrips syriacus*, that may be associated with peppers from Israel, APHIS should continue to limit the distribution of peppers from Israel to the northern United States.

Response: *Retithrips syriacus* has been established in Florida for several years; therefore, this pest cannot be considered an exotic plant pest and is not subject to the same stringent quarantine measures taken to prevent the introduction of an exotic plant pest into the United States. As such, neither APHIS nor the State of Florida has promulgated regulations to restrict the movement of this pest. However, there is little risk of *Retithrips syriacus* or other plant pests entering the United States with a shipment of peppers from Israel's Arava Valley. In the Arava Valley, Israel, peppers are grown, sorted, and packaged in insect-proof screenhouses. This production method effectively controls pest populations in growing, sorting, and packaging areas and helps ensure that pests are not present in export shipments of peppers. Therefore, we are not making any changes to the proposed rule in response to this comment.

Comment: Eggplant is a host of the Mediterranean fruit fly (Medfly), and Medfly occurs in both Nicaragua and El Salvador. However, Medfly is not discussed in the pest risk analysis for eggplant from Nicaragua and El Salvador. The pest risk potential associated with the importation of eggplant should be determined prior to allowing the importation of eggplant from these two countries.

Response: Review of the scientific literature reveals that eggplant is a host of Medfly only when fully ripe and when other Medfly hosts are not available.

For this reason, we believe that eggplant imported from Nicaragua or El Salvador presents a relatively low risk of harboring Medfly. However, to further reduce the risk of Medfly associated with eggplant imported from Nicaragua and El Salvador, we are allowing only commercial shipments of eggplant from these countries to enter the United States. Commercial shipments, as defined in § 319.56–1, are shipments of fruits and vegetables that an inspector identifies as having been produced for sale and distribution in mass markets. Such identification is based on a variety of indicators, including, but not limited to: quantity of produce, type of packaging, identification of grower or packing house on the packaging, and documents consigning the shipment to a wholesaler or retailer.

Eggplant produced for sale and distribution in mass markets is harvested at a stage of development when susceptibility to Medfly infestation is unlikely. Conversely, wild or ''backyard'' produce, including eggplant, is generally grown and handled under very different conditions than commercially-produced fruits and vegetables (e.g., wild or backyard produce usually involves different varieties of produce and different cultivating techniques, little or no pest control, and a lack of sanitary controls during growing and packing, such as removal and destruction of overripe and damaged fruit). As a result, there is reason to believe that wild or backyard produce presents a greater pest risk than commercially produced fruits and vegetables. This rule will not allow eggplant grown under these conditions to be imported into the United States.

Comment: In the pest risk analysis for eggplant from Nicaragua and El Salvador, APHIS states that it has not determined the pest risk potential for *Faustinius* spp., insect pests that may be carried into the United States with the eggplant. This pest risk needs to be determined, and if necessary additional mitigation measures taken, before eggplant from Nicaragua or El Salvador is allowed entry into the United States.

Response: Because we are limiting imports of eggplant to commercial shipments, as discussed above, we expect the measures taken by commercial growers in Nicaragua and El Salvador to prevent the introduction of injurious plant pests, including *Faustinius* spp., into the United States. However, there are other factors that help mitigate the risk of the introduction of *Faustinius* spp. into the United States. Larvae of the *Faustinius* spp. bore into the shoots and stems of eggplant to pupate and are only very occasionally associated with the fruit of eggplant. Because § 319.56–2(a) of the regulations requires all importation of fruits and vegetables to be free of plants or portions of plants, all but a very small portion of an eggplant's stem is removed prior to shipment to the United States. Therefore, we do not expect *Faustinius* spp. to be associated with eggplant from Nicaragua or El Salvador.

Certain species of *Faustinius* are established in areas of the United States, and these species are therefore not considered exotic pests and are not subject to the same stringent quarantine measures taken to prevent the introduction of an exotic plant pest into the United States. However, at the U.S. port of entry inspection, the holes created by the larvae in the stems or fruit of any eggplant infested with *Faustinius* would be readily detectable, and an infested shipment of eggplant would not be released until APHIS personnel have identified the pests within the shipment. If a shipment of eggplant from Nicaragua or El Salvador is determined to be infested by an exotic species of *Faustinius*, the shipment would be destroyed or returned to its country of origin. Therefore, we are making no changes to the proposed rule in response to this comment.

Miscellaneous

We are not revising the incorporation by reference of the Plant Protection and Quarantine Treatment Manual at § 300.1 of the regulations, as we proposed, because the treatment schedule for the methyl bromide fumigation of garlic borer (*Brachycerus* spp.) and garlic moth (*Dyspessa ululа* [Bkh.]) will not change. The countries from which garlic may be exported to the United States, including Romania, are only listed in § 319.56–2g of the regulations; the PPQ Treatment Manual does not list those eligible countries and therefore does not require revision.

We are also making several nonsubstantive editorial changes to the regulations for clarity and consistency.

Therefore, based on the rationale presented in our proposed rule and in this document, we are adopting the provisions of the proposed rule, with exception of the proposed importation of papayas from Brazil, as a final rule with the changes described above.

Effective Date

This is a substantive rule that relieves restrictions and, pursuant to the provisions of 5 U.S.C. 553, may be made effective less than 30 days after publication in the **Federal Register**. Immediate implementation of this rule is necessary to provide relief to those persons who are adversely affected by restrictions we no longer find warranted. Therefore, the Administrator of the Animal and Plant Health Inspection Service has determined that this rule should be effective upon publication in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

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

In accordance with 5 U.S.C. 604, we have performed a Final Regulatory Flexibility Analysis, set forth below,

regarding the economic impact of this rule on small entities. Based on the information we have, there is no basis to conclude that this rule will result in any significant economic impact on a substantial number of small entities.

Under the Federal Plant Pest Act and the Plant Quarantine Act (7 U.S.C. 150dd, 150ee, 150ff, 151–165, and 167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

This rule amends the regulations governing the importation of fruits and vegetables by allowing a number of previously prohibited fruits and vegetables to be imported into the United States from certain foreign countries and localities under specified conditions. The importation of these fruits and vegetables had been prohibited because of the risk that they could have introduced injurious plant pests into the United States.

In our proposal, we solicited comments on the potential effects of the proposed action on small entities. In particular, we sought data and other information to determine the number and kind of small entities that may incur benefits or costs from the implementation of the proposed rule. We received no comments on the Initial Regulatory Flexibility Analysis contained in the proposed rule.

Our rule is based on pest risk assessments that were conducted by APHIS at the request of various importers and foreign ministries of agriculture. The pest risk analyses indicate that the fruits or vegetables listed in this rule can, under certain conditions, be imported into the United States without significant pest risk. All of the fruits and vegetables, as a condition of entry, are subject to inspection, disinfection, or both, at the port of first arrival as may be required by a USDA inspector. In addition, some of the fruits and vegetables are required to undergo mandatory treatment for injurious plant pests as a condition of entry, or to meet other special conditions. This action provides the United States with additional kinds and sources of fruits and vegetables while continuing to provide protection against the introduction into the United States of injurious plant pests by imported fruits and vegetables.

Availability of Data

For many of the commodities made eligible for importation into the United States by this document, data on the levels of production and the anticipated import volume is unavailable for a number of reasons. First, many of these commodities are not produced in significant quantities either in the United States or in the country that would be exporting the commodity to the United States; generally, less statistical data is collected—and therefore available—for commodities produced in small quantities when compared to a country's more heavily-produced commodities. Second, some of these commodities do not appear to be produced in the United States at all; therefore, data on the U.S. production and export levels for those commodities does not exist. Finally, estimates of potential exports of commodities from foreign countries to the United States are often difficult to obtain, due in part to the uncertainty surrounding the cost and availability of transportation and the demand for the commodity in the United States.

Leeks from Belgium

No information is available on U.S. production of leeks. Data is available, however, on U.S. exports and imports of the commodity. In 1995, the United States imported 2,764 metric tons of leeks, an increase over the 1993 and 1994 levels (2,328 metric tons and 2,042 metric tons, respectively). In 1995, the United States exported 3,279 metric tons of leeks, also an increase over the 1993 and 1994 levels (2,519 metric tons and 2,708 metric tons, respectively).

The fact that the United States exports leeks suggests that the commodity is produced in the United States. However, the volume of exports suggests that the level of production is low relative to other, more popular vegetables.

Data on the number or size of leek producers in the United States is not available. However, since most U.S. vegetable and melon farms are small by Small Business Administration (SBA) standards, it is very likely that the U.S. farms that produce leeks are also small.

Data on the volume of potential exports of leeks from Belgium to the United States is not available.

Radicchio from Ecuador

Data on radicchio production for the entire United States is not available. However, production data is available for the State of California, where most, if not all, of U.S. radicchio is produced. In 1994, California produced 7,040 metric tons of radicchio, an increase over the State's 1993 volume of 6,387 metric tons. California's 1994 production had a value of $7.7 million. No information on U.S. (or California) trade in radicchio is available.

Data on the number or size of radicchio producers in the United States (or California) is not available. However, since most U.S. vegetable and melon farms are considered small by SBA standards, it is very likely that the U.S. farms that produce radicchio are also small.

Information on Ecuador's production and export of radicchio, including potential exports to the United States, is not available.

Eggplant from El Salvador

In 1995, the United States produced 28,710 metric tons of eggplant, with a value of $16.2 million. In 1993 and 1994, domestic production levels were 34,160 metric tons and 35,380 metric tons, respectively. U.S. production has been supplemented by a steadily growing level of eggplant imports, 18,154 metric tons in 1993, 21,302 metric tons in 1994, and 24,946 metric tons in 1995. The United States is a net importer of eggplant, as exports of the commodity from the United States did not exceed 9,090 metric tons in any of the years between 1993 and 1995.

In 1992, the latest year for which data is available, eggplant was produced at 2,203 farms in the United States. It is not known how many of these farms are considered small entities under SBA standards, since information as to their size is not available. However, most are probably small, since most vegetable and melon farms in the United States are small.

Data on the volume of eggplant production in El Salvador is not available. Data on the volume of potential exports of eggplant from El Salvador to the United States is also not available.

Basil and Dill from Guatemala

Information on U.S. production and exportation of basil is not available, but indicators suggest that basil is not grown commercially in significant quantities in the United States. In 1995, the United States imported 3,404 metric tons of basil with a value of $4.9 million. U.S. basil imports in 1994 and 1993 were 3,216 metric tons and 2,449 metric tons, respectively.

Information on U.S. production and exportation of dill is not available, but indicators suggest that dill, like basil, is not grown commercially in significant quantities in the United States. In 1995, the United States imported 766 metric tons of dill with a value of $1.0 million. U.S. dill imports in 1994 and 1993 were 949 metric tons and 828 metric tons, respectively.

Guatemala currently produces basil and dill for its local market only. No data is available on the exact level of basil or dill production in Guatemala,

but the volume is believed to be very small. Data on the volume of potential exports of these commodities from Guatemala to the United States is not available.

Mioga Ginger from Japan

No information is available on U.S. production or exportation of the flowers, leaves, and stems of mioga ginger. The absence of such data suggests that commercial production of mioga ginger in the United States is negligible, at most. Mioga ginger is a spice, and most spices are not grown commercially in significant quantities in the United States. Data on U.S. imports of mioga ginger is also not available.

Japan produced 6,638 metric tons of mioga ginger in 1994. No information is available on the potential volume of exports of this commodity from Japan to the United States. At the present time, all mioga ginger produced in Japan is consumed locally; none is exported.

Leeks from the Netherlands

Data on U.S. production and trade of leeks is discussed above under the heading ''Leeks from Belgium.''

In 1994, the Netherlands produced 102,727 metric tons of leeks, and its exports of leeks that year totaled 43,764 metric tons. In 1995, the Netherlands exported 51,062 metric tons of leeks, with just over 50 percent of those exports directed to Germany. Potential exports of leeks from the Netherlands to the United States could reach 1,000 metric tons annually, depending on such factors as the cost and availability of air transportation and demand in the United States. However, as the United States is a net exporter of leeks, it is doubtful that consumer demand in the United States will encourage a substantial volume of leek imports from the Netherlands.

Eggplant from Nicaragua

Data on U.S. production and trade of eggplant is discussed above under the heading ''Eggplant from El Salvador.''

To date, all of the eggplant produced commercially in Nicaragua has been consumed locally. No data is available, however, on the volume of eggplant production in Nicaragua. In addition, no data on the volume of potential exports of eggplant from Nicaragua to the United States is available. However, relatively small quantities are likely to be imported. In 1993, for example, Nicaragua produced little or no eggplant, and its production of all vegetables and melons that year totaled only 59,000 metric tons. By comparison, U.S. supply (domestically produced and imported) of eggplant alone in 1993 totaled 52,314 metric tons, just slightly less than Nicaragua's entire vegetable and melon production that year.

Radicchio from Nicaragua

Data on the production of radicchio in California is discussed above under the heading ''Radicchio from Ecuador.''

Nicaragua currently produces radicchio for its local market. No data is available on the exact volume of radicchio production in Nicaragua, but the volume is believed to be very small. Data on the volume of potential exports of radicchio from Nicaragua to the United States is also not available.

Garlic from Romania

In 1995, the United States produced 232,010 metric tons of fresh garlic, valued at $179.8 million. In 1993 and 1994, domestic production levels were 188,690 metric tons and 208,200 metric tons, respectively. While U.S. production has been growing rapidly, U.S. imports of garlic have steadily declined, 39,381 metric tons in 1993, 21,705 metric tons in 1994, and 18,594 metric tons in 1995. U.S. exports of the commodity have also steadily declined, from 11,274 metric tons in 1993 to 7,659 metric tons in 1995.

In 1992, garlic was produced at 619 U.S. farms. It is not known how many of these farms are considered small entities under SBA standards, since information as to their size is not available. However, most are probably small, since most vegetable and melon farms in the United States are small.

In 1995, Romania produced 58,000 metric tons of garlic, an increase over the country's 1994 and 1993 production levels (56,400 metric tons and 48,900 metric tons, respectively). In 1996, Romanian garlic production is estimated to have fallen to approximately 50,000 metric tons, due to unfavorable weather conditions. Data on the volume of potential exports of garlic from Romania to the United States is not available. However, trade sources within Romania indicate that the prospects for future exports to the United States are reduced, owing to both the high price and low quality of Romanian garlic.

The alternative to this rule was to make no changes in the regulations. After consideration, we rejected this alternative because there is no biological reason to prohibit the importation into the United States of the fruits and vegetables listed in this document.

The information collection requirements contained in this rule, which were described in the proposed rule, have been submitted for approval to the Office of Management and Budget.

Executive Order 12988

This rule allows certain fruits and vegetables to be imported into the United States from certain parts of the world. State and local laws and regulations regarding the importation of fruits and vegetables under this rule will be preempted while the fruits and vegetables are in foreign commerce. Fresh fruits and vegetables are generally imported for immediate distribution and sale to the consuming public, and will remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. No retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this final rule have been submitted for approval to the Office of Management and Budget (OMB). When OMB notifies us of its decision, we will publish a document in the **Federal Register** providing notice of the assigned OMB control number or, if approval is denied, providing notice of what action we plan to take.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

§ 319.56–2 [Amended]

2. In § 319.56–2, paragraph (j) is amended by removing the words ''except Arica, Iquique, and Parinacota''.

3. In § 319.56–2g, paragraph (a) is revised to read as follows:

§ 319.56–2g Administrative instructions prescribing method of treatment of garlic from specified countries.

(a) Except as otherwise provided in these administrative instructions, fumigation with methyl bromide in

vacuum fumigation chambers, in accordance with the Plant Protection and Quarantine Treatment Manual, which is incorporated by reference at § 300.1 of this chapter, is a condition of entry under permit for all shipments of garlic (*Allium sativum*) from Algeria, Armenia, Austria, Azerbaijan, Czech Republic, Egypt, Estonia, France, Georgia, Germany, Greece, Hungary, Iran, Israel, Italy, Latvia, Lithuania, Moldova, Morocco, Portugal, Romania, the area of the Russian Federation west of the Ural Mountains, Slovakia, South Africa (Republic of), Spain, Switzerland, Syria, Turkey, Ukraine, and the area of the former Yugoslavia. Fumigation is to be carried out under the supervision of a plant quarantine inspector and at the expense of the importer. While it is believed that the garlic will be unaffected by the fumigation, the treatment will be at the importer's risk. Such entry will be limited to ports named in the permits, where approved facilities for vacuum fumigation with methyl bromide are available.

* * * * *

§ 319.56–2r [Amended]

4. In § 319.56–2r, paragraph (a)(1) is amended by removing the words '', and West Germany'', by adding the word ''Germany,'' immediately following the word ''France'', and by adding the word ''and'' immediately following the word ''Sweden,''.

5. In § 319.56–2t, the table is amended by adding, in alphabetical order, the following entries:

§ 319.56–2t Administrative instructions: conditions governing the entry of certain fruits and vegetables.

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
*	*	*	* * * *
Belgium	Leek	*Allium* spp.	Whole plant. (Must be accompanied by a phytosanitary certificate issued by the Ministry of Agriculture of Belgium stating that the leek is apparently free of *Acrolepiopsis assectella*.)
*	*	*	* * * *
Ecuador			
*	*	*	* * * *
	Radicchio	*Cichorium* spp.	Above ground parts.
El Salvador			
*	*	*	* * * *
	Eggplant	*Solanum melongena*.	Fruit, commercial shipments only.
*	*	*	* * * *
Guatemala			
*	*	*	* * * *
	Basil	*Ocimum* spp	Above ground parts.
	Dill	*Anethum graveolens*.	Above ground parts.
*	*	*	* * * *
Japan	Mioga Ginger	*Zingiber mioga*	Above ground parts.
*	*	*	* * * *
Netherlands	Leek	*Allium* spp.	Whole plant. (Must be accompanied by a phytosanitary certificate issued by the Ministry of Agriculture of The Netherlands stating that the leek is apparently free of *Acrolepiopsis assectella.)*
*	*	*	* * * *
Nicaragua			
*	*	*	* * * *
	Eggplant	*Solanum melongena*.	Fruit, commercial shipments only.
	Radicchio	*Cichorium* spp.	Above ground parts.
*	*	*	* * * *

* * * * *

§ 319.56–2u [Amended]

6. Section 319.56–2u is amended as follows:

a. In paragraph (b)(1), by removing the words ''in the Paran region of''.

b. In paragraph (b)(2), by removing the word ''Paran'' and by adding in its place the words ''the Arava Valley''.

c. By removing paragraph (b)(6) and redesignating paragraphs (b)(7) through (b)(9) as paragraphs (b)(6) through (b)(8), respectively.

d. In newly designated paragraph (b)(6), by removing the word ''Paran'' and by adding in its place the words ''the Arava Valley''.

e. In newly designated paragraph (b)(7), by removing the word ''Paran'' and by adding in its place the words ''the Arava Valley''.

7. Section 319.56–2w is revised to read as follows:

§ 319.56–2w Administrative instruction; conditions governing the entry of papayas from Costa Rica.

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, only under the following conditions:

(a) The papayas were grown and packed for shipment to the United States in the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica.

(b) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were ½ or more ripe (more than ¼ of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

(c) When packed, the papayas were less than ½ ripe (the shell surface was no more than ¼ yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(d) The papayas were packed in an enclosed container or under cover so as to prevent access by fruit flies and other injurious insect pests, and were not packed with any other fruit, including papayas not qualified for importation into the United States.

(e) All activities described in paragraphs (a) through (d) of this section were carried out under the general supervision and direction of plant health officials of the national Ministry of Agriculture.

(f) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and fifty percent of the traps were of the Jackson type. The national Ministry of Agriculture kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(g) All shipments must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25488 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 319, 321, and 330

[Docket No. 97–010–2]

Foreign Potatoes

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending our regulations concerning imported plants and plant products to prohibit the importation of potato tubers from Bermuda and to prohibit the importation of potato plants from Newfoundland and a portion of Central Saanich, British Columbia, Canada. These changes appear necessary to prevent the introduction of foreign potato diseases and insect pests into the United States. We are also reorganizing and streamlining the regulations concerning the importation of potatoes into the United States. These changes remove unnecessary regulations and relieve restrictions that no longer appear warranted.

EFFECTIVE DATE: October 27, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. James Petit de Mange, Staff Officer, Import-Export Team, PPQ, APHIS, 4700 River Road, Unit 140, Riverdale, MD 20737–1236; (301)–734–6799; fax (301)–734–5786; or e-mail: jpdmange@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations concerning the importation of foreign potato tubers have been contained in 7 CFR part 321, Restricted Entry Orders, Subpart—Foreign Potatoes (referred to below as the Foreign Potatoes regulations). The Foreign Potatoes regulations have allowed the importation of potato tubers from Bermuda and Canada (except for Newfoundland and a portion of South Saanich, British Columbia) without restriction. The Foreign Potatoes regulations also have contained provisions for importing potato tubers from other countries that are free of injurious potato diseases and insect pests that are new to or not widely distributed throughout the United States. However, only Bermuda and parts of Canada have been considered free of injurious potato diseases and insect pests.

The regulations concerning the importation of foreign potato plants are contained in 7 CFR 319.37 through 319.37–14, Subpart—Nursery Stock, Plants, Roots, Bulbs, Seeds, and Other Plant Products (referred to below as the Nursery Stock regulations). The Nursery Stock regulations prohibit the importation of potato plants from all parts of the world except Canada.

The regulations concerning the importation of most foreign fruits and vegetables are contained in 7 CFR 319.56 through 319.56–8, Subpart—Fruits and Vegetables (referred to below as the Fruits and Vegetables regulations). The Fruits and Vegetables regulations have referred readers to the Foreign Potatoes regulations for rules governing the importation of potatoes.

These regulations are intended to prevent the introduction of foreign plant diseases and insect pests into the United States.

On May 7, 1997, we published in the **Federal Register** (62 FR 24849–24851), Docket No. 97–010–1), a proposal to prohibit the importation of potato plants from Newfoundland and a portion of Central Saanich, British Columbia, Canada. We also proposed to prohibit the importation of potato tubers from Bermuda. These actions were intended to prevent the introduction of foreign potato diseases and insect pests into the United States. Further, we proposed to move the prohibitions on the importation of potato tubers from Bermuda, parts of Canada (Newfoundland and a portion of Central Saanich, British Columbia), and all other parts of the world from the Foreign Potatoes regulations to the Nursery Stock regulations. In conjunction with this change, we proposed to remove the Foreign Potatoes regulations from the Code of Federal Regulations, since the remainder of the regulatory text appeared to be unnecessary. We also proposed to amend the Fruits and Vegetables regulations to refer readers to the Nursery Stock regulations, rather than the Foreign Potatoes regulations, for rules governing the importation of potatoes. These actions were intended to consolidate the regulations for importing potatoes into one place and eliminate provisions that are not being used.

We also proposed to make an editorial change in the Federal Plant Pest regulations, contained in 7 CFR part 330.

We solicited comments concerning our proposal for 60 days ending July 7, 1997. We received two comments by that date. They were from representatives of a State government and State University students. Both comments fully supported the proposed rule.

Therefore, based on the rationale set forth in the proposed rule, we are adopting the provisions of the proposal as a final rule, without change.

Executive Order 12866 and Regulatory Flexibility Act

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

This rule moves the prohibitions on importing potato tubers from part 321 to subpart 319.37, prohibits the importation of potato tubers from Bermuda, and prohibits the importation of potato plants from Newfoundland and a portion of Central Saanich, British Columbia, Canada. These actions are not expected to have any economic impact. There have been no requests to import potato tubers from Bermuda, no record of shipments of potato tubers from Bermuda, and Bermuda has no potato tuber production for export. Canada does not allow potato tubers or plants to move from Newfoundland or the portion of Central Saanich that is covered by this rule due to the presence of potato wart disease and golden nematode.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12988

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule: (1) Preempts all State and local laws and regulations that are inconsistent with this rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

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

Regulatory Reform

This action is part of the President's Regulatory Reform Initiative, which, among other things, directs agencies to remove obsolete and unnecessary regulations and to find less burdensome ways to achieve regulatory goals.

List of Subjects

7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

7 CFR Part 321

Imports, Plant diseases and pests, Potatoes, Quarantine, Reporting and recordkeeping requirements.

7 CFR Part 330

Customs duties and inspection, Imports, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly title 7, chapter III, is amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 319.37–2 paragraph (a), the table is amended by revising the entry for Solanum spp. (potato) to read as follows.

§ 319.37–2 Prohibited Articles.

(a) * * *

Prohibited article (includes seeds only if specifically mentioned)	Foreign places from which prohibited	Plant pests existing in the places named and capable of being transported with the prohibited article
* *	* * *	* *
Solanum spp. (potato) (tuber bearing species only-Section Tuberarium), including potato tubers.	All except Canada (except Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road.	Andean potato latent virus; Andean potato mottle virus; potato mop top virus; dulcamara mottle virus; tomato blackring virus; tobacco rattle virus; potato virus Y (tobacco veinal necrosis strain); potato purple top wilt agent; potato marginal flavescence agent; potato purple top roll agent; potato witches broom agent; stolbur agent; parastolbur agent; potato leaflet stunt agent; potato spindle tuber viroid; arracacha virus B; potato yellowing virus.
* *	* * *	* *

* * * * *

3. In § 319.56–2, footnote 1 and the reference to it are removed, footnote 2 and the reference to it are redesignated as footnote 1, and paragraph (c) is revised to read as follows:

§ 319.56–2 Restrictions on entry of fruits and vegetables.

* * * * *

(c) Fruits and vegetables grown in Canada may be imported into the United States without restriction under this subpart; *provided*, that potatoes from Newfoundland and that portion of the Municipality of Central Saanich in the Province of British Columbia east of the West Saanich Road are prohibited importation into the United States in accordance with § 319.37–2 of this part.

* * * * *

PART 321—[REMOVED]

Under the authority of 7 U.S.C. 136, 136a, 154, 159, and 162; 7 CFR, Chapter III, is amended by removing ''Part 321—Restricted Entry Orders.''

PART 330—FEDERAL PLANT PEST REGULATIONS; GENERAL; PLANT PESTS; SOIL, STONE, and QUARRY PRODUCTS; GARBAGE

4. The authority citation for part 330 continues to read as follows:

Authority: 7 U.S.C. 147a, 150bb, 150dd–150ff, 161, 162, 164a, 450, 2260; 19 U.S.C. 1306; 21 U.S.C. 111, 114a; 136 and 136a; 31 U.S.C. 9701; 42 U.S.C. 4331, and 4332; 7 CFR 2.22, 2.80, and 371.2(c).

5. In § 330.300a, the words ''South Saanich'' are removed and the words ''Central Saanich'' are added in their place.

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25489 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. FV97–981–3 FIR]

Almonds Grown in California; Revision to Requirements Regarding Inedible Almonds

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: The Department of Agriculture (Department) is adopting, as a final rule, without change, the provisions of an interim final rule revising the administrative rules and regulations of the California almond marketing order regarding inedible almonds. Under the terms of the order, handlers are required to obtain inspection on almonds received from growers to determine the percent of inedible almonds in each lot of any variety. Handlers are then required to dispose of a quantity of almonds in excess of 1 percent of the weight of almonds reported as inedible to non-human consumption outlets. This rule allows alternative methods of determining handlers' inedible disposition obligations in such instances. It will add flexibility to the order's rules and regulations and will help ensure that the integrity of the quality control provisions is maintained.

EFFECTIVE DATE: October 27, 1997.

FOR FURTHER INFORMATION CONTACT: Martin Engeler, Assistant Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, F&V, AMS, USDA, 2202 Monterey Street, suite 102B, Fresno, California 93721; telephone: (209) 487–5901, Fax: (209) 487–5906; or George Kelhart, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, Room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, F&V, AMS, USDA, room 2525–S, P.O. Box 96456, Washington, DC 20090–6456; telephone: (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (Department) is issuing this rule in conformance with Executive Order 12866.

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

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

This rule revises the administrative rules and regulations of the California almond order regarding inedible almonds. Under the terms of the order, handlers are required to obtain inspection on almonds received from growers to determine the percent of inedible almonds in each lot of any variety. Handlers are then required to dispose of a quantity of almonds in excess of 1 percent of the weight of almonds reported as inedible to non-human consumption outlets. The quantity of almonds required to be disposed of is the handler's inedible disposition obligation. However, there are times when an incoming inspection sample may not be drawn, may be lost, or the size of the sample drawn may be too small for an inedible weight to be determined. This rule provides handlers with the opportunity in such cases to substantiate to the Board the weight of almonds received, the edible and inedible kernel weights, and the adjusted kernel weight. Such information can often be obtained from an outgoing inspection certificate. The inedible disposition obligation may then be based on that information. If a handler is only able to substantiate the approximate weight of almonds received, an inedible disposition obligation of 10 percent of the weight of almonds received in that particular lot may be applied, upon agreement between Board staff and the handler. The appropriate weight received can often be obtained from a weighmaster's weight certificate. In adding these procedures to the text of the rules and regulations, this rule will add flexibility to the rules and regulations and will help ensure that the integrity of the quality control provisions of the order is maintained. This change was unanimously recommended by the Board.

Section 981.42(a) of the almond order requires handlers to obtain incoming inspection on almonds received from growers to determine the percent of inedible kernels in any variety. Handlers are required to report such inedible determination for each lot received to the Board. Inedible kernels are those kernels, pieces, or particles of kernels with any defect scored as serious damage (excluding the presence of web and frass), or damage due to mold, gum, shrivel, or brown spot, as defined in the United States Standards for Grades of Shelled Almonds, or which have embedded dirt not easily removed by washing. Edible kernels are kernels, pieces, or particles of almond kernels that are not inedible. Section 981.42(a) also provides authority for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to

the administration of the order's incoming quality control provisions.

Section 981.442(a)(4) of the order's administrative rules and regulations specifies that the weight of inedible kernels in each lot of any variety of almonds in excess of 1 percent of the kernel weight received by a handler shall constitute such handler's inedible disposition obligation. Inedible kernels accumulated in the course of processing must be disposed of in non-human consumption outlets such as Board approved oil crushers, feed manufacturers, and animal feeders. Requiring handlers to meet this obligation helps to ensure that each handler's outgoing shipments of almonds are relatively free of almonds with serious damage, and the number of kernels with minor damage should be minimal. Thus, the intent of the order's inedible program is to help ensure that only quality almonds are ultimately shipped into market channels.

At a meeting on May 9, 1997, the Board recommended that § 981.442 of the order's administrative rules and regulations be revised to allow alternative methods of establishing handlers' inedible disposition obligations in certain instances. The Board recommended that this rule be in effect for the beginning of the 1997–98 crop year which began on August 1, 1997.

Discussions at this and prior meetings of the Board's Quality Control Committee indicated that a considerable amount of activity occurs at handlers' facilities when handlers are receiving almonds from growers. For example, handlers may be receiving, moving, processing, and shipping several lots of almonds at a rapid pace. During this time, incoming inspection for some lots of almonds may be inadvertently missed due to the high level of activity. In addition, samples are occasionally lost or the size of the samples drawn are too small for kernel weight determinations. Board staff commented that there are instances where handlers notice that an error was made and contact the Board's staff in an effort to comply with the order's rules and regulations. Board staff also indicated that this is not a large problem but that it does occur occasionally.

Thus, the Board recommended that for any lot of almonds where a sample is not drawn, is lost, or is too small for the kernel weight to be determined, the handler may establish and substantiate, to the Board's satisfaction, the weight of the almonds received, the edible and inedible kernel weights, and the adjusted kernel weight. Adjusted kernel weight means the actual gross weight of any lot of almonds less the following: the weight of containers; moisture of kernels in excess of 5 percent; shells (if applicable); processing loss of 1 percent for deliveries with less than 95 percent kernels; and trash or other foreign material. In such instances, the handler's inedible disposition obligation will be based on that information. If the handler is only able to establish and substantiate the approximate received weight, an inedible disposition obligation of 10 percent of such received weight may be applied, upon agreement between Board staff and the handler.

This change will add flexibility to the order and will help ensure that the integrity of the order's quality control provisions is maintained. The Board estimates that for the past 3 years, about 3.05 percent of the almonds received by handlers from growers were inedible. Thus, the Board's recommended 10 percent disposition obligation for lots of almonds where an inedible weight was not determined exceeds historical averages. This should provide a disincentive for handlers to purposely avoid inspection, while providing handlers an opportunity to maintain compliance with order requirements.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

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

There are approximately 97 handlers of California almonds who are subject to regulation under the marketing order and approximately 7,000 almond producers in the regulated area. Small agricultural service firms have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts of less than $5,000,000, and small agricultural producers are defined as those having annual receipts of less than $500,000.

Currently, about 58 percent of the handlers ship under $5,000,000 worth of almonds and 42 percent ship over $5,000,000 worth on an annual basis. In addition, based on acreage, production, and grower prices reported by the National Agricultural Statistics Service, and the total number of almond growers, the average annual grower revenue is approximately $156,000. In view of the foregoing, it can be concluded that the majority of handlers and producers of California almonds may be classified as small entities.

This rule revises the administrative rules and regulations of the almond order regarding inedible almonds. Section 981.42(a) of the order requires handlers to obtain inspection on almonds received from growers to determine the percent of inedible almonds in each lot of any variety. Section 981.42(a) also provides authority for the Board, with the approval of the Secretary, to establish rules and regulations necessary and incidental to the administration of the order's incoming quality control provisions.

Under § 981.442(a)(4) of the order's administrative rules and regulations, handlers are required to dispose of a quantity of almonds in excess of 1 percent of the weight of almonds reported as inedible in non-human consumption outlets. However, there are times when a sample may not be drawn, may be lost, or the size of the sample drawn may be too small for an inedible kernel weight to be determined. This rule revises § 981.442(a)(4) to allow a handler's inedible disposition obligation in such cases to be based on documentation provided by the handler, to the satisfaction of Board staff. If sufficient documentation is not available, an inedible disposition obligation of 10 percent of the received weight may be applied. This change adds flexibility to the regulations while maintaining the integrity of the order's quality control provisions. This rule was unanimously recommended by the Board and will be in effect beginning with the 1997–98 season which began on August 1, 1997.

Regarding the impact of this rule on handlers and growers in terms of cost, providing handlers with the option of accepting an inedible disposition obligation based on appropriate documentation or accepting an obligation of 10 percent for lots where a sample was not drawn, was lost, or was too small for an inedible weight to be determined are options that will be made available to all handlers, both large and small. Handlers receive lower prices for inedible almonds that must be sold in non-human consumption outlets as opposed to edible almonds that can be sold in normal market channels. For example, handlers receive about 28–35 cents per pound for almonds used for crushing into oil and about 2–3 cents per pound for almonds used for animal

feed. Price levels for sales of edible almonds to normal market outlets vary significantly from year to year depending on available supplies and market conditions and can range from $1.00–$3.00 per pound. If inedible almonds were allowed to be sold in normal market channels, consumer and buyer satisfaction would likely decrease because poor quality almonds were being made available. Buyers would likely purchase fewer almonds and demand for almonds would thus decline, which would in turn decrease returns to growers and handlers, both large and small.

Thus, this rule will add flexibility to the rules and regulations and help ensure that the integrity of the order's quality control provisions is maintained. As previously mentioned, the Board estimates that for the past 3 years, about 3.05 percent of the almonds received by handlers from growers were inedible. The Board's recommended 10 percent disposition obligation for lots where an inedible weight was not determined exceeds historical averages. This rule also provides handlers an opportunity to maintain compliance with order requirements.

An alternative to this change would be to not incorporate these options into the order's administrative rules and regulations. Thus, in cases where an inedible disposition obligation was inadvertently not obtained, such handlers would be considered to be out of compliance with order requirements and subject to penalties under the Act. However, the Board determined that it would be in the industry's best interest to provide alternative methods of determining inedible disposition obligations. This will allow handlers additional options in the rules and regulations to remain in compliance with order requirements and the integrity of the order's incoming quality control program will still be maintained.

This rule will not impose any additional reporting or recordkeeping requirements on either small or large almond handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sectors. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the information collection requirements that are contained in this rule have been previously approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0071. In addition, as noted in the initial regulatory flexibility analysis, the Department has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule.

Further, the Board's meeting was widely publicized throughout the almond industry and all interested persons were invited to attend the meeting and participate in Board deliberations. Like all Board meetings, the May 9, 1997, meeting was a public meeting and all entities, both large and small, were able to express their views on this issue.

Also, the Board has a number of appointed committees to review certain issues and make recommendations to the Board. The Board's Quality Control Committee met on April 23, 1997, and discussed this inedible disposition obligation issue in detail. That meeting was also a public meeting and both large and small entities were able to participate and express their views. Finally, interested persons were invited to submit information on the regulatory and information impacts of this action on small businesses.

An interim final rule concerning this action was issued by the Department on July 8, 1997, and published in the Federal Register on July 14, 1997 (62 FR 37485). Copies of the rule were mailed or sent via facsimile to all almond handlers. Finally, a copy of the rule was made available through the Internet by the Office of the Federal Register. No comments were received in response to the interim final rule.

After consideration of all relevant material presented, including the Board's recommendation, and other information, it is found that finalizing this interim final rule, without change, as published in the **Federal Register** (62 FR 37485, July 14, 1997), will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

PART 981—ALMONDS GROWN IN CALIFORNIA

Accordingly, the interim final rule amending 7 CFR 981 which was published at 62 FR 37485 on July 14, 1997, is adopted as a final rule without change.

Dated: September 19, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–25412 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 999

[Docket No. FV97–999–1 IFR]

Specialty Crops; Import Regulations; Extension of Reporting Period for Peanuts Imported Under 1997 Import Quotas

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This rule removes the 23-day reporting requirement and establishes a new date for importers to report disposition of peanuts imported under 1997 peanut import quotas. This rule also establishes a 120-day reporting period for any peanuts imported after the 1997 import quotas are filled. The 23-day reporting period established in the import regulation is impractical given the volume of peanuts imported under January 1 and April 1 peanut import quotas. This is an administrative change for the 1997 peanut quota periods only. This rule is deemed necessary by the Agricultural Marketing Service (AMS) to provide peanut importers with sufficient time to meet the quality and reporting requirements of the peanut import regulation.

DATES: Effective Setpember 29, 1997. Comments received by October 27, 1997 will be considered prior to issuance of a final rule.

ADDRESSES: Interested persons are invited to submit written comments concerning this action. Comments must be sent in triplicate to the Docket Clerk, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; fax 202–720–5698. Comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be made available for public inspection in the Office of the Docket Clerk during regular business hours.

FOR FURTHER INFORMATION CONTACT: Tom Tichenor, Senior Marketing Specialist, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; tel: (202) 720–6862; fax (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, room 2525–S, P.O. Box

96456, Washington, DC 20090–6456; telephone (202) 720–2491, Fax: (202) 720–5698.

SUPPLEMENTARY INFORMATION: This interim final rule amends the peanut import regulation published in the June 19, 1996, issue of the **Federal Register** (61 FR 31306, 7 CFR part 999.600), which regulates the quality of imported peanuts. An amendment to the regulation was issued December 31, 1996 (62 FR 1249, January 9, 1997). The import regulation is effective under subparagraph (f)(2) of section 108B of the Agricultural Act of 1949 (7 U.S.C. 1445c–3), as amended November 28, 1990, and August 10, 1993, and section 155 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7271). Those statutes provide that the Secretary of Agriculture (Secretary) shall require that all peanuts in the domestic and export markets fully comply with all quality standards under Marketing Agreement No. 146 (7 CFR part 998) (Agreement), issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674).

This rule has been determined not significant for purposes of Executive Order 12866 and therefore has not been reviewed by the Office of Management and Budget.

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the regulations, disposition of imported peanuts must be reported to AMS within an established time period. This rule changes that time period and is intended to apply to Mexican peanuts imported from January 1, 1997, to December 31, 1997, and to Argentine and ''other country'' peanuts imported from April 1, 1997, to March 31, 1998. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule.

This interim final rule amends, for the 1997 peanut quota year, a provision in § 999.600 of the regulations governing imported peanuts (7 CFR part 999—Specialty Crops; Import Regulations). Section 999.600 establishes minimum quality, identification, certification, and safeguard requirements for foreign produced farmers stock, shelled and cleaned-inshell peanuts presented for importation into the United States. The quality requirements are the same as those specified in § 998.100 Incoming quality regulation and § 998.200 Outgoing quality regulation of the Agreement.

Discussion

The import regulation was finalized June 19, 1996 (61 FR 31306). At that time, three duty-free peanut quotas for 1996 had been filled and no peanuts were entered under duty for the remainder of 1996. Therefore, the peanut import regulation had its first practical application with the opening of the Mexican peanut quota on January 1, 1997.

Under the safeguard procedures, importers are required to report to AMS disposition of all imported peanuts. Paragraph (f)(3) of the regulations sets a 23 day period for filing certificates of inspection and aflatoxin testing. Sixty day extensions are possible, but requests for these must be filed within the 23-day reporting period. The reporting period and procedures for extension were established with the expectation that three duty-free quotas would fill gradually during the quota year. However, this did not occur. The Mexican quota of 8.1 million pounds closed approximately 5 weeks after the January 1, 1997 opening. The Argentine quota of 73.5 million pounds and the ''other country'' quota of 13.3 million pounds filled immediately at 12:00 noon on opening day, April 1, 1997. Importers' applications to enter peanuts under the Argentine and ''other country'' quotas greatly exceeded the quota volumes for these countries. After pro-rata distribution of those quotas (based on the total peanut volume in each importer's entry applications), the Customs Service set April 15 as the entry date for approximately 86.8 million pounds of peanuts under the two quotas.

Because of the large volume of peanuts simultaneously released on April 15, 1997, importers have been unable to meet the 23-day reporting deadline for many of their imported lots. Obstacles to expedient certification of such large volumes of imported peanuts included: (1) Logistics of moving containers out of some congested port areas and into storage; (2) arranging for sampling and inspection, and receiving certifications; and (3) arranging for and transporting failing lots to facilities for reconditioning and recertification.

Therefore, this rule establishes a new reporting date of November 1, 1997, for reporting disposition of all peanuts entered under the 1997 import quotas. It also provides for an extension of the reporting period beyond November 1. Requests for extensions must be made in writing and include the Customs Service entry number, container and lot information for the unreported peanut lot(s), and the reason for delay in meeting the November 1 reporting date. AMS will evaluate each request on a case-by-case basis.

Peanuts may continue to be imported into the United States after the import quotas are closed (with payment of tariff charges). Therefore, this rule also provides that disposition of any peanuts imported after the 1997 import quotas close must be reported within 120 days after the peanuts are entered by the Customs Service.

As a compliance measure, paragraph (f)(4) provided that the Secretary would ask the Customs Service to demand redelivery of peanut lots not reported as meeting the requirements of the import regulation. Because this rule extends the reporting period beyond the Customs Service 30-day redelivery demand period, the first three sentences in paragraph (f)(4) are not applicable for peanuts entered under the three 1997 import quotas. Those sentences are therefore removed in this rulemaking. The remainder of paragraph (4) regarding failure to comply with the import regulation and falsification of reports is retained.

To help ensure a practicable and workable peanut import regulation, the procedures in the regulation will be reviewed after the 1997 entries have been closed out. Thus, paragraphs (f)(3) and (f)(4) may be further amended, if necessary, prior to opening of the 1998 peanut import quotas.

These changes do not affect the stamp-and-fax procedure established in paragraph (f)(1) of the safeguard provisions. That procedure ensures notification of the Federal or Federal-State Inspection Service of applications to import peanuts. This rule also does not change the safeguard requirement that all imported lots must be reported. Pursuant to paragraph (f)(1), all imported peanuts must be reported to AMS—including those peanut lots that meet import requirements. Paragraph (f)(2) provides that the quality and aflatoxin certifications and other documentation must be sent by regular mail to: Marketing Order Administration Branch, F&V, AMS, USDA, P.O. Box 96456, Room 2525–S, Washington, D.C. 20090–6456, ''Attention: Report of Imported Peanuts.'' Overnight or express mail reports may be sent to Marketing Order Administration Branch, F&V, AMS, USDA , 14th and Independence Avenue, S.W., Room 2525–S, Washington, D.C. 20250, ''Attention: Report of Imported Peanuts.''

Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this interim final rule on small entities. Accordingly, AMS has prepared this initial regulatory flexibility analysis relevant to this rulemaking.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. AMS records for 1997 show that approximately ten importers of peanuts were large handlers of domestically grown peanuts and six were importers of general food commodities, some of whom may be small entities. Small agricultural service firms, which include importers, have been defined by the Small Business Administration (13 CFR 121.601) as those whose annual receipts are less than $5 million. Although small business entities may be engaged in the importation of peanuts, the majority of the importers are large business entities.

This rule extends for the 1997 quota periods only the time period for importers to meet import requirements for each lot of imported peanuts and file reports on the disposition of those peanuts. The reporting requirements are an integral part of the safeguard procedures specified in the import regulation, which is required by statute. The requirements are applied uniformly to small as well as large importers.

The previous reporting time period was 23 days. The new reporting time period ends on November 1, 1997. This change represents an increase, depending on date of entry of a peanut lot, of up to 280 days for Mexican peanut imports (entered on January 1) and 175 days for Argentine and ''other country'' peanuts (all of which were entered on April 15). The rule also extends the reporting period for all other peanut entries during the 1997 quota year from 23 days to 120 days. The additional time to meet requirements should enable importers to more efficiently manage movement and disposition of their imported peanuts.

It is not possible to estimate cost savings that might result from any increased efficiency of operations because of this action. Extension requests, when properly requested, already have been granted by AMS. The rule will benefit importers of large quantities of peanuts by relieving the time pressure to have multiple lots certified, and many lots reconditioned, within a very short time period. The rule also will benefit small importers who do not have peanut handling resources and must contract with remillers and blanchers to recondition failing peanut lots. Records indicate that some importers, including small importers, are outside the domestic peanut production area, and must transport failing lots long distances for reconditioning.

Alternative reporting time periods were considered by AMS. For the purposes of clarity, AMS believes that a single date, applicable to all 1997 entries under the quota is less confusing than 60 or 90 days from the release date of a peanut lot by the Customs Service. Sixty days are considered too short, as some peanut lots entered on April 15 are being inspected for the first time more than two months later. Also, necessary reconditioning efforts, with appropriate sampling and re-inspections after each attempt may take longer than 60 days. Extensions may be requested for individual lots not certified by the end of their applicable reporting period.

Experience shows that few, if any, peanuts will be imported after the quotas are filled. However, any such imports would be handled in a more routine manner and normal pace than when the great volumes are released simultaneously on quota opening days. Thus, the 120-day requirement for any peanuts imported after the quotas are filled is deemed reasonable by AMS.

For these reasons, AMS has determined that this action will be beneficial to all importers, both large and small.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) as amended in 1995, the information requirements contained in this rule was approved by the Office of Management and Budget (OMB) on September 3, 1996, and assigned OMB number 0581–0176. This rule does not establish new reporting or recordkeeping requirements. The current annual reporting burden for importers is estimated at 12 hours. Those affected by this rule have already reported entries and requested extensions of deadlines for reporting peanuts entered under the 1997 import quotas. Further, because no additional 1997 peanut imports are expected, there should be no need to file additional reports other than the final report of all entries, which is included in the approved 12 hour reporting burden.

Paragraph (f)(3) of the rule is revised for the 1997 import periods only. All certificates and other documents reporting the disposition of passing, as well as failing and reconditioned, peanut lots must be reported to AMS by November 1, 1997. This reporting date applies to only AMS' peanut import regulation and does not supersede other reporting dates for those peanuts that may be established by the Customs Service or other agencies. For peanuts imported after the quotas are filled, this rule extends the reporting period from 23 to 120 days, thus, reducing or eliminating the burden of requesting an extension of the reporting period.

Interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses. This rule also invites comments on an extension in the time period for reporting dispositions of imported peanuts. Written comments timely received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) This rule relaxes the reporting requirements of the import regulation; (2) some importers of 1997 import quota peanuts have already been authorized 60-day extensions of the reporting period; and (3) this rule provides a 30-day comment period and all written comments timely received will be considered prior to finalization of this rule.

List of Subjects in 7 CFR Part 999

Dates, Food grades and standards, Hazelnuts, Imports, Nuts, Peanuts, Prunes, Raisins, Reporting and recordkeeping requirements, Walnuts.

For the reasons set forth in the preamble, 7 CFR Part 999 is amended as follows:

PART 999—SPECIALTY CROPS; IMPORT REGULATIONS

1. The authority citation for 7 CFR part 999 is revised to read as follows:

Authority: 7 U.S.C. 601–674, 7 U.S.C. 1445c–3, and 7 U.S.C. 7271.

2. In § 999.600, paragraphs (f)(3) and (f)(4) are revised to read as follows:

§ 999.600 Regulation governing imports of peanuts.

* * * * *

(f) * * *

(3) Certificates and other documentation showing disposition of peanuts imported under 1997 import quotas, consistent with the requirements

of this section, must be filed by November 1, 1997. Disposition of peanuts imported in excess of the 1997 peanut import quotas must be filed within 120 days of the peanuts' entry by the Customs Service. Extension of these reporting periods must be granted by the AMS on a case by case basis upon a showing that such extension would be justified. Requests for extension must be submitted in writing to the Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456, Attn: Peanut Imports or faxing the request to (202) 720–5698. An extension request must include the Customs Service entry number, relevant grade and aflatoxin certificates (if any) issued on the outstanding peanuts, and the reasons for delay in obtaining final disposition of the peanuts.

(4) Failure to fully comply with quality and handling requirements or failure to notify the Secretary of disposition of all foreign produced peanuts, as required under this section, may result in a compliance investigation by the Secretary. Falsification of reports submitted to the Secretary is a violation of Federal law punishable by fine or imprisonment, or both.

* * * * *

Dated: September 19, 1997.

Robert C. Keeney,

Director, Fruit and Vegetable Division.

[FR Doc. 97–25411 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1205

1997 Amendment to Cotton Board Rules and Regulations Adjusting Supplemental Assessment on Imports

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Correction to final rule.

SUMMARY: This document corrects the final rule published September 2, 1997 (62 FR 46412) which amended the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program.

EFFECTIVE DATE: October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Craig Shackelford, (202) 720-2259.

SUPPLEMENTARY INFORMATION:

Background

The Agricultural Marketing Service (AMS) amended the Cotton Board Rules and Regulations by lowering the value assigned to imported cotton for the purpose of calculating supplemental assessments collected for use by the Cotton Research and Promotion Program. This action is required by this regulation on an annual basis to ensure that the assessments collected on imported cotton and the cotton content of imported products remain similar to those paid on domestically produced cotton. As a result of changes in the 1997 Harmonized Tariff Schedule (HTS), numbering changes in the import assessment table are amended. Eleven HTS numbers were to be eliminated from the assessment table because negligible assessments have been collected on these numbers and their elimination would contribute to reducing the overall burden to importers.

Need for Correction

In rule FR Doc. 97–23218 published on September 2, 1997 (62 FR 46412), make the following correction. On page 46415, in the third column, immediately following the HTS number 5212216090 remove the entries for HTS numbers 5309214010, 5309214090, 5309294010, 5311004020, 5407810010, 5407810030, 5407912020, 5408312020, 5408329020, 5408349020, and 5408349095.

Dated: September 18, 1997.

Norma McDill,

Acting Director, Cotton Division.

[FR Doc. 97–25278 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Parts 1 and 3

[Docket No. 95–078–4]

RIN 0579–AA74

Humane Treatment of Dogs; Tethering; Clarification

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule; clarification.

SUMMARY: On August 13, 1997, we published in the **Federal Register** (62 FR 43272–43275, Docket No. 95–078–2) a final rule that removed the option for facilities regulated under the Animal Welfare Act to use tethering as a means of primary enclosure. We also added a provision to the regulations to permit regulated facilities to temporarily tether a dog if they obtain approval from the Animal and Plant Health Inspection Service. The purpose of this notice is to clarify what kinds of facilities are regulated under the Animal Welfare Act and, subsequently, what kinds of facilities must comply with the final rule on tethering.

FOR FURTHER INFORMATION CONTACT: Mr. Stephen Smith, Staff Animal Health Technician, Animal Care, APHIS, suite 6D02, 4700 River Road Unit 84, Riverdale, MD 20737–1234, (301) 734–4972, or e-mail: snsmith@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

On August 13, 1997, we published in the **Federal Register** (62 FR 43272–43275, Docket No. 95–078–2) a final rule that amended the regulations by removing the option for facilities regulated under the Animal Welfare Act to use tethering as a means of primary enclosure. We also added a provision to the regulations to state that regulated facilities may temporarily tether a dog if they obtain approval from the Animal and Plant Health Inspection Service (APHIS).

This rulemaking was based on our experience in enforcing the Animal Welfare Act, which has shown that tethering can be an inhumane practice when used as a means of primary enclosure in facilities regulated under the Animal Welfare Act. Typically, this inappropriate use of tethering involves dogs that are permanently tethered without opportunity for regular exercise. This was the basis for our position that tethering is inhumane. However, we recognize that under other circumstances (intermittent use, dogs are vigorously exercised, pets are on running tethers, dogs have close oversight, etc.) the use of tethering may be entirely appropriate and humane. We did not intend to imply that tethering of dogs under all circumstances is inhumane, nor that tethering under any circumstances must be prohibited.

Since publication of the final rule, we have been made aware that some members of the public are confused as to who must comply with this final rule. We have received numerous inquiries from various kinds of dog owners who tether their dogs. These dog owners are concerned that, pursuant to the final rule, they will no longer be able to tether their dogs. We are publishing this notice in order to make it clear who must comply with the final rule, and

who is not subject to the provisions of the final rule.

The final rule regarding tethering of dogs was issued under the authority of the Animal Welfare Act. The Animal Welfare Act authorizes APHIS to license, register, and regulate animal dealers, animal transporters, animal exhibitors, and research facilities that sell, transport, exhibit, or use certain kinds of animals, including dogs. Regulations established under the Act are contained in 9 CFR parts 1, 2, and 3. Subpart A of 9 CFR part 3 contains requirements concerning dogs and cats.

With regard to dogs sold, transported, exhibited, or used in research by persons subject to the Animal Welfare Act, APHIS' regulations are intended to ensure that the dogs are given proper and humane care. Persons subject to the Animal Welfare Act include persons who sell dogs wholesale or breed dogs to sell wholesale, sell dogs to laboratories for research purposes or breed dogs for sale to laboratories for research purposes, broker dogs, operate an auction at which dogs are sold, or give dogs as prizes as part of a promotion. Transporters of dogs, such as airlines, railroads, motor carriers, and handlers contracted to transport dogs, are also subject to the Animal Welfare Act. Additionally, persons who exhibit dogs (such as circuses or carnivals) and laboratories that use dogs for research are subject to the Animal Welfare Act. These are the groups that must comply with the final rule prohibiting permanent tethering of dogs as a means of primary enclosure. However, any person required to comply with the final rule may request approval from APHIS to temporarily tether a dog.

Any person who is not subject to the Animal Welfare Act does not have to comply with the final rule on tethering, and may continue to tether their dogs. Persons who own dogs as pets are not subject to the Animal Welfare Act. Persons who breed dogs as a hobby, and do not sell them wholesale, are not subject to the Animal Welfare Act. Dog mushers and owners of guard dogs or hunting dogs are not subject to the Animal Welfare Act. Therefore, these entities are not subject to and do not have to comply with APHIS' final rule regarding tethering of dogs. APHIS has no authority under the Animal Welfare Act to prohibit tethering of dogs by persons who are not subject to the Act.

Individuals most likely to be affected by the final rule on tethering are those licensed by APHIS as Class A and Class B dealers of dogs. This includes persons who sell dogs wholesale, breed dogs to sell wholesale, sell dogs to laboratories for research purposes, or breed dogs for sale to laboratories for research purposes. Most dog breeder and wholesale industry organizations agree that tethering is not a humane means of primary enclosure for dogs when used under the circumstances typical to breeding and wholesale facilities. Many of these organizations already prohibit member facilities from using tethering as a means of primary enclosure. For this reason, using tethering as a means of primary enclosure is rare among licensed Class A and Class B dog dealers. We recognize that many persons not subject to the Animal Welfare Act do tether their dogs. Persons not regulated under the Animal Welfare Act who tether their dogs are likely to be using this means of restraint under circumstances different than those typical to breeding and wholesale facilities. In these cases, tethering may be a humane method of restraint. Regardless, APHIS does not have the authority to regulate the activities of dog owners who are not subject to the Animal Welfare Act.

Authority: 7 U.S.C. 2131–2159; 7 CFR 2.22, 2.80, and 371.2(g).

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25482 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Chapter VII

Interpretive Rulings and Policy Statements

AGENCY: National Credit Union Administration (NCUA).

ACTION: Withdrawal of outdated and unnecessary Interpretive Rulings and Policy Statements (IRPS).

SUMMARY: NCUA is withdrawing several of its Interpretative Rulings and Policy Statements (IRPS) that have become outdated or unnecessary or have been superseded by other IRPS or NCUA regulations. This is the first step in NCUA's ongoing project to update and streamline its IRPS. The intended purpose of withdrawing these IRPS is to ease the compliance burden on federally chartered and federally insured credit unions and provide more valuable guidance by eliminating IRPS that no longer effectively advance NCUA's regulatory goals or statutory responsibilities.

EFFECTIVE DATE: September 25, 1997.

ADDRESSES: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428.

FOR FURTHER INFORMATION CONTACT: Nicole Sippial Williams, Staff Attorney, Division of Operations, Office of the General Counsel, (703) 518–6540, or at the above address.

SUPPLEMENTARY INFORMATION:

A. Background

As part of its Regulatory Review Program, NCUA conducted a review of its IRPS to determine their current effectiveness. Several of the IRPS were found to be outdated and unnecessary and, thus, could be withdrawn. On March 13, 1997, the NCUA Board issued an advance notice of proposed rulemaking soliciting comments on a proposal to revise NCUA's existing IRPS. As part of the proposal, NCUA recommended withdrawing 17 IRPS, redesignating 9 IRPS into the NCUA Rules and Regulations, transferring 1 IRPS into a NCUA instructional manual or directive, and preserving 12 IRPS.

NCUA received a total of 17 comments from federal credit unions, state-chartered credit unions, trade organizations, state leagues, and state credit union regulators. The commenters were overwhelmingly in support of NCUA's efforts to revise and streamline its IRPS and the proposed action to be taken with regard to each IRPS, but suggested a few specific changes.

One commenter suggested that IRPS 80–10, When Federal Credit Unions Can Charge More Than 15% Per Annum on Government Insured or Guaranteed Loans, should not be withdrawn. We disagree. The guidance provided in this IRPS is adequately addressed in Section 701.21(e) of NCUA Rules and Regulations. One commenter suggested that IRPS 82–6, Corporate Federal Credit Union Chartering Guidelines, should not be withdrawn, but should remain for credit unions that believe they would be better served by a new corporate credit union or for state chartered credit unions that want to convert to federal charters. We disagree. The guidance provided in IRPS 82–6 is no longer relevant to chartering corporate credit unions. Applications for new corporate charters will be handled on a case-by-case basis with the NCUA Chartering and Field of Membership Manual (IRPS 94–1, as amended by IRPS 96–1) used as guidance where applicable.

NCUA thoroughly evaluated the comments and has incorporated some of the suggested changes into this

withdrawal of IRPS and will continue to do so as the IRPS are further revised.

IRPS that were marked for redesignation into NCUA Rules and Regulations, according to the March 13, 1997, proposal, will be redrafted as proposed rules and submitted to the public for notice and comment at a later date. IRPS to be preserved, will be further reviewed for possible revision, and if any changes are made, the IRPS will be reissued.

B. IRPS To Be Withdrawn

At this time NCUA is withdrawing 18 IRPS that it considers either outdated, since they no longer provide relevant or useful guidance, or unnecessary, since the guidance provided has already been incorporated into NCUA regulations or manuals. In addition, 10 IRPS are being withdrawn because they have been superseded by other IRPS or NCUA regulations and NCUA wants to reemphasize to the public that these IRPS are no longer viable.

IRPS No. 79–1, Statement of Policy Regarding Relationship of Credit Union Service Corporations and Existing Accounting Service Centers, 44 FR 21762, Apr. 12, 1979, provides that in order to assist existing accounting service centers and ''leeway'' organizations in complying with a new CUSO rule implemented by NCUA, NCUA agrees to forego taking any action for a period of one year. IRPS 79–1 is outdated because it addresses a specific NCUA policy to allow a one-year phase-in period for a new CUSO rule implemented by NCUA at that time.

IRPS No. 79–2, Share Accounts, 44 FR 39382, July 6, 1979, provides that as a result of a rule change deregulating share accounts, NCUA no longer requires share draft accounts to be identical to regular share accounts and confirms that share draft accounts are regular share accounts with terms and dividend rates that can vary from other regular share accounts. IRPS 79–2 is unnecessary because the guidance provided is restated in Section 701.35 of NCUA Rules and Regulations.

IRPS No. 79–3, Amortization of Long Term Real Estate Loans, 44 FR 39182, July 5, 1979, states that absent NCUA approval, federal credit unions must amortize real estate loans by ''substantially equal monthly installments'' with two exceptions. The total of principal and interest for the first and last monthly installment may differ slightly from the total of the other installments. IRPS 79–3 is outdated because it is superseded by Sections 5040.5.2.1.1 and 5040.5.2.1.2 of the NCUA Accounting Manual. The Accounting Manual establishes two methods of amortizing loans that may be used by federal credit unions.

IRPS No. 79–4, Investment Activities, 44 FR 51195, Aug. 31, 1979, established certain accounting procedures for permissible investment activities. IRPS 79–4 is unnecessary because the guidance provided is restated in the current, as well as, the newly revised version of Part 703 NCUA of Rules and Regulations and in the NCUA Accounting Manual.

IRPS No. 79–5, Insurance Activities, 44 FR 43711, July 26, 1979, provides that participation in a draft payment system that involves the presentment and settlement of claims by a federal credit union, with subsequent reimbursement to the federal credit union by the insurer is impermissible. Thus, a federal credit union's involvement with an insurance vendor is limited to the forwarding of claim forms to the vendor for processing. IRPS 79–5 is outdated because it interprets an obsolete provision. In addition Part 721 of NCUA Rules and Regulations, addressing rules governing insurance, limits a federal credit union's insurance activities to performing administrative functions on behalf of a vendor.

IRPS No. 79–7, Liquidity Reserve, 44 FR 61172, Oct. 24, 1979, provides guidance on NCUA's position on (1) provisions of Part 742, (2) the calculation and disclosure of liquidity reserves, and (3) procedures for requesting additional time to meet the liquidity reserve. IRPS 79–7 is outdated because Part 742 has been removed from NCUA Rules and Regulations. The NCUA Board believed that efficient liquidity management varies among credit unions, and liquidity decisions should be the responsibility of individual credit unions boards of directors.

IRPS No. 79–8, Public Observance and Availability of Information Regarding Board Meetings; Interim Sunshine Act Policy Statement, 44 FR 70709, Dec. 10, 1979, sets forth NCUA's policy governing the implementation of the Sunshine Act. IRPS 79–8 is unnecessary because the guidance provided is restated in §§ 791.9–791.18 of NCUA Rules and Regulations.

IRPS No. 79–9, Rate of Interest, 44 FR 74799, Dec. 18, 1979, provides that the effect of a compensating balance must be considered in determining usury limits on federal credit union member loans. IRPS 79–9 is outdated because the permissible interest rate that credit union may charge has changed from 12% to 15%, and the practice of requesting compensating balances is no longer prevalent among credit unions. Any potential questions from a federal credit union, relating to compensating balances, can be handled without the continuing need for this IRPS.

IRPS No. 79–10, Notice of Proposed Consumer Program, 45 FR 7738, Feb. 4, 1980, sets forth NCUA's proposed consumer program as requested by Executive Order 12160. IRPS 79–10 is outdated because it is superseded by IRPS 80–7, the Final Notice of Consumer Program, 45 FR 50260, July 28, 1980.

IRPS No. 80–7, Final Notice of Consumer Program, 45 FR 50260, July 28, 1980, sets forth NCUA's final consumer program which was to be governed by the Office of Consumer Affairs. IRPS 80–7 is outdated because it is superseded by NCUA Instruction 12400.2, Compliance Activities: Complaint Handling and Documentation of Violations, which sets forth NCUA's current policy for handling consumer affairs.

IRPS No. 80–10, When Federal Credit Unions Can Charge More Than 15 Percent Per Annum on Government Insured or Guaranteed Loans, 45 FR 71353, Oct. 28, 1980, provides that government insured and guaranteed loans may exceed the federal usury rate for federal credit unions. IRPS 80–10 is unnecessary because the guidance provided is restated in § 701.21(e) of NCUA Rules and Regulations.

IRPS No. 80–11, State Chartered Federally Insured Credit Unions as Most Favored Lenders, 45 FR 78624, Nov. 26, 1980, sets forth the conditions upon which federally insured state chartered credit unions (FISCUs) are granted most favored lender status pursuant to the Federal Credit Union Act. IRPS 80–11 is outdated because it has been superseded by IRPS 81–3, State Chartered Federally Insured Credit Unions as ''Most Favored Lenders,'' 45 FR 78624, Nov. 26, 1980, which removed the conditions set forth in IRPS 80–11 so that most favored lender status would apply to any loan that an FISCU grants.

IRPS No. 80–12, Verification of Member Accounts, 46 FR 9919, Jan. 30, 1981, provides that federal credit unions are allowed to use statistical sampling in satisfaction of statutory and regulatory member account verification requirements. IRPS 80–12 is unnecessary because the guidance provided is restated in Chapter 24 of NCUA's Supervisory Committee Guide.

IRPS No. 81–1, Definitions—Exclusions from Gross Income in Computing Reserve Requirements, 46 FR 13204, Feb. 20, 1981, provides that credit unions receiving Central Liquidity Fund dividends may exclude those dividends in computing federally-imposed reserve requirements. IRPS 81–

1 is unnecessary because the guidance provided is restated in Section 6090.5 of the NCUA Accounting Manual.

IRPS No. 81–2, Federal Funds, 46 FR 14887, Mar. 3, 1981, authorizes certain federal funds transactions for federal credit unions and establishes guidelines and accounting procedures for the same. IRPS 81–2 is unnecessary because the guidance provided is restated in § 703.100(g) of NCUA Rules and Regulations.

IRPS No. 81–4, Developing Government Regulations, 46 FR 29248, June 1, 1981, sets forth NCUA's procedures for developing and reviewing its regulations. IRPS 81–4 was drafted in response to the passage of the Financial Simplification Act of 1980, the Regulatory Flexibility Act of 1980, 5 U.S.C. *et seq.*, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* IRPS 81–4 is now outdated due to changes in the law, including the repeal of the Financial Simplification Act of 1980, and is superseded by IRPS 87–2 which sets forth NCUA's current procedures for developing and reviewing its regulations.

IRPS No. 81–5, Proposed Policy Statement Release of Consumer Examination Reports, 46 FR 29575, June 2, 1981, sets forth conditions under which individual federal credit unions may release consumer compliance examination reports to third parties. IRPS 81–5 is outdated because consumer compliance examinations are no longer performed as separate examinations, but are performed in conjunction with safety and soundness examinations producing one examination report. This examination report is an exempt document. The release of an exempt document is addressed in Part 792 of NCUA Rules and Regulations.

IRPS No. 81–8, Full and Fair Disclosure Requirements, 47 FR 23685, June 1, 1982, provides that compliance with Section 2000 of the Accounting Manual will place a federal credit union in compliance with the full and fair disclosure requirements of Part 702 of the NCUA Regulations. IRPS 81–8 is unnecessary because the guidance provided is restated in § 702.3 of NCUA Rules and Regulations and Section 1000 of the NCUA Accounting Manual.

IRPS No. 81–9, Share, Share Draft and Share Certificate Accounts, 46 FR 57668, Nov. 25, 1981, sets forth NCUA's position regarding the calculation and assessment of premature withdrawal penalties for variable-rate and multiple-addition share certificate accounts. IRPS 81–9 is outdated because NCUA deregulated § 701.35 of the NCUA Rules and Regulations, 47 FR 17979, Apr. 27, 1982, giving a federal credit union's board of directors the responsibility for determining the terms and conditions governing share, share draft, and share certificate accounts, including premature withdrawal penalties.

IRPS No. 82–1, Membership in Federal Credit Unions, 47 FR 16775, Apr. 20, 1982, provides that federal credit unions may offer membership to borrowers whose loans have been purchased from a liquidated credit union and that they may serve multiple occupational group. IRPS 82–1 is outdated because it is superseded by IRPS 82–3, Membership in Federal Credit Unions, 47 FR 26808, June 22, 1982.

IRPS No. 82–3, Membership in Federal Credit Unions, 47 FR 26808, June 22, 1982, provides further guidance on field of membership issues and authorizes multiple associational group charters. IRPS 82–3 is outdated because it is superseded by IRPS 89–1, Chartering and Field of Membership Policy, 54 FR 31165, July 27, 1989.

IRPS No. 83–2, Membership in Federal Credit Unions, 48 FR 22899, May 23, 1983, clarified that the definition of a ''well-defined area'' stated in IRPS 82–3 includes home offices and branch offices for purposes of adding additional associational and occupational groups. IRPS 83–2 is outdated because it is superseded by IRPS 89–1, Chartering and Field of Membership Policy, 54 FR 31165, July 27, 1989.

IRPS No. 84–1, Membership in Federal Credit Unions, 49 FR 46536, Nov. 27, 1984, combines IRPS 82–3 and IRPS 83–2, sets out modifications made since the two IRPS were published, incorporates several unwritten policies, and sets forth a new policy on service to senior citizens and retirees. IRPS 84–1 is outdated because it is superseded by IRPS 89–1, Chartering and Field of Membership Policy, 54 FR 31165, July 27, 1989.

IRPS No. 85–1, Trustees and Custodians of Pension Plans, 50 FR 48176, Nov. 22, 1985, provides guidelines for federal credit unions involved with self-directed IRA and Keogh accounts. IRPS 85–1 is unnecessary because the guidance provided is restated in Part 724 of NCUA Rules and Regulations.

IRPS No. 86–2, Joint Policy Statement on Basic Financial Services, 51 FR 42083, Nov. 21, 1986, provides that NCUA has adopted FFIEC's recommendation encouraging credit unions to offer basic financial services accessible to low and moderate-income members. IRPS 86–2 is unnecessary because it restates the basic mission of credit unions. As stated in the Federal Credit Unions Act, 12 U.S.C. 1751, the Act was established ''to make more available to people of small means credit for provident purposes through a national system of cooperative credit, thereby helping stabilize the credit structure of the United States.''

IRPS No. 88–1, Policy on Selection of Securities Dealers and Unsuitable Investment Practices, 53 FR 18268, May 23, 1988, provides that NCUA will adopt a modified version of the FFIEC's Supervisory Policy containing guidance to federal credit unions concerning selection of securities brokers and the avoidance of unsound investment practices. IRPS 88–1 is outdated because it is superseded by IRPS 92–1, Supervisory Policy Statement on Securities Activities, 57 FR 22157, May 27, 1992, which provides additional information on the development of a portfolio policy and strategies for securities and on securities practices that are inappropriate for an investment account.

IRPS No. 89–1, Chartering and Field of Membership Policy, 54 FR 31165, July 27, 1989, provides membership and chartering policies. IRPS 89–1 is outdated because it is superseded by IRPS 94–1, Chartering and Field of Membership Policy, 59 FR 29066, June 3, 1994, as amended by IRPS 96–1, 61 FR 11721, Mar. 22, 1996.

By the National Credit Union Administration Board on September 17, 1997.

Becky Baker,

Secretary to the Board.

[FR Doc. 97–25261 Filed 9–24–97; 8:45 am]

BILLING CODE 7535–01–P

FEDERAL HOUSING FINANCE BOARD

12 CFR Part 950

[No. 97–57]

RIN 3069–AA57

Revision of Financing Corporation Operations Regulation

AGENCY: Federal Housing Finance Board.

ACTION: Final rule.

SUMMARY: The Federal Housing Finance Board (Finance Board) is amending its regulation on Financing Corporation (FICO) operations to comply with new statutory requirements, eliminate provisions that have been rendered obsolete by statutory changes, and clarify the practices and procedures of the Finance Board and FICO. The final rule is consistent with the goals of the

Regulatory Reinvention Initiative of the National Performance Review.

EFFECTIVE DATE: The final rule will become effective October 27, 1997.

FOR FURTHER INFORMATION CONTACT: Joseph A. McKenzie, Associate Director, Financial Analysis and Reporting Division, Office of Policy, 202/408–2845, or Janice A. Kaye, Attorney-Advisor, Office of General Counsel, 202/408–2505, Federal Housing Finance Board, 1777 F Street, N.W., Washington, D.C. 20006.

SUPPLEMENTARY INFORMATION:

I. Regulatory Background and Analysis of the Final Rule

In November 1996, the Finance Board approved an interim final rule amending its FICO operations regulation, 12 CFR part 950, to comply with new statutory requirements, eliminate provisions that were rendered obsolete by statutory changes, and clarify the practices and procedures of the Finance Board and FICO. *See* 61 FR 59311 (Nov. 22, 1996). The 30-day public comment period for the interim final rule, which became effective upon publication in the **Federal Register**, closed on December 23, 1996. *See id.* The Finance Board received no public comments. Therefore, with the exception noted below, and for the reasons set forth in detail in the interim final rulemaking, the Finance Board is adopting the interim final rule as published.

In order to accommodate the terms of a memorandum of understanding (MOU) signed by FICO and the Federal Deposit Insurance Corporation (FDIC) after publication of the interim final rule in the **Federal Register**, the Finance Board has amended § 950.8(b)(2)(i) of the interim final rule to require FICO to determine an assessment rate formula rather than the actual assessment rate. Under the MOU, the FDIC will handle administrative tasks, such as computing each insured depository institution's assessment, issuing invoices notifying insured depository institutions of the amount to be paid and the date of payment, and arranging for the collection of the assessment through the payments system. *See* FICO–FDIC MOU (Jan. 23, 1997). Among other things, the MOU provides that the FDIC will compute the assessment rate in accordance with an assessment rate formula adopted by FICO. *See id.* ¶ 3. Section 950.8(b)(2)(i) of the interim final rule required FICO to determine the assessment rate by considering historical data regarding assessment collections and current information concerning the Savings Association Insurance Fund and Bank Insurance Fund deposit bases and the location of insured depository institutions that is available only to the FDIC. For consistency with the terms of the MOU, § 950.8(b)(2)(i) of the final rule requires FICO to establish a formula the FDIC will use to determine at least semiannually the rate of the assessment FICO will assess against insured depository institutions in order to pay its non-administrative expenses.

II. Paperwork Reduction Act

This rule does not contain any collections of information pursuant to the Paperwork Reduction Act of 1995. *See* 44 U.S.C. 3501 *et seq.* Consequently, the Finance Board has not submitted any information to the Office of Management and Budget for review.

III. Regulatory Flexibility Act

The Finance Board adopted the changes to part 950 in the form of an interim final rule and not as a proposed rule. Therefore, the provisions of the Regulatory Flexibility Act did not apply. *See* 5 U.S.C. 601(2), 603(a).

List of Subjects in Part 950

Federal home loan banks, Securities.

Accordingly, the Federal Housing Finance Board hereby adopts the interim final rule adding 12 CFR part 950 that was published at 61 FR 59311 on November 22, 1996, as a final rule and revises part 950 to read as follows:

PART 950—OPERATIONS

Sec.

Authority: 12 U.S.C. 1441(b)(8), (c), and (j).

§ 950.1 Definitions.

For purposes of this part:

(a) *Act* means the Federal Home Loan Bank Act, as amended (12 U.S.C. 1421 *et seq.*).

(b) *Administrative expenses:*

(1) Include general office and operating expenses such as telephone and photocopy charges, printing, legal, and professional fees, postage, courier services, and office supplies; and

(2) Do not include any form of employee compensation, custodian fees, issuance costs, or any interest on (and any redemption premium with respect to) any Financing Corporation obligations.

(c) *Bank* or *Banks* means a Federal Home Loan Bank or the Federal Home Loan Banks.

(d) *BIF-assessable deposit* means a deposit that is subject to assessment for purposes of the Bank Insurance Fund under the Federal Deposit Insurance Act (12 U.S.C. 1811 *et seq.*), including a deposit that is treated as a deposit insured by the Bank Insurance Fund under section 5(d)(3) of the Federal Deposit Insurance Act.

(e) *Custodian fees* means any fee incurred by the Financing Corporation in connection with the transfer of any security to, or maintenance of any security in, the segregated account established under section 21(g)(2) of the Act, and any other expense incurred by the Financing Corporation in connection with the establishment or maintenance of such account.

(f) *Directorate* means the board established under section 21(b) of the Act to manage the Financing Corporation.

(g) *Exit fees* means the amounts paid under sections 5(d)(2)(E) and (F) of the Federal Deposit Insurance Act, and regulations promulgated thereunder (12 CFR part 312).

(h) *FDIC* means the agency established as the Federal Deposit Insurance Corporation.

(i) *Finance Board* means the agency established as the Federal Housing Finance Board.

(j) *Insured depository institution* has the same meaning as in section 3 of the Federal Deposit Insurance Act.

(k) *Issuance costs* means issuance fees and commissions incurred by the Financing Corporation in connection with the issuance or servicing of Financing Corporation obligations, including legal and accounting expenses, trustee, fiscal, and paying agent charges, securities processing charges, joint collection agent charges, advertising expenses, and costs incurred in connection with preparing and printing offering materials to the extent the Financing Corporation incurs such costs in connection with issuing any obligations.

(l) *Non-administrative expenses* means custodian fees, issuance costs, and interest on Financing Corporation obligations.

(m) *Obligations* means debentures, bonds, and similar debt securities issued by the Financing Corporation under sections 21(c)(3) and (e) of the Act.

(n) *Office of Finance* means the joint office of the Banks established under part 941 of this chapter.

(o) *Receivership proceeds* means the liquidating dividends and payments made on claims received by the Federal Savings and Loan Insurance Corporation Resolution Fund established under section 11A of the Federal Deposit Insurance Act from receiverships, that are not required by the Resolution Funding Corporation to provide funds for the Funding Corporation Principal Fund established under section 21B of the Act.

(p) *SAIF-assessable deposit* means a deposit that is subject to assessment for purposes of the Savings Association Insurance Fund under the Federal Deposit Insurance Act, including a deposit that is treated as a deposit insured by the Savings Association Insurance Fund under section 5(d)(3) of the Federal Deposit Insurance Act.

§ 950.2 General authority.

Subject to the limitations and interpretations in this part and such orders and directions as the Finance Board may prescribe, the Financing Corporation shall have authority to exercise all powers and authorities granted to it by the Act and by its charter and bylaws regardless of whether the powers and authorities are specifically implemented in regulation.

§ 950.3 Authority to establish investment policies and procedures.

The Directorate shall have authority to establish investment policies and procedures with respect to Financing Corporation funds provided that the investment policies and procedures are consistent with the requirements of section 21(g) of the Act. The Directorate shall promptly notify the Finance Board in writing of any changes to the investment policies and procedures.

§ 950.4 Book-entry procedure for Financing Corporation obligations.

(a) *Authority.* Any Federal Reserve Bank shall have authority to apply book-entry procedure to Financing Corporation obligations.

(b) *Procedure.* The book-entry procedure for Financing Corporation obligations shall be governed by the book-entry procedure established for Bank securities, codified at part 912 of this chapter. Wherever the terms ''Federal Home Loan Bank(s),'' ''Federal Home Loan Bank security(ies),'' or ''Book-entry Federal Home Loan Bank security(ies)'' appear in part 912, the terms shall be construed also to mean ''Financing Corporation,'' ''Financing Corporation obligation(s),'' or ''Book-entry Financing Corporation obligation(s),'' respectively, if appropriate to accomplish the purposes of this section.

§ 950.5 Bank and Office of Finance employees.

Without further approval of the Finance Board, the Financing Corporation shall have authority to utilize the officers, employees, or agents of any Bank or the Office of Finance in such manner as may be necessary to carry out its functions.

§ 950.6 Budget and expenses.

(a) *Directorate approval.* The Financing Corporation shall submit annually to the Directorate for approval, a budget of proposed expenditures for the next calendar year that includes administrative and non-administrative expenses.

(b) *Finance Board approval.* The Directorate shall submit annually to the Finance Board for approval, the budget of the Financing Corporation's proposed expenditures it approved pursuant to paragraph (a) of this section.

(c) *Spending limitation.* The Financing Corporation shall not exceed the amount provided for in the annual budget approved by the Finance Board pursuant to paragraph (b) of this section, or as it may be amended by the Directorate within limits set by the Finance Board.

(d) *Amended budgets.* Whenever the Financing Corporation projects or anticipates that it will incur expenditures, other than interest on Financing Corporation obligations, that exceed the amount provided for in the annual budget approved by the Finance Board or the Directorate pursuant to paragraph (b) or (c) of this section, the Financing Corporation shall submit an amended annual budget to the Directorate for approval, and the Directorate shall submit such amended budget to the Finance Board for approval.

§ 950.7 Administrative expenses.

(a) *Payment by Banks.* The Banks shall pay all administrative expenses of the Financing Corporation approved pursuant to § 950.6.

(b) *Amount.* The Financing Corporation shall determine the amount of administrative expenses each Bank shall pay in the manner provided by section 21(b)(7)(B) of the Act. The Financing Corporation shall bill each Bank for such amount periodically.

(c) *Adjustments.* The Financing Corporation shall adjust the amount of administrative expenses the Banks are required to pay in any calendar year pursuant to paragraphs (a) and (b) of this section, by deducting any funds that remain from the amount paid by the Banks for administrative expenses in the prior calendar year.

§ 950.8 Non-administrative expenses; assessments.

(a) *Interest expenses.* The Financing Corporation shall determine anticipated interest expenses on its obligations at least semiannually.

(b) *Assessments on insured depository institutions*—(1) *Authority.* To provide sufficient funds to pay the non-administrative expenses of the Financing Corporation approved under § 950.6, the Financing Corporation shall, with the approval of the Board of Directors of the FDIC, assess against each insured depository institution an assessment in the same manner as assessments are made by the FDIC under section 7 of the Federal Deposit Insurance Act.

(2) *Assessment rate*—(i) *Determination.* The Financing Corporation at least semiannually shall establish an assessment rate formula, which may include rounding methodology, to determine the rate or rates of the assessment it will assess against insured depository institutions pursuant to section 21(f)(2) of the Act and paragraph (b)(1) of this section.

(ii) *Limitation.* Until the earlier of December 31, 1999, or the date as of which the last savings association ceases to exist, the rate of the assessment imposed on an insured depository institution with respect to any BIF-assessable deposit shall be a rate equal to ⅕ of the rate of the assessment imposed on an insured depository institution with respect to any SAIF-assessable deposit.

(iii) *Notice.* The Financing Corporation shall notify the FDIC and the collection agent, if any, of the formula established under paragraph (b)(2)(i) of this section.

(3) *Collecting assessments*—(i) *Collection agent.* The Financing Corporation shall have authority to collect assessments made under section 21(f)(2) of the Act and paragraph (b)(1) of this section through a collection agent of its choosing.

(ii) *Accounts.* Each Bank shall permit any insured depository institution whose principal place of business is in its district to establish and maintain at least one demand deposit account to facilitate collection of the assessments made under section 21(f)(2) of the Act and paragraph (b)(1) of this section.

(c) *Receivership proceeds*—(1) *Authority.* To the extent the amounts collected under paragraph (b) of this

section are insufficient to pay the non-administrative expenses of the Financing Corporation approved under § 950.6, the Financing Corporation shall have authority to require the FDIC to transfer receivership proceeds to the Financing Corporation in accordance with section 21(f)(3) of the Act.

(2) *Procedure.* The Directorate shall request in writing that the FDIC transfer the receivership proceeds to the Financing Corporation. Such request shall specify the estimated amount of funds required to pay the non-administrative expenses of the Financing Corporation approved under § 950.6.

(d) *Exit fees*—(1) *Authority.* To the extent the amounts provided under paragraphs (b) and (c) of this section are insufficient to pay the interest due on Financing Corporation obligations, the Financing Corporation shall have authority to request that the Secretary of the Treasury order the transfer of exit fees to the Financing Corporation in accordance with section 5(d)(2)(E) of the Federal Deposit Insurance Act or as otherwise may be provided for by statute.

(2) *Procedure.* The Directorate shall request in writing that the Secretary of the Treasury order that exit fees be transferred to the Financing Corporation. Such request shall specify the estimated amount of funds required to pay the interest due on Financing Corporation obligations.

§ 950.9 Reports to the Finance Board.

The Financing Corporation shall file such reports as the Finance Board shall direct.

§ 950.10 Review of books and records.

The Finance Board shall examine the Financing Corporation at least annually to determine whether the Financing Corporation is performing its functions in accordance with the requirements of section 21 of the Act and this part.

By the Board of Directors of the Federal Housing Finance Board.

Bruce A. Morrison,

Chairperson.

[FR Doc. 97–25305 Filed 9–24–97; 8:45 am]

BILLING CODE 6725–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–213–AD; Amendment 39–10144; AD 97–20–06]

RIN 2120–AA64

Airworthiness Directives; Saab Model SAAB 2000 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Saab Model SAAB 2000 series airplanes, that requires deactivation of certain floormat heaters in the cabin area. In addition, this amendment provides for optional terminating action for that deactivation. This amendment is prompted by a report indicating that a flight attendant's floormat heater became overheated as a result of a short circuit between a floormat heater and a floor panel that was made of conductive material; this condition resulted in smoke in the cabin area. The actions specified by this AD are intended to prevent such short circuiting, which could cause overheating of the floormat heater and lead to smoke or fire in the airplane cabin.

DATES: Effective October 30, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 30, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköing, Sweden. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Ruth Harder, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–1721; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Saab Model SAAB 2000 series airplanes was published in the **Federal Register** on May 22, 1997 (62 FR 27987). That action proposed to require deactivation of certain floormat heaters in the cabin area. In addition, that action proposed to provide for optional terminating action for that deactivation.

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 3 Saab Model SAAB 2000 series airplanes of U.S. registry will be affected by this AD, that it will take approximately 1 work hour per airplane to accomplish the required deactivation, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the AD on U.S. operators is estimated to be $180, or $60 per airplane.

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

Should an operator elect to accomplish the optional terminating action that would be provided by this AD action, it would take approximately 2 work hours to accomplish it, at an average labor rate of $60 per work hour. Required parts would be supplied by the manufacturer to the operators at no cost. Based on these figures, the cost impact of this optional terminating action is estimated to be $120 per airplane.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under

Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. A final evaluation has been prepared for this action and it is contained in the Rules Docket. A copy of it may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES.**

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–20–06 Saab Aircraft AB: Amendment 39–10144. Docket 96–NM–213–AD.

Applicability: Model SAAB 2000 series airplanes, serial numbers –004 through –039 inclusive, on which Saab Modification No. 5780, as specified in Saab Service Bulletin 2000–53–020, Revision 02, dated October 18, 1996, has not been accomplished; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent short circuiting between the floormat heater and the floor panel, which could cause overheating of the floormat heater and lead to smoke or fire in the airplane cabin, accomplish the following:

(a) Within 14 days after the effective date of the AD, deactivate the flight attendant's floormat heater by either disconnecting electrical cable HW71–20 between the floormat heater and the floor panel, or by removing fuse 17HW (1) on panel 306VU, in accordance with Saab Service Bulletin 2000–A25–022, Revision 01, dated January 23, 1996.

(b) Installation of a floormat heater, floor covering, and a new floor panel made of non-conductive material, in accordance with Saab Service Bulletin 2000–53–020, Revision 02, dated October 18, 1996, constitutes terminating action for the deactivation required by paragraph (a) of this AD.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

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

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

(e) The modification shall be done in accordance with Saab Service Bulletin 2000–A25–022, Revision 01, dated January 23, 1996. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from SAAB Aircraft AB, SAAB Aircraft Product Support, S–581.88, Linköping, Sweden. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 30, 1997.

Issued in Renton, Washington, on September 17, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25166 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–NM–170–AD; Amendment 39–10145; AD 97–20–07]

RIN 2120–AA64

Airworthiness Directives; Airbus Model A300–600 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to certain Airbus Model A300–600 series airplanes, that requires repetitive inspections to detect fatigue cracking in the left and right wings in the area where the top skin attaches to the center spar; and repair or modification of this area, if necessary. This amendment is prompted by a report from the manufacturer indicating that, during full-scale fatigue testing of the airframe, fatigue cracking was detected in this area. The actions specified by this AD are intended to detect and correct this cracking, which could reduce the residual strength of the top skin of the wings, and consequently affect the structural integrity of the airframe.

DATES: Effective October 30, 1997.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 30, 1997.

ADDRESSES: The service information referenced in this AD may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. This information may be examined at the Federal Aviation Administration (FAA), Transport Airplane Directorate, Rules Docket, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Charles Huber, Aerospace Engineer, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2589; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION: A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an airworthiness directive (AD) that is applicable to certain Airbus Model A300–600 series airplanes was published in the **Federal Register** on

May 1, 1997 (62 FR 23697). That action proposed to require repetitive inspections to detect fatigue cracking in the left and right wings in the area where the top skin attaches to the center spar between ribs 1 and 7; and repair or modification of this area, if necessary.

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

The commenter supports the proposed rule.

Conclusion

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

Cost Impact

The FAA estimates that 35 Airbus Model A300–600 series airplanes of U.S. registry will be affected by this AD.

For airplanes on which Airbus Modification 10089 has not been installed, it will take approximately 2 work hours to accomplish each detailed visual inspection or 3 work hours to accomplish each high frequency eddy current (HFEC) inspection. The average labor rate is $60 per work hour. Based on these figures, the cost impact of each inspection on U.S. operators is estimated to be either $120 or $180 per airplane, depending on the type of inspection conducted.

For airplanes on which Airbus Modification 10089 has been installed, it will take approximately 3 work hours to accomplish each low frequency eddy current inspection. The average labor rate is $60 per work hour. Based on these figures, the cost impact of the each inspection on U.S. operators is estimated to be $180 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–20–07 Airbus: Amendment 39–10145. Docket 96–NM–170–AD.

Applicability: Model A300–600 series airplanes on which Airbus Modification 10160 has not been installed during production; certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To detect and correct fatigue cracking in the left and right wings in the area where the top skin attaches to the center spar, which could reduce the residual strength of this skin, and consequently affect the structural integrity of the airframe, accomplish the following:

(a) For airplanes on which Airbus Modification 10089 has not been installed: Prior to the accumulation of 18,000 total landings, or within 1,500 landings after the effective date of this AD, whichever occurs later, conduct either a detailed visual inspection or a high frequency eddy current (HFEC) inspection to detect fatigue cracking in the left and right wings in the area where the top skin attaches to the center spar between ribs 1 and 7, in accordance with Airbus Service Bulletin A300–57–6044, Revision 2, dated September 6, 1995, including Appendix 1.

(1) If no cracking is detected, conduct repetitive inspections thereafter at the following intervals:

(i) If the immediately preceding inspection was conducted using detailed visual techniques, conduct the next inspection within 5,000 landings.

(ii) If the immediately preceding inspection was conducted using HFEC techniques, conduct the next inspection within 9,500 landings.

(2) If any cracking is detected or suspected during any detailed visual inspection required by paragraph (a), (a)(1), or (a)(3)(i) of this AD, prior to further flight, confirm this finding and the length of this cracking by conducting a HFEC inspection, in accordance with the service bulletin. If no cracking is confirmed during the HFEC inspection, accomplish the repetitive inspection required by paragraph (a)(1)(ii) of this AD at the time specified in that paragraph.

(3) If any cracking is detected or confirmed during any HFEC inspection required by paragraph (a), (a)(1), or (a)(2) of this AD:

(i) If the cracking is 75 mm or less per rib bay, prior to further flight, repair in accordance with the service bulletin. Thereafter, conduct repetitive detailed visual inspections of the repaired area at intervals not to exceed 50 landings, in accordance with the service bulletin.

(ii) If the cracking exceeds 75 mm per rib bay, prior to further flight, install Airbus Modification 10089, in accordance with the service bulletin. Thereafter, conduct a low frequency eddy current inspection in accordance with the requirements of paragraph (b) of this AD.

Note 2: The Airbus service bulletin references Airbus Service Bulletin A300–57–6041, Revision 4, dated November 16, 1995, as an additional source of service information for installing Airbus Modification 10089.

(b) For airplanes on which Airbus Modification 10089 has been installed: Prior to the accumulation of 22,000 total landings after this modification has been installed, or within 1,500 landings after the effective date of this AD, whichever occurs later, conduct a low frequency eddy current inspection to detect fatigue cracking in the inboard and rear edges of the top skin reinforcing plates, in accordance with Airbus Service Bulletin A300–57–6044, Revision 2, dated September 6, 1995, including Appendix 1.

(1) If no cracking is detected, repeat this inspection thereafter at intervals not to exceed 11,000 landings.

(2) If any cracking is detected, prior to further flight, repair in accordance with a method approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Thereafter, repeat this inspection at intervals not to exceed 11,000 landings.

(c) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

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

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

(e) The inspections and installation shall be done in accordance with Airbus Service Bulletin A300–57–6044, Revision 2, dated September 6, 1995, including Appendix 1, which contains the specified effective pages:

Page number shown on page	Revision level shown on page	Date shown on page
1–8	2	Sept. 6, 1995.
9, 10	Original	Mar. 1, 1993.
Appendix 1		
1	1	Nov. 25, 1994.
2–6	Original	Mar. 1, 1993.

This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Airbus Industrie, 1 Rond Point Maurice Bellonte, 31707 Blagnac Cedex, France. Copies may be inspected at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment becomes effective on October 30, 1997.

Issued in Renton, Washington, on September 17, 1997.

James V. Devany,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25164 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD13–97–026]

Drawbridge Operation Regulations; Columbia River, OR

AGENCY: Coast Guard, DOT.

ACTION: Notice of temporary deviation.

SUMMARY: Notice is hereby given that the Coast Guard has issued a temporary deviation to the regulations governing the operation of the twin, Interstate 5, drawbridges across the Columbia River, mile 105.6, between Vancouver, Washington and Portland, Oregon. The draws of the two bridges need not open for the passage of vessels from midnight, September 15 through midnight, October 7, 1997, to accommodate the replacement of a defective part in the lift machinery.

EFFECTIVE DATES: The period of deviation begins at midnight September 15 and ends at midnight October 7, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. John E. Mikesell, Chief, Plans and Programs Section, Thirteenth Coast Guard District. Telephone number (206) 220–7270.

SUPPLEMENTARY INFORMATION: A recent survey of the operating machinery of the twin Interstate 5 Bridges across the Columbia River revealed serious defects in the trunion shafts of the lift mechanism. The shafts require immediate replacement to insure the continued safe operation of the lift spans. During the closure period, low water conditions will allow for the passage of most commercial navigation through an alternate high level fixed span at midriver.

The District Commander has authorized a temporary deviation from the operation regulations from midnight, September 15, through midnight, October 7, 1997, during which the draws of the twin Interstate 5 bridges across the Columbia River need not open for the passage of vessels, while repairs are being made to the draw machinery. A concurrent action by the Coast Guard Captain of The Port establishes an Exclusionary Zone which restricts the entry of vessels into the area around the drawspans.

This deviation from normal operating regulations (33 CFR 117.869) is authorized in accordance with the provisions of Title 33 of the Code of Federal Regulations, § 117.35.

Dated: September 9, 1997.

J. David Spade,

Rear Admiral, U.S. Coast Guard, Commander, 13th Coast Guard District.

[FR Doc. 97–25371 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–14–M

LIBRARY OF CONGRESS

36 CFR Part 703

[Docket No. LOC 97–2]

Availability of Library of Congress Records

AGENCY: Library of Congress.

ACTION: Final regulation.

SUMMARY: The Library of Congress issues this final regulation to revise Library of Congress Regulation 1917–3 (see 36 CFR 703.1 *et seq.*). The revised regulation will reflect the renaming and organizational restructuring of the responsible division from Central Services to Office Systems Services, an increase in the number of disclosure exemptions, a new definitional section for the types of records covered under the Regulation, and increased fees and charges for processing record requests. Access to Library records, including those in the LC Archives and exclusive of materials in the collections, must be made through the Chief, Office Systems Services.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Lana Kay Jones, Acting General Counsel, Office of the General Counsel, Library of Congress, Washington, D.C. 20540–1050. Telephone No. (202) 707–6316.

SUPPLEMENTARY INFORMATION: This Regulation implements the policy of the Library with respect to the public availability of Library of Congress records. Although the Library is not subject to the Freedom of Information Act, as amended (5 U.S.C. § 552), this Regulation follows the spirit of that Act consistent with the Library's duties, functions, and responsibilities to the Congress. The application of that Act to the Library is not to be inferred, nor should this Regulation be considered as conferring on any member of the public a right under that Act of access to or information from the records of the Library. Nothing in this Regulation modifies current instructions and practices in the Library with respect to handling Congressional correspondence.

The Copyright Office, although a service unit of the Library, is by law (17 U.S.C. § 701) subject to the provisions of the Freedom of Information Act, as

amended, only for purposes of actions taken under the copyright law. The Copyright Office has published its own regulation with respect to the general availability of information (see 37 CFR 201.2) and requests for copyright records made pursuant to the Freedom of Information Act (see 37 CFR 203.1 *et seq.*) and the Privacy Act (see 37 CFR 204.1 *et seq.*).

List of Subjects in 36 CFR Part 703

Archives and records, Libraries.

Final Regulation

In consideration of the foregoing the Library of Congress revises 36 CFR part 703 as follows:

PART 703—AVAILABILITY OF LIBRARY OF CONGRESS RECORDS

Authority: 2 U.S.C. 136.

§ 703.1 Policy.

(a) Subject to limitations set out in this part, Library of Congress records shall be available as hereinafter provided and shall be furnished as promptly as possible within the Library to any member of the public at appropriate places and times and for an appropriate fee, if any.

(b) The Library shall not provide records from its files that originate in another federal agency or non-federal organization to persons who may not be entitled to obtain the records from the originator. In such instances, the Library shall refer requesters to the agency or organization that originated the records.

(c) In order to avoid disruption of work in progress, and in the interests of fairness to those who might be adversely affected by the release of information which has not been fully reviewed to assure its accuracy and completeness, it is the policy of the Library not to provide records which are part of on-going reviews or other current projects. In response to such requests, the Library will inform the requester of the estimated completion date of the review or project so that the requester may then ask for the records. At that time, the Library may release the records unless the same are exempt from disclosure as identified in § 703.4.

§ 703.2 Administration responsibilities.

The administration of this part shall be the responsibility of the Chief, Office Systems Services (OSS), Library of Congress, 101 Independence Avenue, S.E., Washington, DC 20540–9440, and to that end, the Chief may promulgate such supplemental rules or guidelines as may be necessary.

§ 703.3 Definitions.

(a) *Records* includes all books, papers, maps, photographs, reports, and other documentary materials, exclusive of materials in the Library's collections, regardless of physical form or characteristics, made or received and under the control of the Library in pursuance of law or in connection with the transaction of public business, and retained, or appropriate for retention, by the Library as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the government or because of the informational value of data contained therein. The term refers only to such items in being and under the control of the Library. It does not include the compiling or procuring of a record, nor does the term include objects or articles, such as furniture, paintings, sculpture, three-dimensional models, structures, vehicles, and equipment.

(b) *Identifiable* means a reasonably specific description of a particular record sought, such as the date of the record, subject matter, agency or person involved, etc. which will permit location or retrieval of the record.

(c) *Records available to the public* means records which may be examined or copied or of which copies may be obtained, in accordance with this part, by the public or representatives of the press regardless of interest and without specific justification.

(d) *Disclose or disclosure* means making available for examination or copying, or furnishing a copy.

(e) *Person* includes an individual, partnership, corporation, association, or public or private organization other than a federal agency.

§ 703.4 Records exempt from disclosure.

(a) The public disclosure of Library records provided for by this part does not apply to records, or any parts thereof, within any of the categories set out below. Unless precluded by law, the Chief, OSS, nevertheless may release records within these categories, except for Congressional correspondence and other materials identified in §703.4 (b)(1), after first consulting with the General Counsel.

(b) Records exempt from disclosure under these regulations are the following:

(1) Congressional correspondence and other materials relating to work performed in response to or in anticipation of Congressional requests, unless authorized for release by officials of the Congress.

(2) Materials specifically authorized under criteria established by Executive Order to be withheld from public disclosure in the interest of national defense or foreign policy and that are properly classified pursuant to Executive Orders.

(3) Records related solely to the internal personnel rules and practices of the Library. This category includes, in addition to internal matters of personnel administration, internal rules and practices which cannot be disclosed without prejudice to the effective performance of a Library function, such as guidelines and procedures used by auditors, investigators, or examiners in the Office of the Inspector General.

(4) Records specifically exempted from disclosure by statute, provided that such statute:

(i) Requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue; or

(ii) Establishes particular criteria for withholding or refers to particular types of matters to be withheld.

(5) Records containing trade secrets and commercial or financial information obtained from a person as privileged or confidential. This exemption may include, but is not limited to, business sales statistics, inventories, customer lists, scientific or manufacturing processes or development information.

(6) Personnel and medical files and similar files the disclosure of which could constitute a clearly unwarranted invasion of personal privacy. This exemption includes all private or personal information contained in files compiled to evaluate candidates for security clearances.

(7) Materials and information contained in investigative or other records compiled for law enforcement purposes.

(8) Materials and information contained in files prepared in connection with government litigation and adjudicative proceedings, except for those portions of such files which are available by law to persons in litigation with the Library.

(9) Records having information contained in or related to examination, operation, or condition reports prepared by, on behalf of, or for the use of an

agency responsible for the regulation or supervision of financial institutions.

(10) Inter-agency or intra-agency memoranda, letters or other materials that are part of the deliberative process, the premature disclosure of which would inhibit internal communications or be detrimental to a Library function (e.g., case files in the Manuscript Division).

(11) Records containing information customarily subject to protection as privileged in a court or other proceedings such as information protected by the doctor-patient, attorney work product, or attorney-client privilege.

(12) Information submitted by a person to the Library in confidence or which the Library has obligated itself not to disclose such as information received by the Office of the Inspector General through its hotline.

(13) Materials related to specific patron use of the Library's collections, resources, or facilities either on site or off site. This exemption includes:

(i) *Reader records.* Library records which identify readers by name, such as registration records, reading room logs or registers, telephone inquiry logs, and charge slips, if retained for administrative purposes.

(ii) *Use records.* Users of the Library are entitled to privacy with respect to their presence and use of the Library's facilities and resources. Records pertaining to the use of the Library and of Library collections and subjects of inquiry are confidential and are not to be disclosed either to other readers, to members of the staff who are not authorized, or to other inquirers including officials of law enforcement, intelligence, or investigative agencies, except pursuant to court order or administratively by order of The Librarian of Congress.

(c) Any reasonably segregable portion of a record shall be provided to anyone requesting such records after deletion of the portions which are exempt under this section. A portion of a record shall be considered reasonably segregable when segregation can produce an intelligible record which is not distorted out of context, does not contradict the record being withheld, and can reasonably provide all relevant information.

§ 703.5 Procedure for access to and copying of records.

(a) A request to inspect or obtain a copy of an identifiable record of the Library of Congress shall be submitted in writing to the Chief, OSS, Library of Congress, 101 Independence Avenue, S.E., Washington, DC 20540–9440, who shall promptly record and process the request.

(b) Requests for records shall be specific and shall identify the precise records or materials that are desired by name, date, number, or other identifying data sufficient to allow the OSS staff to locate, retrieve, and prepare the record for inspection or copying and to delete exempted matter where appropriate to do so. Blanket or generalized requests (such as ''all matters relating to'' a general subject) shall not be honored and shall be returned to the requester.

(c) Records shall be available for inspection and copying in person during business hours.

(d) Records in media other than print (e.g., microforms and machine-readable media) shall be available for inspection in the medium in which they exist. Copies of records in machine-readable media shall be made in media determined by the Chief, OSS.

(e) Library staff shall respond to requests with reasonable dispatch. Use of a record by the Library or Library employees, however, shall take precedence over any request. Under no circumstances shall official records be removed from Library control without the written authorization of The Librarian.

(f) The Chief, OSS, shall make the initial determination on whether:

(1) The record described in a request can be identified and located pursuant to a reasonable search; and

(2) The record (or portions thereof) may be made available or withheld from disclosure under the provisions of this part. In making the initial determinations, the Chief shall consult with any unit in the Library having a continuing substantial interest in the record requested. Where the Chief finds no valid objection or doubt as to the propriety of making the requested record available, the Chief shall honor the request upon payment of prescribed fees, if any are required by §703.7.

(g) If the Chief, OSS, determines that a requested record should be withheld, the Chief shall inform the requester in writing that the request has been denied; shall identify the material withheld; and shall explain the basis for the denial. The Chief shall inform the requester that further consideration of the denied request may be obtained by a letter to the General Counsel setting out the basis for the belief that the denial of the request was unwarranted.

(h) The General Counsel shall make the final determination on any request for reconsideration and shall notify the requester in writing of that determination. The decision of the General Counsel shall be the final administrative review within the Library.

(1) If the General Counsel's decision reverses in whole or in part the initial determination by the Chief, OSS, the Chief shall make the requested record, or parts thereof, available to the requester, subject to the provisions of § 703.7.

(2) If the General Counsel's decision sustains in whole or in part the initial determination by the Chief, OSS, the General Counsel shall explain the basis on which the record, or portions thereof, will not be made available.

§ 703.6 Public reading facility.

(a) The Chief, OSS, shall maintain a reading facility for the public inspection and copying of Library records. This facility shall be open to the public from 8:30 a.m. to 4:30 p.m., except Saturdays, Sundays, holidays, and such other times as the Library shall be closed to the public.

(b) The General Counsel shall advise the Chief, OSS, of the records to be available in the public reading facility following consultation with the Library managers who may be concerned.

§ 703.7 Fees and charges.

(a) The Library will charge no fees for:

(1) Access to or copies of records under the provisions of this part when the direct search and reproduction costs are less than $10.

(2) Records requested which are not found or which are determined to be exempt under the provisions of this part.

(3) Staff time spent in resolving any legal or policy questions pertaining to a request.

(4) Copies of records, including those certified as true copies, that are furnished for official use to any officer or employee of the federal government.

(5) Copies of pertinent records furnished to a party having a direct and immediate interest in a matter pending before the Library, when furnishing such copies is necessary or desirable to the performance of a Library function.

(b) When the costs for services are $10 or more, the Chief, OSS, shall assess and collect the fees and charges set out in the appendix to this part for the direct costs of search and reproduction of records available to the public.

(c) The Chief, Office Systems Services, is authorized to waive fees and charges, in whole or in part, where it is determined that the public interest is best served to do so, because waiver is likely to contribute significantly to public understanding of the operations or activities of the government and is not primarily in the commercial interest

of the requester. Persons seeking a waiver or reduction of fees may be required to submit a written statement setting forth the intended purpose for which the records are requested or otherwise indicate how disclosure will primarily benefit the public and, in appropriate cases, explain why the volume of records requested is necessary. Determinations made pursuant to the authority set out herein are solely within the discretion of the Chief, OSS.

(d) Fees and charges for services identified in the appendix to this part shall be paid in full by the requester before the records are delivered. Payment shall be made in U.S. funds by personal check, money order, or bank draft made payable to the Library of Congress. The Chief, OSS, shall remit all fees collected to the Director, Financial Services, who shall cause the same to be credited to appropriate accounts or deposited with the U.S. Treasury as miscellaneous receipts.

(e) The Chief, OSS, shall notify a requester and may require an advance deposit where the anticipated fees will exceed $50.

Appendix A to Part 703—Fees and Charges for Services Provided to Requesters of Records

(a) Searches.

(1) There is no charge for searches of less than one hour.

(2) Fees charged for searches of one hour or more are based on prevailing rates.

Currently, those charges are:

Personnel searches (clerical)—$15 per hour
Personnel searches (professional)—$25 per hour
Reproduction costs—$.50 per page
Shipping and mailing fees—variable

(3) In situations involving the use of computers to locate and extract the requested information, charges will be based on the direct cost to the Library, including labor, material, and computer time.

(b) Duplication of Records. Fees charged for the duplication of records shall be according to the prevailing rates established by the Library's Photoduplication Service, or in the case of machine media duplication, by the Resources Management Staff, Information Technology Services.

(c) Certifications. The fee charges for certification of a record as authentic or a true copy shall be $10.00 for each certificate.

(d) Other Charges. When no specific fee has been established for a service required to meet the request for records, the Chief, Office Systems Services, shall establish an appropriate fee based on direct costs in accordance with the Office of Management and Budget Circular No. A–25.

Date: September 17, 1997.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 97–25347 Filed 9–24–97; 8:45 am]

BILLING CODE 1410–04–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[FCC 97–272]

Minimum Distance Separations to Mexican Broadcast Stations

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: This *Order* modifies the Commission's rules to relax the minimum distance separations between U.S. FM broadcast stations or allotments as compared to Mexican FM broadcast stations or allotments. The revised separations were promulgated by the *Agreement Between the Government of the United States of America and the Government of the United Mexican States Relating to the FM Broadcasting Service in the Band 88–108 MHz,* dated August 11, 1992. The revised spacings are no event greater than, and are in most cases less than, the required separations between stations in effect prior to this date.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Dale Bickel, Mass Media Bureau, Audio Services Division, (202) 418–2720, or via the Internet at dbickel@fcc.gov.

SUPPLEMENTARY INFORMATION: This is the synopsis of the Commission's *Order,* FCC 97–272, adopted July 31, 1997, and released August 13, 1997. The complete text of this *Order* is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, DC, and may also be purchased from the Commission's copy contractor, International Transcription Services, Inc., at (202) 857–3800, 1231 20th Street, N.W., Washington, DC 20036. The complete text is also available as a Word Perfect 5.1 file through the Internet at http://www.fcc.gov/Bureaus/Mass__Media/Orders/1997/fcc97272.wp .

Synopsis of the Order

1. The rule and procedure change adopted in the *Order* were enabled by revisions to the *Agreement Between the Government of the United States of America and the Government of the United Mexican States Relating to the FM Broadcasting Service,* dated August 11, 1992. The rule revisions to § 73.207 conform the rule to the agreement. Because the revisions are made in response to an international agreement, and because there will be no adverse effect on any existing permittee or licensee or pending applicant, a notice and comment rulemaking is not required. *See* 47 U.S.C. 551(a) and (b)(3)(B), and 47 CFR 1.412(c).

Final Paperwork Reduction Act of 1995 Analysis

2. This *Order* contains no new or modified information collections subject to the Paperwork Reduction Act of 1995 (''*PRA*'').

Final Regulatory Flexibility Analysis

3. Because the rule change conforms the Commission rule to an international agreement, and also because the rule change will not affect any licensee, permittee, or current applicant, a Regulatory Flexibility Analysis is not required. *See* 5 U.S.C. 551(a) and 553(b)(3)(B). The Commission certifies that no significant impact on a substantial number of small entities will result from adoption of this *Order.*

Ordering Clauses

4. Accordingly, it is ordered that pursuant to the authority contained in Sections 4(i) and 303 of the Communications Act of 1934, as amended, 47 CFR part 73 is amended.

5. It is further ordered that the rules adopted established in this *Order* will become effective on September 25, 1997.

List of Subjects in 47 CFR Part 73

Radio broadcasting, Television broadcasting.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

Rule Changes

Part 73 of title 47 is amended to read as follows:

PART 73—RADIO BROADCAST SERVICES

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

Authority: 47 U.S.C. 154, 303, 334, 336.

2. Section 73.207 is amended by removing the number ''8'' appearing in the I.F. column between the entries for B–B and B–C1 in Table B of paragraph (b)(2) and by revising paragraph (b)(3) to read as follows:

§ 73.207 Minimum distance separation between stations.

* * * * *

(b) * * *

(3) Under the 1992 Mexico-United States FM Broadcasting Agreement, domestic U.S. assignments or allotments within 320 kilometers (199 miles) of the common border must be separated from Mexican assignments or allotments by not less than the distances given in Table C in this paragraph (b)(3). When applying Table C—

(i) U.S. or Mexican assignments or allotments which have been notified internationally as Class A are limited to a maximum of 3.0 kW ERP at 100 meters HAAT, or the equivalent;

(ii) U.S. or Mexican assignments or allotments which have been notified internationally as Class AA are limited to a maximum of 6.0 kW ERP at 100 meters HAAT, or the equivalent;

(iii) U.S. Class C3 assignments or allotments are considered Class B1;

(iv) U.S. Class C2 assignments or allotments are considered Class B; and

(v) Class C1 assignments or allotments assume maximum facilities of 100 kW ERP at 300 meters HAAT. However, U.S. Class C1 stations may not, in any event, exceed the domestic U.S. limit of 100 kW ERP at 299 meters HAAT, or the equivalent.

TABLE C—MINIMUM DISTANCE SEPARATION REQUIREMENTS IN KILOMETERS

Relation	Co-channel	200 kHz	400 kHz or 600 kHz	10.6 or 10.8 MHz (I.F.)
A to A	100	61	25	8
A to AA	111	68	31	9
A to B1	138	88	48	11
A to B	163	105	65	14
A to C1	196	129	74	21
A to C	210	161	94	28
AA to AA	115	72	31	10
AA to B1	143	96	48	12
AA to B	178	125	69	15
AA to C1	200	133	75	22
AA to C	226	165	95	29
B1 to B1	175	114	50	14
B1 to B	211	145	71	17
B1 to C1	233	161	77	24
B1 to C	259	193	96	31
B to B	237	164	65	20
B to C1	270	195	79	27
B to C	270	215	98	35
C1 to C1	245	177	82	34
C1 to C	270	209	102	41
C to C	290	228	105	48

* * * * *

[FR Doc. 97–25324 Filed 9–24–97; 8:45 am]
BILLING CODE 6712–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

49 CFR Part 1011

[STB Ex Parte No. 568]

Modifications to the General Provisions of the Board

AGENCY: Surface Transportation Board.

ACTION: Final rule; correction.

SUMMARY: The Surface Transportation Board (Board) published a document in the **Federal Register** on September 18, 1997 amending parts 1000, 1001, and 1011 of its regulations to reflect 10 changes made by the ICC Termination Act of 1995, Pub. L. No. 104–88. Inadvertently, an intended reference to part 1011 was not made. This document corrects that error.

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

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

SUPPLEMENTARY INFORMATION: The Board published a document in the **Federal Register** on September 18, 1997 (62 FR 48953) that, *inter alia,* attempted to amend the authority citation for part 1011. Instead, amendatory instruction number 5 incorrectly refers to part 1104 instead of part 1011. This document corrects the reference.

In STB Ex Parte No. 568 published in the **Federal Register** on September 18, 1997 (62 FR 48953), make the following correction. On page 48955, in the third column, amendatory instruction number 5 is corrected to read as follows:

5. The authority citation for part 1011 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.

Dated: September 22, 1997.

By the Board, Vernon A. Williams, Secretary.

Vernon A. Williams,

Secretary.

[FR Doc. 97–25479 Filed 9–24–97; 8:45 am]
BILLING CODE 4915–00–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 630

[I.D. 091797B]

North Atlantic Swordfish Fishery; Closure

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

ACTION: Closure.

SUMMARY: Based on landings to date, NMFS has projected that the directed fishery quota for the first semiannual 1997 north Atlantic swordfish season (June 1, 1997, to November 30, 1997)

will be reached on or before October 12, 1997. Consequently, NMFS closes the directed fishery for the north Atlantic swordfish management unit effective October 12, 1997.

EFFECTIVE DATE: The closure is effective at 12 noon, local time, on October 12, 1997, through November 30, 1997.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson, 301–713–2347, or Buck Sutter, 813–570–5447.

SUPPLEMENTARY INFORMATION: The north Atlantic swordfish fishery is managed under the Fishery Management Plan for Atlantic Swordfish and its implementing regulations at 50 CFR part 630 under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) and the Atlantic Tunas Convention Act (ATCA; 16 U.S.C. 971 *et seq.*). Regulations issued under the authority of ATCA carry out the recommendations of the International Commission for the Conservation of Atlantic Tunas.

The regulations governing the Atlantic swordfish fisheries at § 630.24 provide for a specified annual quota to be landed by the directed fishery. The annual quota is divided into two semiannual quotas for each of the 6-month periods, June 1 through November 30, and December 1 through May 31. NMFS is required, under § 630.25(a)(1), to monitor the catch and landings statistics and, on the basis of these statistics, to project a date when the catch will equal the quota, and to publish a **Federal Register** document announcing the closure.

Closure of the Fishery

Reported landings of swordfish in the directed fishery in the first semiannual season totaled 594.7 metric tons dressed weight (mt dw) as of September 1, 1997. Average landings of swordfish during September and October from 1994 to 1996 were 306 mt and 334 mt, respectively. However, current landings are higher than during similar periods during the past 3 years. Accounting for anticipated delayed reporting (based on experience in the last semiannual season from December 1, 1996, through May 31, 1997) and the current higher than average rate of landings, it is expected that the first semiannual directed harvest quota of 1,064.4 mt dw for the directed fishery would be reached on or about October 12, 1997.

Therefore, NMFS announces that the directed fishery for swordfish will close at 12 noon, local time on October 12, 1997. All vessels must be in port and offloaded on or before this closing date. This notice provides considerably more than the 14-day advance notice of closure required by regulation. To provide advance notice as early as possible, NMFS issued a notice to the industry on August 20, 1997, that, based on then current landings, a closure was anticipated about mid-October, 1997. This advance notice period will allow swordfish vessel owners to plan their fishing, offloading and sale of swordfish catch prior to the closure deadline.

During closure of the directed fishery, a person may not fish for swordfish from the north Atlantic stock, and no more than 15 swordfish, caught incidentally while fishing with longline gear for other species, may be possessed in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean state. During this directed fishery closure, no swordfish may be retained or possessed on board a vessel using harpoon gear. Established swordfish bycatch limits for the non-directed fisheries remain unchanged (§ 630.25(d)).

The drift gillnet fishery is currently closed under emergency authority through November 26, 1997 (62 FR 30775, June 5, 1997). Pursuant to this emergency closure: (1) No one aboard a vessel using or having on board a drift gillnet may fish for swordfish from the north Atlantic swordfish stock; and (2) no more than two swordfish per trip may be possessed on board a vessel using or having on board a drift gillnet in the North Atlantic Ocean, including the Gulf of Mexico and Caribbean Sea, north of 5° N. lat., or landed in an Atlantic, Gulf of Mexico, or Caribbean coastal state.

Classification

This action is taken under 50 CFR 630.24 and 50 CFR 630.25(a) and is exempt from review under E.O. 12866.

Authority: 16 U.S.C. 971 *et seq.*

Dated: September 19, 1997.

Gary C. Matlock,

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

[FR Doc. 97–25400 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961126334–7025–02; I.D. 091997A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 620 of the Gulf of Alaska

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

ACTION: Closure.

SUMMARY: NMFS is prohibiting directed fishing for pollock in Statistical Area 620 of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 1997 total allowable catch (TAC) for pollock in this area.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 21, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Pearson, 907–486–6919.

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

The 1997 TAC for pollock in Statistical Area 620 of the GOA was established as 31,250 metric tons (mt) by the Final 1997 Harvest Specifications of Groundfish for the GOA (62 FR 8179, February 24, 1997), determined in accordance with § 679.20(a) (5)(ii)(A).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 1997 TAC for pollock in Statistical Area 620 will be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 31,050 mt, and is setting aside the remaining 200 mt as bycatch to support other anticipated groundfish fisheries. In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that this directed fishing allowance has been reached. Consequently, NMFS is closing directed fishing for pollock in Statistical Area 620 of the GOA.

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

Classification

This action responds to the best available information recently obtained from the fishery. It must be implemented immediately to prevent overharvesting the 1997 TAC for pollock in Statistical Area 620 of the GOA. A delay in the effective date is impracticable and contrary to public interest. The fleet has already taken the 1997 TAC for pollock in Statistical Area 620 of the GOA. Further delay would only result in overharvest which would disrupt the FMP's objective of providing suficient pollock as bycatch to support other anticipated fisheries. NMFS finds for good cause that the implementation of this action cannot be delayed for 30 days. Accordingly, under 5 U.S.C. 553(d), a delay in the effective date is hereby waived.

This action is required by 50 CFR 679.20 and is exempt from review under E.O. 12866.

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

Dated: September 19, 1997

Richard W. Surdi,

Acting Director, Office of Sustainable Fisheries National Marine Fisheries Service

[FR Doc. 97–25361 Filed 9–19–97; 4:41 pm]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 186
Thursday, September 25, 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

Animal and Plant Health Inspection Service

7 CFR Part 319

[Docket No. 96–046–2]

Importation of Fruits and Vegetables; Papayas From Brazil and Costa Rica

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule; reopening and extension of comment period.

SUMMARY: We are reopening and extending the comment period on a proposal to allow the importation of papayas from Brazil in order to provide the public with an opportunity to comment on two additional safeguards we are proposing to add. These include requiring a hot water treatment and requiring that certain actions be taken if fruit fly captures reach certain levels in the papaya production areas. We are also proposing to add these safeguards to the requirements for importing papayas from Costa Rica, and are soliciting public comment on this action as well. These additional requirements appear necessary to prevent the introduction of injurious plant pests into the United States. Additionally, we will accept comments on any other issues involving the importation of papayas from Brazil.

DATES: Consideration will be given only to comments received on or before October 27, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 96–046–2, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 96–046–2. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald Campbell, Staff Officer, Port Operations, PPQ, APHIS, 4700 River Road Unit 136, Riverdale, MD 20737–1236; (301) 734–6799.

SUPPLEMENTARY INFORMATION:

Background

On March 25, 1997, we published in the **Federal Register** (62 FR 14037–14044, Docket No. 96–046–1) a proposal to amend the regulations in 7 CFR part 319 by allowing certain previously prohibited fruits and vegetables to be imported into the United States from certain parts of the world under specified conditions.

One of the fruits that we proposed to allow to be imported into the United States under certain conditions was papayas from Brazil. Specifically, we proposed to allow solo type papayas (*Carica papaya*) from Brazil to be imported into the United States if the fruit is grown in the State of Espirito Santo and if the fruit is grown, packed, and shipped in accordance with certain phytosanitary conditions.

Because fully ripe papayas can be hosts of several serious plant pests, including the Mediterranean fruit fly (*Ceritatis capitata*) (Medfly) and the South American fruit fly (*Anastrepha fraterculus*), we proposed to require that papayas intended for importation into the United States from the State of Espirito Santo, Brazil, be subject to certain special conditions. The proposed special conditions outlined in the proposed rule for the importation of papayas from Brazil were based on the provisions in § 319.56–2w of the regulations for papayas from Costa Rica. The conditions proposed were as follows:

1. The papayas were grown and packed for shipment to the United States in the State of Espirito Santo.

2. Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the area where the papayas were grown were kept free of papayas that were one-half or more ripe (more than one-quarter of shell surface yellow), and all culled and fallen fruit were removed from the field at least twice a week.

3. When packed, the papayas were less than one-half ripe (shell surface no more than one-quarter yellow, surrounded by light green) and appeared to be free of all injurious plant pests.

4. The papayas were packaged so as to prevent access by fruit flies or other injurious plant pests, and the package does not contain any other fruit, including papayas not qualified for importation into the United States.

5. All activities described in provisions 1 through 4 above were carried out under the supervision and direction of plant health officials of the national Ministry of Agriculture.

6. Beginning at least 1 year before harvest began and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at the rate of 1 trap per hectare and were checked for fruit flies at least once a week by plant health officials of the national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and 50 percent of the traps were of the Jackson type. The national Ministry of Agriculture kept records of the fruit fly finds for each trap, updating the records each time the traps were checked, and made the records available to APHIS upon request. The records were maintained for at least 1 year.

7. All shipments of papayas must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

Comments on the proposed rule were required to be received on or before May 27, 1997. Upon further review and consideration of this issue, we are also proposing to require a hot water treatment for papayas from Brazil and Costa Rica and to require that certain actions be taken if fruit fly captures reach certain levels in the papaya production areas. These conditions would further help to prevent the introduction into the United States of plant pests, including fruit flies, that may be associated with the papayas.

Hot Water Treatment

Though it is not currently required by the regulations, hot water treatment of papayas prior to importation into the United States is standard practice in

Costa Rica. We believe that hot water treatment, in conjunction with other safeguards established for papayas from Costa Rica and proposed for papayas from Brazil, would reduce the likelihood that papayas will introduce injurious plant pests into the United States. Therefore, we are proposing to amend § 319.56–2w to require that papayas imported from Brazil and Costa Rica into the United States be given a hot water treatment consisting of 20 minutes in water at 49 °C (120.2 °F).

Threshold for Fruit Fly Captures

In order to further reduce the possibility of the introduction of Medfly into the United States, we are also proposing to establish a threshold for Medfly captures in papaya production areas of Brazil and Costa Rica. The thresholds would be as follows: If the average Jackson trap catch is greater than 7 Medflies per trap per week, measures, which may include Malathion bait sprays or other chemical sprays, must be taken to control the Medfly population in the production area. If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area would be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week. The thresholds for Medfly trapping would help detect increasing populations of Medflies in growing areas and would help ensure that Medflies are not associated with imports of papayas from Brazil or Costa Rica.

Reopening and Extension of Comment Period

We are reopening and extending the public comment period on that portion of Docket No. 96–046–1 that concerns the importation of papayas from Brazil from May 27, 1997, until 30 days after the date of publication of this notice in the **Federal Register**. Comments on the new conditions that would apply to papayas from Costa Rica will also be accepted until 30 days after the date of publication of this notice in the **Federal Register**. This action will provide interested persons with additional time in which to prepare comments on the importation of papayas from Brazil and will allow for public comment on the new conditions proposed for the importation of papayas from Costa Rica. Comments already received concerning the proposed importation of papayas from Brazil will remain under consideration and need not be resubmitted.

In this edition of the **Federal Register**, we have also published a final rule (Docket No. 96–046–3) that adopts, with certain changes, other amendments to the regulations that were proposed in Docket No. 96–046–1 on March 25, 1997 (62 FR 14037–14044).

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been reviewed under Executive Order 12866. The rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

The Initial Regulatory Flexibility Analysis set out in the proposed rule published in the **Federal Register** on March 25, 1997, included information on papayas from Brazil. That information still applies and will not change as a result of this proposal.

Executive Order 12988

This proposed rule would allow papayas to be imported into the United States from Brazil. If this proposed rule is adopted, State and local laws and regulations regarding papayas imported under this rule would be preempted while the fruit is in foreign commerce. Fresh papayas are generally imported for immediate distribution and sale to the consuming public, and would remain in foreign commerce until sold to the ultimate consumer. The question of when foreign commerce ceases in other cases must be addressed on a case-by-case basis. If this proposed rule is adopted, no retroactive effect will be given to this rule, and this rule will not require administrative proceedings before parties may file suit in court challenging this rule.

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget.

The paperwork requirements and burdens were described in the proposed rule published in the **Federal Register** on March 25, 1997, and will not change as a result of this proposal.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, Room 404–W, 1400 Independence Ave., SW, Washington, DC 20250.

List of Subjects in 7 CFR Part 319

Bees, Coffee, Cotton, Fruits, Honey, Imports, Incorporation by reference, Nursery Stock, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Rice, Vegetables.

Accordingly, 7 CFR part 319 would be amended as follows:

PART 319—FOREIGN QUARANTINE NOTICES

1. The authority citation for part 319 would continue to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff, 151–167, 450, 2803, and 2809; 21 U.S.C. 136 and 136a; 7 CFR 2.22, 2.80, and 371.2(c).

9. Section 319.56–2w would be revised to read as follows:

§ 319.56–2w Administrative instruction; conditions governing the entry of papayas from Brazil and Costa Rica.

The Solo type of papaya may be imported into the continental United States, Alaska, Puerto Rico, and the U.S. Virgin Islands from the State of Espirito Santo, Brazil, and the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica, only under the following conditions:

(a) The papayas were grown and packed for shipment to the United States in the State of Espirito Santo, Brazil, or in the provinces of Guanacaste, San Jose, and Puntarenas, Costa Rica.

(b) Beginning at least 30 days before harvest began and continuing through the completion of harvest, all trees in the field where the papayas were grown were kept free of papayas that were ½ or more ripe (more than ¼ of the shell surface yellow), and all culled and fallen fruits were removed from the field at least twice a week.

(c) The papayas were treated with a hot water treatment consisting of 20 minutes in water at 49 °C (120.2 °F).

(d) When packed, the papayas were less than ½ ripe (the shell surface was no more than ¼ yellow, surrounded by light green), and appeared to be free of all injurious insect pests.

(e) The papayas were packaged so as to prevent access by fruit flies and other injurious insect pests, and the package does not contain any other fruit, including papayas not qualified for importation into the United States.

(f) All activities described in paragraphs (a) through (e) of this section were carried out under the supervision and direction of plant health officials of the national Ministry of Agriculture.

(g) Beginning at least 1 year before harvest begins and continuing through the completion of harvest, fruit fly traps were maintained in the field where the papayas were grown. The traps were placed at a rate of 1 trap per hectare and were checked for fruit flies at least once weekly by plant health officials of the

national Ministry of Agriculture. Fifty percent of the traps were of the McPhail type, and fifty percent of the traps were of the Jackson type. If the average Jackson trap catch was greater than 7 Medflies per trap per week, measures were taken to control the Medfly population in the production area. The national Ministry of Agriculture kept records of fruit fly finds for each trap, updated the records each time the traps were checked, and made the records available to APHIS inspectors upon request. The records were maintained for at least 1 year.

(h) If the average Jackson trap catch exceeds 14 Medflies per trap per week, importations of papayas from that production area must be halted until the rate of capture drops to an average of 7 or fewer Medflies per trap per week.

(i) All shipments must be accompanied by a phytosanitary certificate issued by the national Ministry of Agriculture stating that the papayas were grown, packed, and shipped in accordance with the provisions of this section.

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25487 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

NATIONAL CREDIT UNION ADMINISTRATION

12 CFR Part 725

Central Liquidity Facility

AGENCY: National Credit Union Administration (NCUA).

ACTION: Notice of proposed rulemaking.

SUMMARY: The National Credit Union Central Liquidity Facility(the CLF), a mixed-ownership government corporation within theNCUA, serves as a liquidity source for its member credit unions. The current regulation requires the CLF to secure each loan with a security interest in all of the assets of the member credit union. This requirement interferes with the ability of credit unions to establish credit arrangements with other parties and in some cases may preclude members from borrowing from the CLF. In order to accommodate credit arrangements between the CLF member credit unions and multiple parties, NCUA is proposing to amend this requirement to permit the CLF to take, in lieu of a blanket security interest, a first priority security interest in specific assets of the credit union with a net book value at least equal to 110% of the amounts owed on the CLF advance or Agent loan. The proposed rule is intended to provide credit unions with greater flexibility in their normal operations while ensuring that the CLF is adequately protected for any loans that it makes.

DATES: Comments must be received on or before November 24, 1997.

ADDRESSES: Comments should be directed to Becky Baker, Secretary of the Board. Mail or hand-deliver comments to: National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428. Fax comments to (703) 518–6319. E-mail comments to boardmail@ncua.gov. Please send comments by one method only.

FOR FURTHER INFORMATION CONTACT: Herbert S. Yolles, President, National Credit Union Central Liquidity Facility, at the above address. Telephone Number (703) 518–6391 or (703) 518–6363.

SUPPLEMENTARY INFORMATION:

Background

Pub. L. 96–630, Title XVIII, 12 U.S.C. 1795, et seq., enacted in 1979, created the CLF. Its purpose is to improve general financial stability by meeting the liquidity needs of credit unions and thereby encourage savings, support consumer and mortgage lending, and provide basic financial resources to all segments of the economy.

Most credit unions are members of a corporate credit union. In addition, credit unions are now eligible for Federal Home Loan Bank membership. Both corporate credit unions and Federal Home Loan Banks require that a credit union provide collateral for borrowing. In addition, credit unions may also borrow from other financial institutions and are required to provide collateral for such borrowings. While multiple security agreements are not prohibited under the current regulation, the presence of competing security interests could result in the CLF being under-collateralized for any advances.

Collateral—Net Book Value

Currently, Section 725.19 requires that the CLF secure each loan with a blanket security interest in all of the assets of the member credit union. The proposed rule gives the CLF the option of taking either a blanket security interest or a first priority security interest in specific collateral of the credit union with a net book value at least equal to 110% of the amounts owed on the CLF advance or Agent loan. This requirement would permit a credit union to provide collateral to other lenders and still have the ability to borrow from the CLF, so long as it had other assets with sufficient net book value to support the CLF advance or Agent loan. It also would permit the CLF to accept a security interest in all assets of the credit union as collateral for a CLF advance to a Regular member. However, the net book value of the assets would still have to be at least equal to 110% of the amounts amounts owed on the CLF advance or Agent loan.

Superior Perfected Interest

In calculating the value of the assets covered by the security interest, assets in which any third party had a superior perfected interest would be excluded.

Section 208 Assistance

The proposed rule also expressly authorizes the CLF to accept the guarantee of the National Credit Union Share Insurance Fund as collateral for borrowings by a credit union. This provision would facilitate advances by the CLF to credit unions receiving assistance under Section 208 of the Federal Credit Union Act.

Regulatory Procedures

Regulatory Flexibility Act

The NCUA Board certifies that this proposed rule, if adopted, will not have a significant impact on a substantial number of small credit unions (those under $1 million in assets). The proposed rule will make it easier for credit unions to obtain loans from both CLF and other sources. Accordingly, a regulatory flexibility analysis is not required.

Paperwork Reduction Act

The proposed rule has no information collection requirements; therefore, no Paperwork Reduction Act analysis is required.

Executive Order 12612

The NCUA Board has determined that the proposed rule, if adopted, will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among various levels of government.

List of Subjects in 12 CFR Part 725

Credit, Credit unions, Reporting and recordkeeping requirements.

By the National Credit Union Administration Board on September 17, 1997.

Becky Baker,

Secretary of the Board.

For the reasons set forth in the preamble, NCUA proposes to amend 12 CFR part 725 as set forth below:

PART 725—NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

1. The authority citation for part 725 continues to read as follows:

Authority: Secs. 301–307 Federal Credit Union Act, 92 Stat. 3719–3722 (12 U.S.C. 1795–1795f).

2. Section 725.19 is revised to read as follows:

§ 725.19 Collateral requirements.

(a) Each CLF advance and each Agent loan shall be secured by a first priority security interest in collateral of the credit union with a net book value at least equal to 110% of all amounts due under the applicable CLF advance or Agent loan, or by guarantee of the National Credit Union Share Insurance Fund.

(b) The CLF may accept as collateral for each CLF advance to a Regular member, a security interest in all assets of the Regular member; provided however, that the value of any assets in which any third party has a perfected security interest that is superior to the security interest of the CLF shall be excluded for purposes of complying with the requirements of paragraph (a) of this section.

(c) The CLF may accept as collateral for each CLF advance to an Agent member, a security interest in the Agent loans for which the CLF advance was made; provided however, that the collateral for such Agent loan meets the requirements of paragraph (a) of this section.

[FR Doc. 97–25359 Filed 9–24–97; 8:45 am]

BILLING CODE 7535–01–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–54–AD]

RIN 2120–AA64

Airworthiness Directives; Boeing Model 757–200 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Boeing Model 757–200 series airplanes. This proposal would require the application of a sealant, secondary fuel barrier, and corrosion-inhibiting compound to certain portions of the wing center section. This proposal is prompted by reports indicating that, during manufacture, the secondary fuel barrier was not applied to certain portions of the wing center section. The actions specified by the proposed AD are intended to prevent leakage of fuel through the fasteners, sealant, or structural cracks in the center section structure, which could result in fuel or fuel vapors entering the cargo or passenger compartment of the airplane.

DATES: Comments must be received by November 5, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–54–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Boeing Commercial Airplane Group, P.O. Box 3707, Seattle, Washington 98124–2207. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Kathrine Rask, Aerospace Engineer, Propulsion Branch, ANM–140S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington; telephone (425) 227–1547; fax (425) 227–1181.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–54–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–54–AD, 1601 Lind Avenue SW., Renton, Washington 98055–4056.

Discussion

The FAA has received reports indicating that, during manufacture, the secondary fuel barrier was not applied on the outboard corners of the front spar of the wing center section on certain Boeing Model 757–200 series airplanes. The secondary fuel barrier is applied to areas of the wing center section that are exposed to cabin pressure. If the secondary barrier is not applied, fuel could leak through the fasteners, sealant, or structural cracks in the center section structure, which could result in fuel or fuel vapors entering the cargo or passenger compartment of the airplane.

Explanation of Relevant Service Information

The FAA has reviewed and approved Boeing Service Bulletin 757–57–0053, dated February 6, 1997, which describes procedures for the application of a sealant, secondary fuel barrier, and corrosion-inhibiting compound to areas on the front spar of the wing center section. Accomplishment of this application will ensure that any fuel leaks through the tank structure do not enter the cargo or passenger compartments of the airplane.

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other products of this same type design, the proposed AD would require the application of a sealant,

secondary fuel barrier, and corrosion-inhibiting compound to areas on the front spar of the wing center section. The actions would be required to be accomplished in accordance with the service bulletin described previously.

Cost Impact

There are approximately 724 Boeing Model 757–200 series airplanes of the affected design in the worldwide fleet. The FAA estimates that 463 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 2 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Required parts would cost approximately $100 per airplane. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $101,860, or $220 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air Transportation, Aircraft, Aviation Safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Boeing: Docket 97–NM–54–AD.

Applicability: Model 757–200 series airplanes, line numbers 1 through 724 inclusive, certificated in any category.

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

Compliance: Required as indicated, unless accomplished previously.

To prevent leakage of fuel through the fasteners, sealant, or structural cracks in the center section structure, which could result in fuel or fuel vapors entering into the cargo or passenger compartment of the airplane, accomplish the following:

(a) Within 18 months after the effective date of this AD, apply sealant, secondary fuel barrier, and corrosion-inhibiting compound to areas on the front spar of the wing center section, in accordance with Figure 3 of Boeing Service Bulletin 757–57–0053, dated February 6, 1997.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Seattle Aircraft Certification Office (ACO), FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Seattle ACO.

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

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

Issued in Renton, Washington, on September 19, 1997.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25415 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–NM–110–AD]

RIN 2120–AA64

Airworthiness Directives; Dornier Model 328–100 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: This document proposes the adoption of a new airworthiness directive (AD) that is applicable to certain Dornier Model 328–100 series airplanes. This proposal would require a one-time inspection to determine if the rigging bushings in the rudder control system protrude above the surface of the flange in which they are installed, and replacement of any discrepant bushing with a new bushing. This proposal is prompted by the issuance of mandatory continuing airworthiness information by a foreign civil airworthiness authority. The actions specified by the proposed AD are intended to prevent jamming in the rudder control system, and consequent reduced controllability of the airplane.

DATES: Comments must be received by October 21, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056. Comments may be inspected at this location between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

The service information referenced in the proposed rule may be obtained from Dornier Luftfahrt GmbH, P.O. Box 1103, D–82230 Wessling, Germany. This information may be examined at the FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington.

FOR FURTHER INFORMATION CONTACT: Connie Beane, Aerospace Engineer,

Standardization Branch, ANM–113, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2796; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

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

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this notice must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket Number 97–NM–110–AD.'' The postcard will be date stamped and returned to the commenter.

Availability of NPRMs

Any person may obtain a copy of this NPRM by submitting a request to the FAA, Transport Airplane Directorate, ANM–103, Attention: Rules Docket No. 97–NM–110–AD, 1601 Lind Avenue, SW., Renton, Washington 98055–4056.

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, notified the FAA that an unsafe condition may exist on certain Dornier Model 328–100 series airplanes. The LBA advises that it received a report indicating that, during routine inspection, a rigging bushing in the rudder control system was found to protrude above the surface of the flange on which it was installed. This condition, if not corrected, could result in jamming in the rudder control system, and consequent reduced controllability of the airplane.

Explanation of Relevant Service Information

Dornier has issued Alert Service Bulletin ASB–328–27–003, dated July 13, 1994, which describes procedures for performing a one-time visual inspection to determine if the rigging bushings in the rudder control system protrude above the surface of the flange in which they are installed, and replacement of any discrepant rigging bushing with a new bushing. Accomplishment of the actions specified in the alert service bulletin is intended to adequately address the identified unsafe condition. The LBA classified this alert service bulletin as mandatory and issued German airworthiness directive 96–176, dated June 6, 1996, in order to assure the continued airworthiness of these airplanes in Germany.

FAA's Conclusions

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

Explanation of Requirements of Proposed Rule

Since an unsafe condition has been identified that is likely to exist or develop on other airplanes of the same type design registered in the United States, the proposed AD would require accomplishment of the actions specified in the alert service bulletin described previously.

Cost Impact

The FAA estimates that 7 airplanes of U.S. registry would be affected by this proposed AD, that it would take approximately 3 work hours per airplane to accomplish the proposed actions, and that the average labor rate is $60 per work hour. Based on these figures, the cost impact of the proposed AD on U.S. operators is estimated to be $1,260, or $180 per airplane.

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

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

Dornier: Docket 97–NM–110–AD.

Applicability: Model 328–100 airplanes, serial numbers 3005 through 3014 inclusive, certificated in any category.

Note 1: This AD applies to each airplane identified in the preceding applicability provision, regardless of whether it has been otherwise modified, altered, or repaired in the area subject to the requirements of this AD. For airplanes that have been modified, altered, or repaired so that the performance of the requirements of this AD is affected, the

owner/operator must request approval for an alternative method of compliance in accordance with paragraph (b) of this AD. The request should include an assessment of the effect of the modification, alteration, or repair on the unsafe condition addressed by this AD; and, if the unsafe condition has not been eliminated, the request should include specific proposed actions to address it.

Compliance: Required as indicated, unless accomplished previously.

To prevent jamming in the rudder control system, and consequent reduced controllability of the airplane, accomplish the following:

(a) Within 30 days after the effective date of this AD, perform a one-time visual inspection to determine if the rigging bushings of the rudder control system protrude above the surface of the flange in which they are installed, in accordance with Dornier Alert Service Bulletin ASB–328–27–003, dated July 13, 1994. If any bushing protrudes by any amount above the surface of the flange, prior to further flight, replace the bushing with a new bushing, in accordance with the alert service bulletin.

(b) An alternative method of compliance or adjustment of the compliance time that provides an acceptable level of safety may be used if approved by the Manager, Standardization Branch, ANM–113, FAA, Transport Airplane Directorate. Operators shall submit their requests through an appropriate FAA Principal Maintenance Inspector, who may add comments and then send it to the Manager, Standardization Branch, ANM–113.

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

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

Note 3: The subject of this AD is addressed in German airworthiness directive 96–176, dated June 6, 1996.

Issued in Renton, Washington, on September 19, 1997.

Vi L. Lipski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–25417 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–13–U

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

RIN 0960–AE53

Administrative Review Process; Identification and Referral of Cases for Quality Review Under the Appeals Council's Authority To Review Cases on Its Own Motion

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to amend our regulations to include the rules under which a decision or order of dismissal that is issued after the filing of a request for a hearing by an administrative law judge (ALJ) will be referred to the Appeals Council for possible review under the Appeals Council's existing authority to review cases on its own motion. The proposed rules concern identification and referral procedures that we currently follow to ensure the accuracy of decisions at the ALJ-hearing step (hearing level) of the administrative review process, and new quality assurance procedures that we are proposing under the Plan for a New Disability Claim Process approved by the Commissioner of Social Security in September 1994 (59 FR 47887). The procedures set forth in the proposed rules apply to dispositions at the hearing level of the administrative review process that are made by ALJs, and also to dispositions at the hearing level that are not made by ALJs but are subject to review under the Appeals Council's own-motion authority. The latter type of dispositions currently consist of wholly favorable decisions issued by attorney advisors and adjudication officers.

DATES: To be sure that your comments are considered, we must receive them no later than November 24, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 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:

Background

Under procedures set forth in §§ 404.967 ff. and 416.1467 ff., and pursuant to a direct delegation of authority from the Commissioner of Social Security (see 61 FR 35844, 35852, July 8, 1996), the Appeals Council, a component in our Office of Hearings and Appeals (OHA), reviews hearing decisions and orders of dismissal issued by ALJs of the Social Security Administration (SSA). The Appeals Council may review a decision or dismissal action of an ALJ at the request of a party to the action or, under authority provided in §§ 404.969 and 416.1469, on its own motion. Through the exercise of its authority to review cases, the Appeals Council is responsible for ensuring that the final decisions of the Commissioner of Social Security under titles II and XVI of the Social Security Act (the Act), as amended, are proper and in accordance with the law, regulations, and binding agency policy.

The Appeals Council's authority to review cases on its own motion also applies, at present, to two types of hearing-level cases that do not result in decisions by ALJs. Under §§ 404.942 and 416.1442, attorney advisors of OHA are temporarily authorized to conduct certain prehearing proceedings and to issue, where warranted by the documentary evidence, wholly favorable decisions. Under the provisions of §§ 404.942 (e)(2) and (f)(3) and 416.1442 (e)(2) and (f)(3), such decisions are subject to review under the own-motion authority of the Appeals Council established in §§ 404.969 and 416.1469. In addition, under §§ 404.943 and 416.1443, adjudication officers are authorized, for test purposes, to conduct certain prehearing proceedings and to issue, where warranted by the documentary evidence, wholly favorable decisions. Under the provisions of §§ 404.943(c)(2)(ii) and 416.1443(c)(2)(ii), such decisions are also subject to review on the Appeals Council's own motion.

Under our regulations on the Appeals Council's procedures, if the Appeals Council decides to review a case in response to a request for review or on its own motion, it may issue a decision or remand the case to an ALJ. The Appeals Council may also dismiss a request for hearing for any reason that the ALJ could have dismissed the request.

A decision by the Appeals Council ''to review'' a hearing-level decision means that the Appeals Council assumes jurisdiction to cause that decision not to be the final decision of the Commissioner of Social Security. A decision that the Appeals Council ''reviews'' will be replaced by a new final action in the case, either by a decision or dismissal order of the

Appeals Council or, if a hearing or other hearing-level proceedings are required, by a decision or dismissal order issued following remand of the case from the Council to an ALJ.

A decision by the Appeals Council to review a case is made when, following a preliminary consideration of all aspects of the case to determine if review is appropriate, the Council issues a notice announcing a decision to review. The Council's standard notice of review advises the parties of the reasons for the review and (unless the Council issues a wholly favorable decision upon taking review) the issues to be considered in proceedings before the Council or before an ALJ on remand. In instances in which the Council reviews a hearing level decision that has been issued based on the documentary evidence without the holding of an oral hearing by an ALJ, the parties have the right to such a hearing, except where the parties waive that right in writing.

The existing provisions in §§ 404.969 and 416.1469 on the Appeals Council's authority to review cases on its own motion provide that the Appeals Council itself may decide to review a case within 60 days after the date of the hearing decision or dismissal and that, if the Council does review a case under this authority, it will provide notice to the parties to the hearing decision or dismissal action. Sections 404.969 and 416.1469 do not currently address the procedures we use in identifying and referring cases to the Appeals Council for it to consider for possible review on its own motion.

The Appeals Council has broad authority to review any case on its own motion pursuant to §§ 404.969 and 416.1469. The conditions under which the Appeals Council will review a case, on request for review or on its own motion, are set forth in §§ 404.970 and 416.1470. Those sections provide that the Council will review a case if: (1) There appears to be an abuse of discretion by the ALJ; (2) there is an error of law; (3) the action, findings or conclusions of the ALJ are not supported by substantial evidence; or (4) there is a broad policy or procedural issue that may affect the general public interest. Sections 404.970 and 416.1470 further provide that the Council will also review a case if new and material evidence is submitted that relates to the period on or before the date of the ALJ's decision and the Council finds, upon evaluating the evidence of record and the additional evidence, that an action, a finding or a conclusion of the ALJ is contrary to the weight of the evidence currently of record as a whole.

In fiscal year 1996 (FY '96), the Appeals Council received 99,735 requests for review filed by parties to the actions of ALJs. Most of the requests were for review of unfavorable decisions and dismissal actions; some concerned partially favorable decisions. In FY '96, the Council also considered 8,602 cases for possible review on its own motion. Almost all of these cases involved favorable hearing-level decisions that were referred to the Appeals Council under one of two types of identification and referral procedures we currently use—random sample procedures, which generated the majority of this workload in FY '96, and ''protest'' procedures.

Existing Identification and Referral Procedures

Section 304(g) of Public Law 96–265 (1980) required SSA to implement a program for initiating review of ALJ decisions in disability claims. Under section 304(g), the Appeals Council considers, for possible review on its own motion, a national random sample of favorable ALJ decisions that have not been implemented, and, as resources permit, a random sample of unappealed denial decisions and dismissals. (See Social Security Ruling 82–13.)

The Appeals Council also considers, for possible review on its own motion, a random sample of wholly favorable decisions issued by attorney advisors under the time-limited provisions of §§ 404.942 and 416.1442. Wholly favorable decisions issued by adjudication officers under the testing provisions of §§ 404.943 and 416.1443 are also identified by random sampling for referral to the Appeals Council for possible own-motion review. These procedures have been established in accordance with commitments we made, in publishing the final rules for the attorney advisor and adjudication officer provisions, to assess carefully the quality of the decisions issued by the attorney advisors and the adjudication officers (see 60 FR 34127 and 60 FR 47471, respectively).

Our existing identification and referral procedures also include those under which the SSA components responsible for implementing hearing-level decisions—SSA Processing Centers (PCs) and Field Offices (FOs)—refer (''protest'') certain cases to the Appeals Council for possible review under its own motion authority. The PCs, which include our Program Service Centers and the Office of Disability and International Operations, refer cases directly to the Appeals Council; FOs forward cases to a PC or an SSA Regional Office, which decides if the PC or the Regional Commissioner should make a referral to the Council.

The decisions of ALJs and the decisions currently issued by attorney advisors and adjudication officers are subject to referral to the Appeals Council under our protest procedures. Almost all protested decisions are favorable decisions because almost all of the ALJ decisions that require implementation are wholly or partially favorable decisions under which benefit payments are to be effectuated (initiated or continued), and because all decisions issued by attorney advisors and adjudication officers are favorable. In protesting a decision, an effectuating component may recommend that the decision be made more or less favorable or unfavorable.

Effectuating components refer a case if the need for referral is believed to be clear (not dependent on a judgment factor) because of one of the following circumstances: (1) The decision contains a clerical error which affects the outcome of the claim; (2) the decision is clearly contrary to the Act, regulations or rulings; or (3) the decision cannot be effectuated because its intent is unclear as to an issue affecting the claim's outcome.

Effectuating components refer cases to the Appeals Council by written memoranda. If the Council decides to review a referred case, it provides the parties a copy of the effectuating component's referral memorandum with the notice by which it advises the parties that it will review the case.

We are proposing to amend our regulations to include rules on the existing random sample and protest procedures discussed above. We have decided to propose rules setting forth these procedures in connection with our decision to propose, in furtherance of the Plan for a New Disability Claim Process, that the Appeals Council's own-motion functions be strengthened by establishment of a new process for identifying and referring cases for possible review under the Council's existing own-motion authority.

New Identification and Referral Procedures

The Appeals Council currently considers only a small percentage of all favorable decisions issued at the hearing level for possible review under its own-motion authority. (In FY '96, the Council's workload in this area represented fewer than 3 percent of such decisions in that year.) In addition, the processes we currently use to select decisions for possible review on the Appeals Council's own motion are generally not designed to identify, in

any systematic way, hearing-level decisions that are likely to be incorrect. The random sample processes bringing cases before the Appeals Council do not identify cases other than by techniques designed to assure randomness of selection within broadly identified categories (i.e., allowances, unappealed denials, and dismissals). The identification of ''protest'' cases that occurs in the effectuation process is a secondary function of a process that is principally focused on the prompt payment of benefits.

Based on the above considerations, we are proposing to establish procedures under which our Office of Program and Integrity Reviews (OPIR), the SSA component that oversees the review of State agency determinations made under section 221(c) of the Act, will examine certain allowance decisions at the hearing level and refer to the Appeals Council the decisions that may not be supported by the record. Decisions that have been issued at the hearing level will be included in the OPIR-conducted examination process by random sampling and, as we develop the computer systems and other technical capacities needed to support this function, selective sampling that will rely on case profiling and other sampling techniques to identify cases that involve problematic issues or fact patterns that increase the likelihood of error.

Under the proposed process, upon referral of a case by OPIR, the Appeals Council would consider the case and OPIR's reasons for believing the decision is not supported by the record and decide whether to review the case in accordance with §§ 404.969–404.970 and/or 416.1469–416.1470. If the Appeals Council decides to review an OPIR-referred case, it would provide the parties a copy of OPIR's referral with its notice of review. The 60-day time limit for the Appeals Council to initiate review of a case under the authority and standards provided in §§ 404.969–404.970 and 416.1469–416.1470 would apply to cases the Council considers for review in response to referrals from OPIR.

Section 304(g) of Public Law 96–265 (see above) does not specify the kind of identification and referral procedures that SSA should use in implementing a program for initiating review of ALJ decisions in disability cases. We believe that use of the new procedures we are proposing, in combination with the existing identification and referral procedures that we are proposing to regulate, would be consistent with the kind of review contemplated by section 304.

An important purpose of the new procedures we are proposing is to increase our ability to identify policy issues that should be clarified through publication of regulations or rulings. We plan to monitor how our policies are understood and implemented by post-adjudicative evaluation of cases that are shown, as a result of their referral to the Appeals Council, to pose significant policy or program issues.

Proposed Regulations

We propose to revise §§ 404.969 and 416.1469, the regulations that set forth the Appeals Council's authority to review cases on its own motion, to state that we refer cases to the Appeals Council for it to consider reviewing on its own motion. As proposed for revision, §§ 404.969 and 416.1469 describe the identification and referral procedures we will follow and the action of the Appeals Council in cases it considers for possible review on its own motion.

Sections 404.969 and 416.1469 as proposed will apply to all cases that our regulations make subject to review on the Appeals Council's own motion. These currently include, in addition to cases involving ALJ decisions and dismissals, cases involving wholly favorable decisions issued by attorney advisors under the time-limited provisions of §§ 404.942 and 416.1442, and cases involving wholly favorable decisions issued by adjudication officers under the test procedures set out in §§ 404.943 and 416.1443.

Proposed §§ 404.969(b) and 416.1469(b) specify that we will identify a case for referral to the Appeals Council for possible review under its own-motion authority before we effectuate a decision in the case. These sections also provide that we will identify cases for referral through random and selective sampling techniques, that we may use these techniques in association with examination of the cases identified by sampling, and that we will also identify cases for referral through the evaluation of cases we conduct in order to effectuate decisions.

Under §§ 404.969(b)(1) and 416.1469(b)(1) as proposed, we may conduct random and selective sampling of cases involving all types of actions that occur at the hearing level of the administrative review process (i.e., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of title II or title XVI benefits (i.e., different types of benefits based on disability and benefits not based on disability). Our decision to propose these rules rests on our conclusion that we should increase the number of favorable disability decisions the Appeals Council considers for possible review on its own motion to better balance review of favorable and unfavorable decisions. However, the Council's existing authority to review cases on its own motion covers all types of title II and title XVI cases adjudicated at the hearing level, and these proposed rules will allow use of the identification and referral procedures being set forth with respect to all such cases.

Sections 404.969(b)(1) and 416.1469(b)(1) as proposed specify that we will use selective sampling to identify cases that exhibit problematic issues or fact patterns that increase the likelihood of error. Under the provisions as proposed, the factors considered in selective sampling will not include the identity of the decisionmaker or the identity of the office issuing the decision.

Proposed §§ 404.969(b)(1) and 416.1469(b)(1) also authorize but do not require that we examine cases that have been identified through random or selective sampling. Cases may be identified for referral by random or selective sampling. The purpose of the examination of cases that we may conduct is to refine the identification of cases in which the action that has been taken is not supported.

Proposed §§ 404.969(b)(2) and 416.1469(b)(2) provide that effectuating components will identify cases for referral under criteria presently used to identify clear error and circumstances preventing effectuation of a decision. Any type of decision requiring effectuation may be identified for referral under these provisions.

Under §§ 404.969(c) and 416.1469(c), as proposed, we will make referrals that occur as the result of a case examination or the effectuation process in writing. The written referral will state the referring component's reasons for believing that the Appeals Council should review the case on its own motion. Sections 404.969(c) and 416.1469(c) as proposed also provide that referrals resulting from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral, and that referrals resulting from random sampling without a case examination will only identify the case as a random sample case. A statement of the issue(s) or fact pattern identified in selective sampling may be computer generated.

Proposed §§ 404.969(d) and 416.1469(d) specify that the Appeals Council's notice of review will include a copy of any written referral provided

to the Appeals Council. These provisions also include language to state clearly our long-standing policy that issuance of the notice of review establishes when a decision to conduct a review occurs.

We are also proposing to include in §§ 404.969(d) and 416.1469(d) a statement specifying our policy that, when the Appeals Council is unable to decide whether to review a case on its own motion within the 60-day period in which it may do so, it may consider whether the decision should be reopened under the provisions of §§ 404.987 and/or 416.1487, which authorize the Council to reopen a final decision on its own initiative or at the request of a party to the decision, if a condition for reopening stated in §§ 404.988 and/or 416.1488 is present. We are including this statement in the regulations to clarify our long-standing policy that the Appeals Council may also reopen final decisions in accordance with §§ 404.987 and 416.1487 after the 60 days for initiating review under §§ 404.969 and 416.1469 have expired.

Electronic Version

The electronic file 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 meet the criteria for a significant regulatory action under Executive Order 12866. They were therefore submitted to OMB for 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 regulations impose no new reporting or record keeping requirements requiring OMB clearance.

(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; 96.006, 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 12, 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–)

20 CFR part 404, subpart J, is amended as follows:

1. The authority citation for subpart J of part 404 is revised 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. 304(g), Pub. L. 96–265, 94 Stat. 456 (42 U.S.C. 421 note); 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 404.969 is revised to read as follows:

§ 404.969 Appeals Council initiates review.

(a) *General.* Anytime within 60 days after the date of a decision or dismissal that is subject to review under this section, the Appeals Council may decide on its own motion to review the action that was taken in your case. We may refer your case to the Appeals Council for it to consider reviewing under this authority.

(b) *Identification of cases.* We will identify a case for referral to the Appeals Council for possible review under its own-motion authority before we effectuate a decision in the case. We will identify cases for referral to the Appeals Council through random and selective sampling techniques, which we may use in association with examination of the cases identified by sampling. We will also identify cases for referral to the Appeals Council through the evaluation of cases we conduct in order to effectuate decisions.

(1) *Random and selective sampling and case examinations.* We may use random and selective sampling to identify cases involving any type of action (i.e., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of benefits (i.e., benefits based on disability and benefits not based on disability). We will use selective sampling to identify cases that exhibit problematic issues or fact patterns that increase the likelihood of error. Our selective sampling procedures will not identify cases based on the identity of the decisionmaker or the identity of the office issuing the decision. We may examine cases that have been identified through random or selective sampling to refine the identification of cases in which the action taken may not be supported by the record.

(2) *Identification as a result of the effectuation process.* We may refer a case requiring effectuation to the Appeals Council if the decision cannot be effectuated because it contains a clerical error affecting the outcome of the claim; the decision is clearly inconsistent with the Social Security Act, the regulations, or a published ruling; or the decision is unclear regarding a matter that affects the claim's outcome.

(c) *Referral of cases.* We will make referrals that occur as the result of a case examination or the effectuation process in writing. The written referral based on the results of such a case examination or the effectuation process will state the referring component's reasons for believing that the Appeals Council should review the case on its own motion. Referrals that result from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral. Referrals that result from random sampling without a case examination will only identify the case as a random sample case.

(d) *Appeals Council's action.* If the Appeals Council decides to review a decision or dismissal on its own motion, it will mail a notice of review to all the parties as provided in § 404.973. The Appeals Council will include with that notice a copy of any written referral it has received under paragraph (c) of this section. The Appeals Council's decision

to review a case is established by its issuance of the notice of review. If it is unable to decide within the applicable 60-day period whether to review a decision or a dismissal, the Appeals Council may consider the case to determine if the decision or dismissal should be reopened pursuant to § 404.987.

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

20 CFR part 416, subpart N, is amended as follows:

1. The authority citation for subpart N is revised 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); sec. 304(g), Pub. L. 96–265, 94 Stat. 456 (42 U.S.C. 421 note).

2. Section 416.1469 is revised to read as follows:

§ 416.1469 Appeals Council initiates review.

(a) *General.* Anytime within 60 days after the date of a decision or dismissal that is subject to review under this section, the Appeals Council may decide on its own motion to review the action that was taken in your case. We may refer your case to the Appeals Council for it to consider reviewing under this authority.

(b) *Identification of cases.* We will identify a case for referral to the Appeals Council for possible review under its own-motion authority before we effectuate a decision in the case. We will identify cases for referral to the Appeals Council through random and selective sampling techniques, which we may use in association with examination of the cases identified by sampling. We will also identify cases for referral to the Appeals Council through the evaluation of cases we conduct in order to effectuate decisions.

(1) *Random and selective sampling and case examinations.* We may use random and selective sampling to identify cases involving any type of action (i.e., wholly or partially favorable decisions, unfavorable decisions, or dismissals) and any type of benefits (i.e., benefits based on disability and benefits not based on disability). We will use selective sampling to identify cases that exhibit problematic issues or fact patterns that increase the likelihood of error. Our selective sampling procedures will not identify cases based on the identity of the decisionmaker or the identity of the office issuing the decision. We may examine cases that have been identified through random or selective sampling to refine the identification of cases in which the action taken may not be supported by the record.

(2) *Identification as a result of the effectuation process.* We may refer a case requiring effectuation to the Appeals Council if the decision cannot be effectuated because it contains a clerical error affecting the outcome of the claim; the decision is clearly inconsistent with the Social Security Act, the regulations, or a published ruling; or the decision is unclear regarding a matter that affects the claim's outcome.

(c) *Referral of cases.* We will make referrals that occur as the result of a case examination or the effectuation process in writing. The written referral based on the results of such a case examination or the effectuation process will state the referring component's reasons for believing that the Appeals Council should review the case on its own motion. Referrals that result from selective sampling without a case examination may be accompanied by a written statement identifying the issue(s) or fact pattern that caused the referral. Referrals that result from random sampling without a case examination will only identify the case as a random sample case.

(d) *Appeals Council's action.* If the Appeals Council decides to review a decision or dismissal on its own motion, it will mail a notice of review to all the parties as provided in § 416.1473. The Appeals Council will include with that notice a copy of any written referral it has received under paragraph (c) of this section. The Appeals Council's decision to review a case is established by its issuance of the notice of review. If it is unable to decide within the applicable 60-day period whether to review a decision or dismissal, the Appeals Council may consider the case to determine if the decision or dismissal should be reopened pursuant to § 416.1487.

[FR Doc. 97–25365 Filed 9–24–97; 8:45 am]
BILLING CODE 4190–29–U

SOCIAL SECURITY ADMINISTRATION

20 CFR Parts 404 and 416

[Regulations Nos. 4 and 16]

RIN 0960–AE56

Federal Old-Age, Survivors, and Disability Insurance and Supplemental Security Income for the Aged, Blind, and Disabled; Evaluating Opinion Evidence

AGENCY: Social Security Administration.

ACTION: Proposed rules.

SUMMARY: We propose to revise the Social Security and supplemental security income (SSI) regulations about the evaluation of medical opinions to clarify how administrative law judges and the Appeals Council are to consider opinion evidence from State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult in claims for disability benefits under titles II and XVI of the Social Security Act (the Act). We also propose to define or clarify several terms used in our regulations and to delete other terms.

DATES: To be sure that your comments are considered, we must receive them no later than November 24, 1997.

ADDRESSES: Comments should be submitted in writing to the Commissioner of Social Security, P.O. Box 1585, Baltimore, MD 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: Richard M. Bresnick, Legal Assistant, Division of Regulations and Rulings, Social Security Administration, 6401 Security Boulevard, Baltimore, MD 21235, (410) 965–1758 for information about these rules. For information on eligibility or filing for benefits, call our national toll-free number, 1–800–772–1213.

SUPPLEMENTARY INFORMATION: The Act provides, in title II, for the payment of disability benefits to persons insured under the Act. Title II also provides, under certain circumstances, for the payment of child's insurance benefits based on disability and widow's and widower's insurance benefits for disabled widows, widowers, and surviving divorced spouses of insured persons. In addition, the Act provides, in title XVI, for SSI payments to persons who are aged, blind, or disabled and who have limited income and resources.

For adults under both the title II and title XVI programs (including persons claiming child's insurance benefits based on disability under title II), ''disability'' means the inability to engage in any substantial gainful activity. For an individual under age 18 claiming SSI benefits based on

disability, ''disability'' means that an impairment(s) causes ''marked and severe functional limitations.'' Under both title II and title XVI, disability must be the result of a medically determinable physical or mental impairment(s) that can be expected to result in death or that has lasted or can be expected to last for a continuous period of at least 12 months.

Explanation of Proposed Revisions

Proposals To Simplify and Clarify Terms

The current regulations use several terms to refer to sources of medical evidence. Regulations §§ 404.1502 and 416.902, ''General definitions and terms for this subpart,'' define the terms ''source of record,'' ''medical sources'' (which include ''consultative examiners''), and ''treating source.'' These terms are used in various sections of the regulations in subpart P of part 404 and subpart I of part 416, chiefly §§ 404.1527 and 416.927, ''Evaluating medical opinions about your impairment(s) or disability.'' In addition, §§ 404.1519 and 416.919 use the phrase ''a treating physician or psychologist, another source of record, or an independent source.'' Regulations §§ 404.1527 and 416.927 also employ the terms ''nontreating source'' and ''nonexamining source.''

In paragraph (a) of §§ 404.1513 and 416.913 of our regulations, we say that we need reports about the individual's impairments from ''acceptable medical sources'' and we identify the sources who are acceptable medical sources. We need various terms for acceptable medical sources in only three, specific instances: (1) When we explain the preference we give to obtaining evidence from treating sources, (2) when we explain the preference we give to treating sources to perform consultative examinations, and (3) in our rules for weighing opinions from acceptable medical sources. In the first two cases, the only definition that is needed is the definition of a ''treating source.'' In the last case, relevant distinctions are needed between treating sources, nontreating sources (i.e., acceptable medical sources, such as some consultative examiners, who have examined an individual but not provided treatment), and nonexamining sources (i.e., acceptable medical sources who have provided opinion evidence but who have not treated or examined the individual).

Therefore, we propose to simplify and clarify the terms we use to describe various acceptable medical sources of evidence, including medical opinion evidence (i.e., opinions on the nature and severity of an individual's impairment(s)—see current §§ 404.1527(a)(2) and 416.927(a)(2)) and other opinions (e.g., opinions on issues reserved to the Commissioner—see current §§ 404.1527(e) and 416.927(e)), by using only four terms: Treating source, nontreating source, nonexamining source, and an overall term, ''acceptable medical source,'' which would include all three types of sources. These proposals would not change our current policy, but are only intended to clarify our intent.

To do this, we propose to define the term ''acceptable medical source'' in §§ 404.1502 and 416.902. This is a term we have used for many years in §§ 404.1513(a) and 416.913(a). We also propose to redefine the term ''medical sources'' to mean acceptable medical sources, or other health care providers who are not ''acceptable medical sources,'' to clarify our intent in certain regulations sections. For instance, under the rules in §§ 404.1519, 404.1519g, 416.919, and 416.919g, we may select a qualified medical source who is not an ''acceptable medical source'' to perform a consultative examination; e.g., an audiologist or speech and language pathologist.

We also propose to add definitions for the terms ''nonexamining source'' and ''nontreating source,'' now used in §§ 404.1527 and 416.927, which are not currently defined in regulations. We propose to clarify the definition of ''treating source'' to include the other acceptable medical sources identified in §§ 404.1513(a) and 416.913(a) in addition to licensed physicians or licensed or certified psychologists, and, consistent with use of the word ''evaluation'' in the first sentence of the current definition in §§ 404.1502 and 416.902, to clarify that a source who only examines and evaluates an individual on an ongoing basis, but who does not provide any treatment, may also be a ''treating source.''

We propose to delete the term ''source of record'' because sources previously included in the definition of that term are included in the definition of the terms ''acceptable medical source'' or ''medical source'' and the term ''source of record'' is not needed.

Clarification of §§ 404.1527 and 416.927

We propose to clarify, consistent with our original intent, paragraph (f) of §§ 404.1527 and 416.927. As we explained in the preamble to the current rules published in the **Federal Register** on August 1, 1991 (56 FR 36932, 36937), the purpose of paragraph (f) is to: (1) Explain how we consider evidence from various kinds of nonexamining sources (e.g., State agency medical and psychological consultants, other program physicians and psychologists, and medical advisors—now called ''medical experts''—at the administrative law judge hearings and Appeals Council levels of administrative review), (2) clarify the role of the State agency medical and psychological consultant at the various levels of the administrative review process, and (3) codify in regulations our longstanding policy that, because State agency medical and psychological consultants are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation, administrative law judges will consider their findings with regard to the nature and severity of an individual's impairment as opinions of nonexamining physicians and psychologists.

Sections 404.1527(f) and 416.927(f) of the current regulations state that administrative law judges and the Appeals Council are required to consider State agency medical and psychological consultant findings about the existence and severity of an individual's impairment(s), the existence and severity of an individual's symptoms, whether an individual's impairment(s) meets or equals the requirements for any impairment listed in appendix 1 to subpart P of part 404, and an individual's residual functional capacity. We recently restated and clarified these provisions of the regulations in Social Security Ruling (SSR) 96–6p, ''Titles II and XVI: Consideration of Administrative Findings of Fact by State Agency Medical and Psychological Consultants and Other Program Physicians and Psychologists at the Administrative Law Judge and Appeals Council Levels of Administrative Review; Medical Equivalence.'' (61 FR 34466, July 2, 1996.)

Consistent with our statements in the 1991 preamble to the current regulations and the clarifications in SSR 96–6p, we propose the following revisions to paragraph (f) of §§ 404.1527 and 416.927. We also propose conforming revisions to paragraphs (d)(6) and (e). None of these proposed revisions is intended to change our current policies.

Because paragraph (f) refers to the rules in paragraphs (a) through (e) of §§ 404.1527 and 416.927, which collectively address both medical opinions (as described in paragraph (a)(2) of §§ 404.1527 and 416.927) and opinions on issues reserved to the Commissioner of Social Security (the Commissioner), it is inaccurate to refer

in paragraph (f) solely to opinions on the ''nature and severity of a person's impairment(s).'' Therefore, we propose to delete the phrase ''on the nature and severity of your impairments'' from the introductory text of paragraph (f). We also propose to revise paragraph (f)(2) to provide more detail on how administrative law judges are to consider the opinions of State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult. The proposal would divide paragraph (f)(2) into an introductory paragraph and new paragraphs (f)(2)(i) through (f)(2)(iii), which would provide a more detailed explanation of how opinions from these sources are to be evaluated. The introductory text of paragraph (f)(2) and, when appropriate, paragraphs (f)(2)(i) through (f)(2)(iii), include reference to ''other program physicians and psychologists'' and the term ''medical expert'' for consistency with the current or proposed language in paragraph (b)(6) of §§ 404.1512 and 416.912.

We propose to clarify in new paragraph (f)(2)(i) that, because State agency medical and psychological consultants and other program physicians and psychologists are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation, administrative law judges must consider findings of these experts, except for the ultimate determination of disability, when they make their disability decisions. We propose to state in new paragraph (f)(2)(ii) that when administrative law judges evaluate the findings of these experts, they will use the relevant factors set forth in paragraphs (a) through (e) of §§ 404.1527 and 416.927.

In paragraph (f)(2)(ii) we also propose to provide examples of the kinds of factors that an administrative law judge must consider when evaluating the findings of State agency medical and psychological consultants or other program physicians and psychologists. We also propose to clarify that administrative law judges are required to explain in their decisions the weight given to any opinion of a State agency medical or psychological consultant or other program physician or psychologist, as they must do for any opinions from treating sources, nontreating sources, and nonexamining sources who do not work for us.

In new paragraph (f)(2)(iii), we propose to substitute the term ''medical expert'' for ''medical advisor'' for the reason explained below about paragraph (b)(6) of §§ 404.1512 and 416.912. We also propose to make it clear in new paragraph (f)(2)(iii) that when administrative law judges consider opinions from medical experts they consult they will use the rules in paragraphs (a) through (e) of §§ 404.1527 and 416.927.

We also propose to amend paragraph (d)(6) of §§ 404.1527 and 416.927 by adding two examples of other factors that can affect the weight we give to a medical opinion. The amount of Social Security disability programs expertise an acceptable medical source has is a relevant factor that is consistent with the examples we propose to provide in paragraph (f)(2)(ii). This would include acceptable medical sources who are currently medical or psychological consultants and those who had been medical or psychological consultants, or other program physicians or psychologists, in the past. Another relevant factor is whether a source reviewed the individual's entire case record before providing a medical opinion. Both of these are relevant factors that we will consider in deciding the weight to give to a medical opinion from any acceptable medical source.

We also propose to amend paragraph (e) of §§ 404.1527 and 416.927 by adding an introductory paragraph to distinguish opinions on issues reserved to the Commissioner from medical opinions, and by designating the last sentence of paragraph (e)(2) as new paragraph (e)(3) to make it clear that the rule in new paragraph (e)(3) applies to an opinion about disability described in paragraph (e)(1) as well as to an opinion on any issue reserved to the Commissioner described in paragraph (e)(2).

Other Changes

Sections 404.1502 and 416.902 General Definitions and Terms for This Subpart

In §§ 404.1502 and 416.902, we propose to clarify, consistent with current §§ 404.602 and 416.302, the definition of the term ''you'' to more accurately indicate that the definition includes the person for whom an application is filed because the person who files an application may be filing it on behalf of another person.

Also, in keeping with the President's goal of streamlining and simplifying regulations, we propose to delete the term ''Secretary'' and its definition from § 404.1502 and to delete the terms ''Commissioner'' (see 62 FR 6408, February 11, 1997) and ''Secretary'' from § 416.902 because we define these terms for the entire parts 404 and 416 in §§ 404.2(b) and 416.120(b).

Sections 404.1512 and 416.912 Evidence of Your Impairment

We propose to amend §§ 404.1512 and 416.912 by revising paragraph (b)(6) to delete the word ''certain'' to clarify that every finding made by State agency medical or psychological consultants and other program physicians or psychologists and the opinions of medical experts, other than the ultimate determination about whether an individual is disabled, is evidence that an administrative law judge and the Appeals Council must consider at the administrative law judge and Appeals Council levels of review. We also propose to change the term ''medical advisor'' to ''medical expert'' because the latter is the term we currently use to describe these nonexamining sources we consult at the administrative law judge and Appeals Council levels.

Sections 404.1513 and 416.913 Medical Evidence of Your Impairment

We propose to revise paragraph (c) of §§ 404.1513 and 416.913 to codify our policy interpretation that, at the administrative law judge and Appeals Council levels of review, ''statements about what you can still do,'' which we also call ''medical source statements,'' include residual functional capacity assessments made by State agency medical and psychological consultants and other program physicians and psychologists. This is because they become opinion evidence of nonexamining physicians and psychologists at the hearings and appeals levels. (See SSR 96–6p, 61 FR 34466, 34468.)

Because paragraphs (b) and (c) relate to the reports about an individual's impairment(s) needed from acceptable medical sources described in paragraph (a), we propose to clarify paragraphs (b)(6), (c)(1) and (c)(2) of § 404.1513 and paragraphs (b)(6), (c)(1), (c)(2), and (c)(3) of § 416.913 to refer to findings and opinions of the ''acceptable medical source,'' rather than findings and opinions of the ''medical source.'' We also propose to clarify paragraphs (c)(1) and (c)(2) of § 416.913 by indicating that they pertain only to adults, to make the construction of these paragraphs parallel to that of paragraph (c)(3), which pertains only to children.

Sections 404.1519 and 416.919 The Consultative Examination

We propose to revise §§ 404.1519 and 416.919 to substitute the terms ''treating source'' and ''medical source'' for the terms ''treating physician or psychologist,'' ''source of record'' and

''independent source'' in the first sentence.

Sections 404.1519g and 416.919g Who We Will Select To Perform a Consultative Examination

We propose to revise paragraph (a) to refer in the last sentence to §§ 404.1513 and 416.913, rather than §§ 404.1513(a) and 416.913(a), for the reasons explained above about the proposed revised definition of ''medical source'' in §§ 404.1502 and 416.902. For the same reason, we would also change the phrase ''physician or psychologist'' in the first sentence of paragraph (c) to ''medical source.''

Sections 404.1519h and 416.919h Your Treating Physician or Psychologist

We propose to revise the heading and text of these sections to substitute the term ''treating source'' for the term ''treating physician or psychologist.''

Sections 404.1519i and 416.919i Other Sources for Consultative Examinations

We propose to revise the text of these sections to substitute the term ''treating source'' for the term ''treating physician or psychologist.''

Sections 404.1519j and 416.919j Objections to the Designated Physician or Psychologist

We propose to revise the heading and text of these sections to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above.

Sections 404.1519k and 416.919k Purchase of Medical Examinations, Laboratory Tests, and Other Services

We propose to revise the introductory paragraph of these sections to use the term ''medical source,'' rather than the phrase ''licensed physician or psychologist, hospital or clinic'' for the reasons explained above.

Sections 404.1519m and 416.919m Diagnostic Tests or Procedures

We propose to revise the first sentence of these sections to substitute the term ''treating source'' for the term ''treating physician or psychologist.'' We also propose to revise the last sentence to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above.

Sections 404.1519n and 416.919n Informing the Examining Physician or Psychologist of Examination Scheduling, Report Content, and Signature Requirements

We propose to revise the heading, introductory paragraph, and paragraphs (a), (b), (c), and (e) to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above. We would also add a heading to paragraph (a) for consistency with the other paragraphs in this section. In addition, we would revise paragraph (c)(6) to insert language that we intended to include, as explained in our statements in the 1991 preamble (56 FR 36932, 36934, August 1, 1991) to the current regulations, but inadvertently omitted, to ensure that although medical source statements about what an individual can still do despite his or her impairment(s) should ordinarily be requested as part of the consultative examination process, the absence of such a statement in a consultative examination report does not make the report incomplete.

Sections 404.1519o and 416.919o When a Properly Signed Consultative Examination Report Has Not Been Received

We propose to revise paragraphs (a) and (b) to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above.

Sections 404.1519p and 416.919p Reviewing Reports of Consultative Examinations

We propose to revise paragraph (b) to use the term ''medical source,'' rather than the phrase ''physician or psychologist,'' for the reasons explained above. We would revise paragraph (c) to correct the grammar in the first sentence by substituting the word ''when'' for the word ''where.'' We also propose to substitute the term ''treating source'' for the term ''treating physician or psychologist.''

Sections 404.1519s and 416.919s Authorizing and Monitoring the Consultative Examination

We propose to revise paragraph (e)(2) to refer to a consultative examination provider's ''practice,'' rather than to a ''practice of medicine, osteopathy, or psychology,'' for the reasons explained above about the definition of ''medical source.'' For the same reasons, we would also use the term ''medical sources'' in paragraph (f)(6), rather than the phrase ''physicians and psychologists.''

Sections 404.1527 and 416.927 Evaluating Medical Opinions About Your Impairment(s) or Disability

We propose to change the heading of §§ 404.1527 and 416.927 from ''Evaluating medical opinions about your impairment(s) or disability'' to ''Evaluating opinion evidence'' to more accurately identify the content of these sections. Under current §§ 404.1527(a)(2) and 416.927(a)(2), the term ''medical opinion'' means statements from acceptable medical sources that reflect judgments about the nature and severity of an individual's impairments, but §§ 404.1527 and 416.927 address other types of opinions, too.

We propose to revise the third sentence of paragraph (d)(2) of §§ 404.1527 and 416.927 to clarify that the ''other factors'' referenced in paragraph (d)(6) will be considered along with the factors in paragraphs (d)(2) (i) and (ii) and paragraphs (d)(3) through (d)(5) of this section when we do not give a treating source's medical opinion controlling weight. As indicated by the current introductory text to §§ 404.1527(d) and 416.927(d), exclusion of reference to paragraph (d)(6) was an inadvertent omission when the current rule was published. (56 FR 36932, August 1, 1991.)

We propose to change the heading of paragraph (e) in §§ 404.1527 and 416.927 to reflect that the Commissioner, not the Secretary of Health and Human Services, has the authority on these issues pursuant to section 702(a)(5) of the Act as amended by section 102 of the Social Security Independence and Program Improvements Act of 1994, Public Law 103–296, enacted on August 15, 1994. We also propose to change the second sentence of paragraph (e)(2) to substitute the term ''medical sources'' for the phrase ''treating and examining sources'' to be consistent with the use of the term ''medical sources'' in the first sentence of paragraph (e)(2) and to clarify that we consider opinions from all medical sources on the issues described in the second sentence.

We also propose to shorten the heading of paragraph (f) of §§ 404.1527 and 416.927 to ''Opinions of nonexamining sources,'' consistent with the proposed definitions in §§ 404.1502 and 416.902. For the same reason, we propose to substitute the term ''nonexamining sources'' for ''nonexamining physicians and psychologists'' in the first sentence of paragraph (f).

Electronic Versions

The electronic file 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 proposed rules do not meet the criteria for a significant regulatory action under Executive Order 12866. Therefore, they are not subject to OMB review.

Regulatory Flexibility Act

We certify that these proposed regulations will not have a significant economic impact on a substantial number of small entities because they 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 regulations impose no additional reporting or recordkeeping requirements subject to OMB clearance.

(Catalog of Federal Domestic Assistance Program Nos. 96.001, Social Security-Disability Insurance; 96.002, Social Security-Retirement Insurance; 96.004, Social Security-Survivors Insurance; 96.006, Supplemental Security Income)

List of Subjects

20 CFR Part 404

Administrative practice and procedure, Blind, 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 12, 1997.

John J. Callahan,

Acting Commissioner of Social Security.

For the reasons set out in the preamble, we propose to amend subpart P of part 404 and subpart I of part 416 of 20 CFR chapter III as set forth below:

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

Subpart P—[Amended]

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

Authority: Secs. 202, 205(a), (b), and (d)–(h), 216(i), 221(a) and (i), 222(c), 223, 225, and 702(a)(5) of the Social Security Act (42 U.S.C. 402, 405(a), (b), and (d)–(h), 416(i), 421(a) and (i), 422(c), 423, 425, and 902(a)(5)); sec. 211(b), Pub. L. 104–193, 110 Stat. 2105, 2189.

2. Section 404.1502 is amended by removing the term ''Source of record'' and its definition, revising the definitions of ''Medical sources'' and ''Treating source,'' changing the term ''You'' to ''You or your'' and revising its definition, and adding definitions in the appropriate alphabetical order for the terms ''Acceptable medical source,'' ''Nonexamining source,'' and ''Nontreating source'' to read as follows:

§ 404.1502 General definitions and terms for this subpart.

As used in the subpart—

Acceptable medical source refers to one of the sources described in § 404.1513(a) who provides evidence about your impairments. It includes treating sources, nontreating sources, and nonexamining sources.

Medical sources refers to acceptable medical sources, or other health care providers who are not acceptable medical sources.

Nonexamining source means a physician, psychologist, or other acceptable medical source who has not examined you but provides a medical or other opinion in your case. At the administrative law judge hearing and Appeals Council levels of the administrative review process, it includes State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult. See § 404.1527.

Nontreating source means a physician, psychologist, or other acceptable medical source who has examined you but does not have, or did not have, an ongoing treatment relationship with you. The term includes an acceptable medical source who is a consultative examiner for us, when the consultative examiner is not your treating source. See § 404.1527.

* * * * *

Treating source means your own physician, psychologist, or other acceptable medical source who provides you, or has provided you, with medical treatment or evaluation and who has, or has had, an ongoing treatment relationship with you. Generally, we will consider that you have an ongoing treatment relationship with an acceptable medical source when the medical evidence establishes that you see, or have seen, the source with a frequency consistent with accepted medical practice for the type of treatment and/or evaluation required for your medical condition(s). We may consider an acceptable medical source who has treated or evaluated you only a few times or only after long intervals (e.g., twice a year) to be your treating source if the nature and frequency of the treatment or evaluation is typical for your condition(s). We will not consider an acceptable medical source to be your treating source if your relationship with the source is not based on your medical need for treatment or evaluation, but solely on your need to obtain a report in support of your claim for disability. In such a case, we will consider the acceptable medical source to be a nontreating source.

* * * * *

You or *your* means, as appropriate, the person who applies for benefits or for a period of disability, the person for whom an application is filed, or the person who is receiving benefits based on disability or blindness.

3. Section 404.1512 is amended by revising paragraph (b)(6) to read as follows:

§ 404.1512 Evidence of your impairment.

* * * * *

(b) * * *

(6) At the administrative law judge and Appeals Council levels, findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, and opinions expressed by medical experts we consult based on their review of the evidence in your case record. See §§ 404.1527(f)(2) and (f)(3).

* * * * *

4. Section 404.1513 is amended by revising the first sentence of paragraph (b)(6) and paragraph (c) to read as follows:

§ 404.1513 Medical evidence of your impairment.

* * * * *

(b) * * *

(6) A statement about what you can still do despite your impairment(s) based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section (except in statutory blindness claims). * * *

(c) *Statements about what you can still do.* At the administrative law judge and Appeals Council levels, we will consider residual functional capacity assessments made by State agency medical and psychological consultants and other program physicians and psychologists to be ''statements about what you can still do'' made by nonexamining physicians and

psychologists based on their review of the evidence in the case record. Statements about what you can still do (based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section) should describe, but are not limited to, the kinds of physical and mental capabilities listed below. See §§ 404.1527 and 404.1545(c).

(1) The acceptable medical source's opinion about your ability, despite your impairment(s), to do work-related activities such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and

(2) In cases of mental impairment(s), the acceptable medical source's opinion about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers, and work pressures in a work setting.

* * * * *

5. Section 404.1519 is amended by revising the first sentence to read as follows:

§ 404.1519 The consultative examination.

A consultative examination is a physical or mental examination or test purchased for you at our request and expense from a treating source or another medical source, including a pediatrician when appropriate. * * *

6. Section 404.1519g is amended by revising the last sentence of paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 404.1519g Who we will select to perform a consultative examination.

(a) * * * For a more complete list of medical sources, see § 404.1513.

* * * * *

(c) The medical source we choose may use support staff to help perform the consultative examination. * * *

7. Section 404.1519h is revised to read as follows:

§ 404.1519h Your treating source.

When in our judgment your treating source is qualified, equipped, and willing to perform the additional examination or tests for the fee schedule payment, and generally furnishes complete and timely reports, your treating source will be the preferred source to do the purchased examination. Even if only a supplemental test is required, your treating source is ordinarily the preferred source.

8. Section 404.1519i is revised to read as follows:

§ 404.1519i Other sources for consultative examinations.

We will use a source other than your treating source for a purchased examination or test in situations including, but not limited to, the following situations:

(a) Your treating source prefers not to perform such an examination or does not have the equipment to provide the specific data needed;

(b) There are conflicts or inconsistencies in your file that cannot be resolved by going back to your treating source;

(c) You prefer a source other than your treating source and have a good reason for your preference;

(d) We know from prior experience that your treating source may not be a productive source, e.g., he or she has consistently failed to provide complete or timely reports.

9. Section 404.1519j is revised to read as follows:

§ 404.1519j Objections to the medical source designated to perform the consultative examination.

You or your representative may object to your being examined by a medical source we have designated to perform a consultative examination. If there is a good reason for the objection, we will schedule the examination with another medical source. A good reason may be that the medical source we designated had previously represented an interest adverse to you. For example, the medical source may have represented your employer in a workers' compensation case or may have been involved in an insurance claim or legal action adverse to you. Other things we will consider include: The presence of a language barrier, the medical source's office location (e.g., 2nd floor, no elevator), travel restrictions, and whether the medical source had examined you in connection with a previous disability determination or decision that was unfavorable to you. If your objection is that a medical source allegedly ''lacks objectivity'' in general, but not in relation to you personally, we will review the allegations. See § 404.1519s. To avoid a delay in processing your claim, the consultative examination in your case will be changed to another medical source while a review is being conducted. We will handle any objection to use of the substitute medical source in the same manner. However, if we had previously conducted such a review and found that the reports of the medical source in question conformed to our guidelines, we will not change your examination.

10. Section 404.1519k is amended by revising the introductory paragraph to read as follows:

§ 404.1519k Purchase of medical examinations, laboratory tests, and other services.

We may purchase medical examinations, including psychiatric and psychological examinations, X-rays and laboratory tests (including specialized tests, such as pulmonary function studies, electrocardiograms, and stress tests) from a medical source.

* * * * *

11. Section 404.1519m is amended by revising the first and last sentences to read as follows:

§ 404.1519m Diagnostic tests or procedures.

We will request the results of any diagnostic tests or procedures that have been performed as part of a workup by your treating source or other medical source and will use the results to help us evaluate impairment severity or prognosis. * * * The responsibility for deciding whether to perform the examination rests with the consultative examining medical source.

12. Section 404.1519n is amended by revising the heading and the first and last sentences of the introductory paragraph, adding a heading to and revising the first sentence of paragraph (a), revising the last two sentences of paragraph (b), revising the second sentence of and adding third and fourth sentences to paragraph (c)(6), and revising paragraphs (c)(7) and (e) to read as follows:

§ 404.1519n Informing the medical source of examination scheduling, report content, and signature requirements.

The medical sources who perform consultative examinations will have a good understanding of our disability programs and their evidentiary requirements. * * * We will fully inform medical sources who perform consultative examinations at the time we first contact them, and at subsequent appropriate intervals, of the following obligations:

(a) *Scheduling.* In scheduling full consultative examinations, sufficient time should be allowed to permit the medical source to take a case history and perform the examination, including any needed tests. * * *

(b) *Report content.* * * * The report should reflect your statement of your symptoms, not simply the medical source's statements or conclusions. The examining medical source's report of the consultative examination should include the objective medical facts as well as observations and opinions.

(c) * * *

(6) * * * This statement should describe the opinion of the medical source about your ability, despite your impairment(s), to do work-related activities, such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and, in cases of mental impairment(s), the opinion of the medical source about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers and work pressures in a work setting. Although we will ordinarily request, as part of the consultative examination process, a medical source statement about what you can still do despite your impairment(s), the absence of such a statement in a consultative examination report will not make the report incomplete. See § 404.1527; and

(7) In addition, the medical source will consider, and provide some explanation or comment on, your major complaint(s) and any other abnormalities found during the history and examination or reported from the laboratory tests. The history, examination, evaluation of laboratory test results, and the conclusions will represent the information provided by the medical source who signs the report.

* * * * *

(e) *Signature requirements.* All consultative examination reports will be personally reviewed and signed by the medical source who actually performed the examination. This attests to the fact that the medical source doing the examination or testing is solely responsible for the report contents and for the conclusions, explanations or comments provided with respect to the history, examination and evaluation of laboratory test results. The signature of the medical source on a report annotated ''not proofed'' or ''dictated but not read'' is not acceptable. A rubber stamp signature of a medical source or the medical source's signature entered by any other person is not acceptable.

13. Section 404.1519o is amended by revising the second sentence of paragraph (a) and the third sentence of paragraph (b) to read as follows:

§ 404.1519o When a properly signed consultative examination report has not been received.

* * * * *

(a) *When we will make determinations and decisions without a properly signed report.* * * * After we have made the determination or decision, we will obtain a properly signed report and include it in the file unless the medical source who performed the original consultative examination has died.

* * * * *

(b) *When we will not make determinations and decisions without a properly signed report.* * * * If the signature of the medical source who performed the original examination cannot be obtained because the medical source is out of the country for an extended period of time, or on an extended vacation, seriously ill, deceased, or for any other reason, the consultative examination will be rescheduled with another medical source.

* * * * *

14. Section 404.1519p is amended by revising paragraphs (b) and (c) to read as follows:

§ 404.1519p Reviewing reports of consultative examinations.

* * * * *

(b) If the report is inadequate or incomplete, we will contact the medical source who performed the consultative examination, give an explanation of our evidentiary needs, and ask that the medical source furnish the missing information or prepare a revised report.

(c) With your permission, or when the examination discloses new diagnostic information or test results that reveal potentially life-threatening situations, we will refer the consultative examination report to your treating source. When we refer the consultative examination report to your treating source without your permission, we will notify you that we have done so.

* * * * *

15. Section 404.1519s is amended by revising paragraph (e)(2) and the first sentence of paragraph (f)(6) to read as follows:

§ 404.1519s Authorizing and monitoring the consultative examination.

* * * * *

(e) * * *

(2) Any consultative examination provider with a practice directed primarily towards evaluation examinations rather than the treatment of patients; or

* * * * *

(f) * * *

(6) Procedures for providing medical or supervisory approval for the authorization or purchase of consultative examinations and for additional tests or studies requested by consulting medical sources. * * *

* * * * *

16. Section 404.1527 is amended by revising the section heading, the third sentence of paragraph (d)(2), the heading of paragraph (e), paragraph (e)(2), the heading and introductory text of paragraph (f), and paragraph (f)(2), by adding a sentence to paragraph (d)(6), by adding introductory text to paragraph (e), and by adding paragraph (e)(3) to read as follows:

§ 404.1527 Evaluating opinion evidence.

* * * * *

(d) * * *

(2) *Treatment relationship.* * * * When we do not give the treating source's opinion controlling weight, we apply the factors listed below, as well as the factors in paragraphs (d)(3) through (d)(6) of this section in determining the weight to give the opinion. * * *

* * * * *

(6) *Other factors.* * * * For example, the amount of Social Security disability programs expertise an acceptable medical source has and whether an acceptable medical source reviewed the individual's entire case record before providing a medical opinion are relevant factors that we will consider in deciding the weight to give to a medical opinion.

(e) *Medical source opinions on issues reserved to the Commissioner.* Opinions on some issues, such as the examples that follow, are not medical opinions, as described in paragraph (a)(2) of this section, but are, instead, opinions on issues reserved to the Commissioner because they are administrative findings that are dispositive of a case; i.e., that would direct the determination or decision of disability.

* * * * *

(2) *Other opinions on issues reserved to the Commissioner.* We use medical sources, including your treating source, to provide evidence, including opinions, on the nature and severity of your impairment(s). Although we consider opinions from medical sources on issues such as whether your impairment(s) meets or equals the requirements of any impairment(s) in the Listing of Impairments in appendix 1 to this subpart, your residual functional capacity (see §§ 404.1545 and 404.1546), or the application of vocational factors, the final responsibility for deciding these issues is reserved to the Commissioner.

(3) We will not give any special significance to the source of an opinion on issues reserved to the Commissioner described in paragraphs (e)(1) and (e)(2) of this section.

(f) *Opinions of nonexamining sources.* We consider all evidence from nonexamining sources to be opinion evidence. When we consider the opinions of nonexamining sources, we

apply the rules in paragraphs (a) through (e) of this section. In addition, the following rules apply to State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult in connection with administrative law judge hearings and Appeals Council review.

* * * * *

(2) Administrative law judges are responsible for reviewing the evidence and making findings of fact and conclusions of law. They will consider opinions of State agency medical or psychological consultants, other program physicians and psychologists, and medical experts as follows:

(i) Administrative law judges are not bound by any findings made by State agency medical or psychological consultants, or other program physicians or psychologists. However, State agency medical and psychological consultants and other program physicians and psychologists are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation. Therefore, administrative law judges must consider findings of State agency medical and psychological consultants or other program physicians or psychologists, except for the ultimate determination about whether you are disabled. See § 404.1512(b)(6).

(ii) When administrative law judges consider findings of State agency medical or psychological consultants or other program physicians or psychologists, they will evaluate the findings using relevant factors in paragraphs (a) through (e) of this section, such as the medical or psychological consultants', or other program physicians' or psychologists', medical specialty and expertise in our rules, the evidence reviewed by the consultants or other program physicians or psychologists, supporting explanations provided by the consultants or other program physicians or psychologists, and any other factors relevant to the weighing of the opinions. he administrative law judge must explain in the decision the weight given to the opinions of a State agency medical or psychological consultant or other program physician or psychologist, as the administrative law judge must do for any opinions from treating sources, nontreating sources, and nonexamining sources who do not work for us.

(iii) Administrative law judges may also ask for and consider opinions from medical experts on the nature and severity of your impairment(s) and on whether your impairment(s) equals the requirements of any impairment listed in appendix 1 to this subpart. When administrative law judges consider these opinions, they will evaluate them using the rules in paragraphs (a) through (e) of this section.

* * * * *

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

Subpart I—[Amended]

17. The authority citation for subpart I of part 416 continues to read as follows:

Authority: Secs. 702(a)(5), 1611, 1614, 1619, 1631(a), (c), and (d)(1), and 1633 of the Social Security Act (42 U.S.C. 902(a)(5), 1382, 1382c, 1382h, 1383(a), (c), and (d)(1), and 1383b); secs. 4(c) and 5, 6(c)–(e), 14(a) and 15, Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808 (42 U.S.C. 421 note, 423 note, 1382h note).

18. Section 416.902 is amended by removing the terms ''Commissioner,'' ''Secretary,'' and ''Source of record'' and their definitions, revising the definitions of ''Medical sources'' and ''Treating source,'' changing the term ''You'' to ''You or your'' and revising its definition, and adding definitions in the appropriate alphabetical order for the terms ''Acceptable medical source,'' ''Nonexamining source,'' and ''Nontreating source'' to read as follows:

§ 416.902 General definitions and terms for this subpart.

As used in the subpart—

Acceptable medical source refers to one of the sources described in § 416.913(a) who provides evidence about your impairments. It includes treating sources, nontreating sources, and nonexamining sources.

* * * * *

Medical sources refers to acceptable medical sources, or other health care providers who are not acceptable medical sources.

Nonexamining source means a physician, psychologist, or other acceptable medical source who has not examined you but provides a medical or other opinion in your case. At the administrative law judge hearing and Appeals Council levels of the administrative review process, it includes State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult. See § 416.927.

Nontreating source means a physician, psychologist, or other acceptable medical source who has examined you but does not have, or did not have, an ongoing treatment relationship with you. The term includes an acceptable medical source who is a consultative examiner for us, when the consultative examiner is not your treating source. See § 416.927.

* * * * *

Treating source means your own physician, psychologist, or other acceptable medical source who provides you, or has provided you, with medical treatment or evaluation and who has, or has had, an ongoing treatment relationship with you. Generally, we will consider that you have an ongoing treatment relationship with an acceptable medical source when the medical evidence establishes that you see, or have seen, the source with a frequency consistent with accepted medical practice for the type of treatment and/or evaluation required for your medical condition(s). We may consider an acceptable medical source who has treated or evaluated you only a few times or only after long intervals (e.g., twice a year) to be your treating source if the nature and frequency of the treatment or evaluation is typical for your condition(s). We will not consider an acceptable medical source to be your treating source if your relationship with the source is not based on your medical need for treatment or evaluation, but solely on your need to obtain a report in support of your claim for disability. In such a case, we will consider the acceptable medical source to be a nontreating source.

* * * * *

You or *your* means, as appropriate, the person who applies for benefits, the person for whom an application is filed, or the person who is receiving benefits based on disability or blindness.

19. Section 416.912 is amended by revising paragraph (b)(6) to read as follows:

§ 416.912 Evidence of your impairment.

* * * * *

(b) * * *

(6) At the administrative law judge and Appeals Council levels, findings, other than the ultimate determination about whether you are disabled, made by State agency medical or psychological consultants and other program physicians or psychologists, and opinions expressed by medical experts we consult based on their review of the evidence in your case record. See §§ 416.927(f)(2) and (f)(3).

* * * * *

20. Section 416.913 is amended by revising the first sentence of paragraph

(b)(6) and paragraph (c) to read as follows:

§ 416.913 Medical evidence of your impairment.

* * * * *

(b) * * *

(6) A statement about what you can still do despite your impairment(s) based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section (except in statutory blindness claims). * * *

(c) *Statements about what you can still do.* At the administrative law judge and Appeals Council levels, we will consider residual functional capacity assessments made by State agency medical and psychological consultants and other program physicians and psychologists to be ''statements about what you can still do'' made by nonexamining physicians and psychologists based on their review of the evidence in the case record. Statements about what you can still do (based on the acceptable medical source's findings on the factors under paragraphs (b)(1) through (b)(5) of this section) should describe, but are not limited to, the kinds of physical and mental capabilities listed below. See §§ 416.927 and 416.945(c).

(1) If you are an adult, the acceptable medical source's opinion about your ability, despite your impairment(s), to do work-related activities such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and

(2) If you are an adult, in cases of mental impairment(s), the acceptable medical source's opinion about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers, and work pressures in a work setting.

(3) If you are a child, the acceptable medical source's opinion about your functional limitations in learning, motor functioning, performing self-care activities, communicating, socializing, and completing tasks (and, if you are a newborn or young infant from birth to age 1, responsiveness to stimuli).

* * * * *

21. Section 416.919 is amended by revising the first sentence to read as follows:

§ 416.919 The consultative examination.

A consultative examination is a physical or mental examination or test purchased for you at our request and expense from a treating source or another medical source, including a pediatrician when appropriate. * * *

22. Section 416.919g is amended by revising the last sentence of paragraph (a) and the first sentence of paragraph (c) to read as follows:

§ 416.919g Who we will select to perform a consultative examination.

(a) * * * For a more complete list of medical sources, see § 416.913.

* * * * *

(c) The medical source we choose may use support staff to help perform the consultative examination. * * *

23. Section 416.919h is revised to read as follows:

§ 416.919h Your treating source.

When in our judgment your treating source is qualified, equipped, and willing to perform the additional examination or tests for the fee schedule payment, and generally furnishes complete and timely reports, your treating source will be the preferred source to do the purchased examination. Even if only a supplemental test is required, your treating source is ordinarily the preferred source.

24. Section 416.919i is revised to read as follows:

§ 416.919i Other sources for consultative examinations.

We will use a source other than your treating source for a purchased examination or test in situations including, but not limited to, the following situations:

(a) Your treating source prefers not to perform such an examination or does not have the equipment to provide the specific data needed;

(b) There are conflicts or inconsistencies in your file that cannot be resolved by going back to your treating source;

(c) You prefer a source other than your treating source and have a good reason for your preference;

(d) We know from prior experience that your treating source may not be a productive source, e.g., he or she has consistently failed to provide complete or timely reports.

25. Section 416.919j is revised to read as follows:

§ 416.919j Objections to the medical source designated to perform a consultative examination.

You or your representative may object to your being examined by a medical source we have designated to perform a consultative examination. If there is a good reason for the objection, we will schedule the examination with another medical source. A good reason may be that the medical source we designated had previously represented an interest adverse to you. For example, the medical source may have represented your employer in a workers' compensation case or may have been involved in an insurance claim or legal action adverse to you. Other things we will consider include: The presence of a language barrier, the medical source's office location (e.g., 2nd floor, no elevator), travel restrictions, and whether the medical source had examined you in connection with a previous disability determination or decision that was unfavorable to you. If your objection is that a medical source allegedly ''lacks objectivity'' in general, but not in relation to you personally, we will review the allegations. See § 416.919s. To avoid a delay in processing your claim, the consultative examination in your case will be changed to another medical source while a review is being conducted. We will handle any objection to use of the substitute medical source in the same manner. However, if we had previously conducted such a review and found that the reports of the medical source in question conformed to our guidelines, we will not change your examination.

26. Section 416.919k is amended by revising the introductory paragraph to read as follows:

§ 416.919k Purchase of medical examinations, laboratory tests, and other services.

We may purchase medical examinations, including psychiatric and psychological examinations, X-rays and laboratory tests (including specialized tests, such as pulmonary function studies, electrocardiograms, and stress tests) from a medical source.

* * * * *

27. Section 416.919m is amended by revising the first and last sentences to read as follows:

§ 416.919m Diagnostic tests or procedures.

We will request the results of any diagnostic tests or procedures that have been performed as part of a workup by your treating source or other medical source and will use the results to help us evaluate impairment severity or prognosis. * * * The responsibility for deciding whether to perform the examination rests with the consultative examining medical source.

28. Section 416.919n is amended by revising the heading and the first and last sentences of the introductory paragraph, adding a heading to and revising the first sentence of paragraph (a), revising the last two sentences of paragraph (b), revising the second and third sentences of and adding fourth and fifth sentences to paragraph (c)(6),

and revising paragraphs (c)(7) and (e) to read as follows:

§ 416.919n Informing the medical source of examination scheduling, report content, and signature requirements.

The medical sources who perform consultative examinations will have a good understanding of our disability programs and their evidentiary requirements. * * * We will fully inform medical sources who perform consultative examinations at the time we first contact them, and at subsequent appropriate intervals, of the following obligations:

(a) *Scheduling.* In scheduling full consultative examinations, sufficient time should be allowed to permit the medical source to take a case history and perform the examination, including any needed tests. * * *

* * * * *

(b) *Report content.* * * * The report should reflect your statement of your symptoms, not simply the medical source's statements or conclusions. The examining medical source's report of the consultative examination should include the objective medical facts as well as observations and opinions.

(c) * * *

* * * * *

(6) * * * If you are an adult, this statement should describe the opinion of the medical source about your ability, despite your impairment(s), to do work-related activities, such as sitting, standing, walking, lifting, carrying, handling objects, hearing, speaking, and traveling; and, in cases of mental impairment(s), the opinion of the medical source about your ability to understand, to carry out and remember instructions, and to respond appropriately to supervision, coworkers and work pressures in a work setting. If you are a child, this statement should describe the opinion of the medical source about your functional limitations in learning, motor functioning, performing self-care activities, communicating, socializing, and completing tasks (and, if you are a newborn or young infant from birth to age 1, responsiveness to stimuli). Although we will ordinarily request, as part of the consultative examination process, a medical source statement about what you can still do despite your impairment(s), the absence of such a statement in a consultative examination report will not make the report incomplete. See § 416.927; and

(7) In addition, the medical source will consider, and provide some explanation or comment on, your major complaint(s) and any other abnormalities found during the history and examination or reported from the laboratory tests. The history, examination, evaluation of laboratory test results, and the conclusions will represent the information provided by the medical source who signs the report.

* * * * *

(e) *Signature requirements.* All consultative examination reports will be personally reviewed and signed by the medical source who actually performed the examination. This attests to the fact that the medical source doing the examination or testing is solely responsible for the report contents and for the conclusions, explanations or comments provided with respect to the history, examination and evaluation of laboratory test results. The signature of the medical source on a report annotated ''not proofed'' or ''dictated but not read'' is not acceptable. A rubber stamp signature of a medical source or the medical source's signature entered by any other person is not acceptable.

29. Section 416.919o is amended by revising the second sentence of paragraph (a) and the third sentence of paragraph (b) to read as follows:

§ 416.919o When a properly signed consultative examination report has not been received.

* * * * *

(a) *When we will make determinations and decisions without a properly signed report.* * * * After we have made the determination or decision, we will obtain a properly signed report and include it in the file unless the medical source who performed the original consultative examination has died.

* * * * *

(b) *When we will not make determinations and decisions without a properly signed report.* * * * If the signature of the medical source who performed the original examination cannot be obtained because the medical source is out of the country for an extended period of time, or on an extended vacation, seriously ill, deceased, or for any other reason, the consultative examination will be rescheduled with another medical source.

* * * * *

30. Section 416.919p is amended by revising paragraphs (b) and (c) to read as follows:

§ 416.919p Reviewing reports of consultative examinations.

* * * * *

(b) If the report is inadequate or incomplete, we will contact the medical source who performed the consultative examination, give an explanation of our evidentiary needs, and ask that the medical source furnish the missing information or prepare a revised report.

(c) With your permission, or when the examination discloses new diagnostic information or test results that reveal potentially life-threatening situations, we will refer the consultative examination report to your treating source. When we refer the consultative examination report to your treating source without your permission, we will notify you that we have done so.

* * * * *

31. Section 416.919s is amended by revising paragraph (e)(2) and the first sentence of paragraph (f)(6) to read as follows:

§ 416.919s Authorizing and monitoring the consultative examination.

* * * * *

(e) * * *

(2) Any consultative examination provider with a practice directed primarily towards evaluation examinations rather than the treatment of patients; or

* * * * *

(f) * * *

(6) Procedures for providing medical or supervisory approval for the authorization or purchase of consultative examinations and for additional tests or studies requested by consulting medical sources. * * *

* * * * *

32. Section 416.927 is amended by revising the section heading, the third sentence of paragraph (d)(2), the heading of paragraph (e), paragraph (e)(2), the heading and introductory text of paragraph (f), and paragraph (f)(2), by adding a sentence to paragraph (d)(6), by adding introductory text to paragraph (e), and by adding paragraph (e)(3) to read as follows:

§ 416.927 Evaluating opinion evidence.

* * * * *

(d) * * *

(2) *Treatment relationship.* * * * When we do not give the treating source's opinion controlling weight, we apply the factors listed below, as well as the factors in paragraphs (d)(3) through (d)(6) of this section in determining the weight to give the opinion. * * *

* * * * *

(6) *Other factors.* * * * For example, the amount of Social Security disability programs expertise an acceptable medical source has and whether an acceptable medical source reviewed the individual's entire case record before providing a medical opinion are relevant factors that we will consider in deciding the weight to give to a medical opinion.

(e) *Medical source opinions on issues reserved to the Commissioner.* Opinions on some issues, such as the examples that follow, are not medical opinions, as described in paragraph (a)(2) of this section, but are, instead, opinions on issues reserved to the Commissioner because they are administrative findings that are dispositive of a case; i.e., that would direct the determination or decision of disability.

* * * * *

(2) *Other opinions on issues reserved to the Commissioner.* We use medical sources, including your treating source, to provide evidence, including opinions, on the nature and severity of your impairment(s). Although we consider opinions from medical sources on issues such as whether your impairment(s) meets or equals the requirements of any impairment(s) in the Listing of Impairments in appendix 1 to subpart P of part 404 of this chapter, your residual functional capacity (see §§ 416.945 and 416.946), or the application of vocational factors, the final responsibility for deciding these issues is reserved to the Commissioner.

(3) We will not give any special significance to the source of an opinion on issues reserved to the Commissioner described in paragraphs (e)(1) and (e)(2) of this section.

(f) *Opinions of nonexamining sources.* We consider all evidence from nonexamining sources to be opinion evidence. When we consider the opinions of nonexamining sources, we apply the rules in paragraphs (a) through (e) of this section. In addition, the following rules apply to State agency medical and psychological consultants, other program physicians and psychologists, and medical experts we consult in connection with administrative law judge hearings and Appeals Council review.

* * * * *

(2) Administrative law judges are responsible for reviewing the evidence and making findings of fact and conclusions of law. They will consider opinions of State agency medical or psychological consultants, other program physicians and psychologists, and medical experts as follows:

(i) Administrative law judges are not bound by any findings made by State agency medical or psychological consultants, or other program physicians or psychologists. However, State agency medical and psychological consultants and other program physicians and psychologists are highly qualified physicians and psychologists who are also experts in Social Security disability evaluation. Therefore, administrative law judges must consider findings of State agency medical and psychological consultants or other program physicians or psychologists, except for the ultimate determination about whether you are disabled. See § 416.912(b)(6).

(ii) When administrative law judges consider findings of State agency medical or psychological consultants or other program physicians or psychologists, they will evaluate the findings using relevant factors in paragraphs (a) through (e) of this section, such as the medical or psychological consultants', or other program physicians' or psychologists', medical specialty and expertise in our rules, the evidence reviewed by the consultants or other program physicians or psychologists, supporting explanations provided by the consultants or other program physicians or psychologists, and any other factors relevant to the weighing of the opinions. The administrative law judge must explain in the decision the weight given to the opinions of a State agency medical or psychological consultant or other program physician or psychologist, as the administrative law judge must do for any opinions from treating sources, nontreating sources, and nonexamining sources who do not work for us.

(iii) Administrative law judges may also ask for and consider opinions from medical experts on the nature and severity of your impairment(s) and on whether your impairment(s) equals the requirements of any impairment listed in appendix 1 to subpart P of part 404 of this chapter. When administrative law judges consider these opinions, they will evaluate them using the rules in paragraphs (a) through (e) of this section.

* * * * *

[FR Doc. 97–25366 Filed 9–24–97; 8:45 am]

BILLING CODE 4190–29–U

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 175

[CGD 97–059]

Recreational Boating Safety—Federal Requirements for Wearing Personal Flotation Devices

AGENCY: Coast Guard, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Coast Guard seeks comments from interested people, groups, and businesses about the need for, and alternatives to, Federal requirements or incentives for boaters to wear lifejackets. It will consider all comments, and consult with the National Boating Safety Advisory Council (NBSAC) in determining how best to reduce the number of boaters who drown.

DATES: Comments must reach the Coast Guard on or before February 2, 1998.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety Council (G–LRA, 3406) [CGD 97–059], U.S. Coast Guard Headquarters, 2100 Second Street SW, Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

The Executive Secretary maintains the public docket for this notice. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Carlton Perry, Project Manager, Office of Boating Safety, Program Management Division, (202) 267–0979. You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet, at the Web Site for the Office of Boating Safety, at URL address www.uscgboating.org/.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Most people who die in recreational boating accidents drown; but most of the victims would have survived if they had worn lifejackets. Through its Recreational Boating Safety Program, the Coast Guard tries to reduce the number of recreational boating accidents. Although recreational use of water has caused fewer and fewer deaths over the last 20 years, boating accidents still cause more deaths than any other transportation related activity except use of roads. Boating accidents caused over 800 deaths in 1995, over 600 of them through drowning. Although 68 victims drowned while wearing lifejackets, 561 victims drowned while not wearing them. Nobody knows how many of the 561 victims would have survived if they had worn lifejackets. There is evidence to suggest that factors other than drowning were the primary cause of death for most of the 68 victims who died wearing lifejackets. On the contrary, the

best way to minimize the number of deaths due to drowning is to maximize the number of boaters wearing lifejackets.

Each year the Coast Guard sponsors a national boating safety campaign based on educational methods aimed at encouraging boaters to wear lifejackets. Realistically, such nonregulatory methods of modifying behavior will not by themselves be fully successful. However, the Coast Guard knows from data on boating accidents that State efforts, based on regulatory methods aimed at waterskiing and operation of personal watercraft, have been extremely successful.

Request for Comments

The Coast Guard encourages you to submit comments about the need for, and alternatives to, Federal requirements or incentives for boaters to wear lifejackets (personal flotation devices, or PFDs). In particular, the Coast Guard encourages you to answer the specific questions about these requirements or incentives for wearing lifejackets, which it developed in consultation with members of NBSAC at the meeting in April 1997. The Coast Guard also solicits comments from all segments of the boating community, State boating safety authorities, NBSAC, the National Association of State Boating Law Administrators (NASBLA), and other interested people, groups, and businesses on the economic and other impacts of Federal requirements or incentives for wearing PFDs.

Please include your name and address, identify this notice [CGD 97–059], the specific question or area of concern to which each comment applies, and give the reason(s) for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, to help us with copying and electronic filing. If you want us to acknowledge receipt of your comments, please enclose a stamped, self-addressed postcard or envelope.

A. Boating Activity of Commenter.

1. How much risk do you believe recreational boating involves?

2. Do you agree with the following statement: If I fell overboard, I would feel just as safe if someone threw me a lifering or a buoyant cushion (Type IV PFD) as I would feel if I have been wearing a standard jacket style (Type, I, II, III, or V PFD)?

3. Would a requirement for wearing a PFD likely affect your participation in recreational boating, and how would it affect it?

4. Recreational boating varies widely depending on the interest of the individual boater. Individuals may own, rent or be a passenger on a boat; the boat may be manual, sail, or motor powered; the reason for boating may be for relaxation, transportation, competition, or excitement. Please tell us something about your recreational boating activity, including how often you go boating, what type of boating activities you do, and the type of water on which you go boating.

5. Please tell us what type of PFD you carry when you go boating, whether or not you or other passengers wear a PFD, and the reason(s) for wearing or not wearing a PFD.

B. Mandatory wearing of PFDs.

1. Several States have imposed various requirements for wearing PFDs—by children, during waterskiing, aboard personal watercarft, and so on. What Federal requirements should the Coast Guard propose, if any, for wearing PFDs to ensure uniformity around the country? Should the Coast Guard propose Federal requirements only in those States with no requirements for children, while waterskiing, aboard a personal watercraft, or for any other appropriate category of boaters or boating activity?

2. What Federal requirements for wearing PFDs should the Coast Guard propose, if any, based directly on higher fatality statistics in one or more categories of boaters, boating activities, or boating conditions?

3. What Federal requirements for wearing PFDs should the Coast Guard propose, if any, based directly on higher fatality statistics involving one or more sizes or types of recreational vessels?

4. What Federal requirements for wearing PFDs should the Coast Guard propose, if any, based directly on higher fatality statistics related to ages of the victims?

5. A survey of State boating laws conducted in 1996 by NASBLA, under a Coast Guard grant, revealed that 25 States imposed requirements for the wearing of PFDs by children under various ages (from under 13, down to under 6). What Federal requirements should the Coast Guard propose, if any, specifying an age below which children must wear PFDs during any activities or under any conditions?

6. Statistics for 1995 show that 476 (75%) of the 629 drowning victims were non-swimmers. What Federal requirements should the Coast Guard propose, if any, for non-swimmers to wear PFDs during any boating activities or under any boating conditions? How would boaters or law enforcement agencies determine who is a swimmer and who is a non-swimmer?

7. If you know of an instance where a person did not wear a PFD, but where that person or you later wished that person had worn one, please describe the instance.

8. If you know of instances where safety makes wearing PFDs unacceptable or undesirable, please describe them.

9. Are you aware of the intended uses and limitations of the various types (Type I, II, III, IV, V) of PFDs and kinds of PFD flotation (inherently buoyant, hybrid inflatable, fully inflatable) approved by the Coast Guard?

10. What Federal requirements should the Coast Guard propose, if any, that boaters engaged in any particular activities wear PFDs under any conditions?

11. Describe any other boating activities, conditions, or categories under which the Coast Guard should propose Federal requirements that all boaters, or specific groups of boaters, wear PFDs.

C. General.

1. What benefits (in terms of personal safety or in other terms) do you think would accrue from Federal requirements to wear PFDs? What costs (in terms of money, paperwork, inconvenience, or other terms) would accrue from such requirements? Would the costs outweigh the benefits?

2. Please describe any nonregulatory ways to reduce the number of deaths by drowning at lower costs or with less burden than Federal requirements would entail.

3. Is there any other information you feel may help the Coast Guard to reduce the number of deaths by drowning with the lowest costs to, or least burden on, the Coast Guard itself, the States, and, most of all, boaters?

The Coast Guard will summarize all comments it receives during the comment period in response to this notice, place a copy of the summary in the public docket, and provide copies to the members of NBSAC for them to consider at their meeting in April, 1998. It will itself consider all relevant comments in the formulation of any regulatory and nonregulatory measures that may follow from this notice.

Dated: September 18, 1997.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 97–25373 Filed 9–24–97; 8:45 am]

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Notices

Federal Register

Vol. 62, No. 186

Thursday, September 25, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

September 19, 1997.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on 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 should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–6746.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number and the agency informs potential persons who are to respond to the collection of information that such persons are not required to respond to the collection of information unless it displays a currently valid OMB control number.

- **Rural Housing Service**

Title: 7 CFR 1955–A, Liquidation of Loans Secured by Real Estate and Acquisition of Real and Chattel Property.

OMB Control Number: 0575–0109.

Summary of Collection: Information collected includes offers to convey real estate security, to cure default after acceleration, and to convey chattel security.

Need And Use Of The Information: The information is necessary to determine a course of action when it is necessary to liquidate loans by voluntary conveyance or foreclosure that are secured by real estate.

Description Of Respondents: Individuals or households; Business or other for-profit; Not-for-profit institutions; Farms; State, Local or Tribal Government.

Number Of Respondents: 1,500.

Frequency Of Responses: Reporting: On occasion.

Total Burden Hours: 1,797.

- **Agricultural Marketing Service**

Title: Farmers Market Questionnaire.

OMB Control Number: 0581–0169.

Summary of Collection: Information is collected concerning all aspects of farmers' markets.

Need And Use Of The Information: The information will be used to find better designs, development techniques, and operating methods for modern farmers' markets.

Description Of Respondents: Not-for-profit.

Number Of Respondents: 1,080.

Frequency Of Responses: Reporting: Biennially.

Total Burden Hours: 270.

- **Food and Consumer Service**

Title: Reaching the Working Poor and Poor Elderly.

OMB Control Number: 0584-New.

Summary Of Collection: Information is collected on household composition, knowledge of the Food Stamp Program, health, income and expenses and either participation history or reasons for nonparticipation.

Need And Use Of The Information: This study will pretest data collection instruments designed to provide systematic information on the reasons the elderly and working poor participates in the Food Stamp Program at lower-than-average rates.

Description Of Respondents: Individuals or households.

Number Of Respondents: 8,530.

Frequency Of Responses: Reporting: One-time.

Total Burden Hours: 853.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97–25409 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[No. LS–97–007]

Beef Promotion and Research; Board and State Beef Council Addresses

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: This document updates the notice published in the **Federal Register** on Friday, April 15, 1994 (59 FR 18095). This Notice provides the addresses of the Cattlemen's Beef Promotion and Research Board (Board) and the current addresses of the 45 Qualified State Beef Councils (QSBCs) which are authorized under the Cattlemen's Beef Promotion and Research Order (Order) to receive assessments.

FOR FURTHER INFORMATION CONTACT: Ralph L. Tapp, Chief, Marketing Programs Branch, 202/720–1115.

SUPPLEMENTARY INFORMATION: Pursuant to the Beef Promotion and Research Act of 1985 (Act) (7 U.S.C. 2901 *et seq.*), the Order was published in the July 18, 1986, **Federal Register** (51 FR 26132). Regulations implementing the Order were published in the October 1, 1986, issue of the **Federal Register** (51 FR 35196).

The Order and the Regulations provide that, beginning October 1, 1986, cattle sold in the United States are subject to an assessment of $1 per head. Persons who collect assessments from producers under the Order and Regulations are required to remit those assessments to the QSBC in the State where they reside or to the Board if there is no QSBC located in their State. Imported cattle, beef, and beef products are also subject to equivalent assessments; these are paid through the U.S. Customs Service.

The Act required that a referendum be conducted by the Secretary within 22 months after the issuance of the Order to determine if the Order should be continued or suspended. Any person had the right to demand and receive from the Board a one-time refund on cattle sold during the period prior to the approval of the continuation of the order pursuant to the referendum. On May 10, 1988, the referendum was conducted and producers voted to continue the checkoff program. After the passage of the referendum, refunds were no longer available.

This notice provides the current addresses of the Board and 45 QSBCs. Since the publication of the addresses in the **Federal Register** on April 15, 1994 (59 FR 18095), one additional State Beef Council, the New Jersey Beef Industry Council, has been certified by the Board. However, some of the addresses have changed. QSBCs have different addresses for different purposes. Accordingly, this notice includes two columns for such addresses; one for inquires and general business and one for remitting assessments and accompanying reports. For inquires and general business, the address of the Board is: Cattlemen's Beef Promotion and Research Board; P.O. Box 3316; 5420 South Quebec Street (80111); Englewood, Colorado 80155. For remitting assessments and accompanying reports, the address of the Board is Cattlemen's Beef Promotion and Research Board; P.O. Box 17382; Denver, Colorado 80217–0382.

ADDRESSES OF THE QUALIFIED STATE BEEF COUNCILS

Inquiries and general business	Remit assessments and accompanying reports to—
Alabama Cattlemen's Association, P.O. Box 2499, Montgomery, AL 36102–2499.	Alabama Cattlemen's Association, P.O. Box 2499, Montgomery, AL 36102–2499.
Arizona Beef Council, 1401 North 24th Street, Phoenix, AZ 85008	Arizona Beef Council, 1401 North 24th Street, Phoenix, AZ 85008.
Arkansas Beef Council, 310 Executive Court, Little Rock, AR 72205	Arkansas Beef Council, AR Dept. of Finance and Revenue, P.O. Box 896 Little Rock, AR 72203.
California Beef Council, 5726 Sonoma Drive, Suite A, Pleasanton, CA 94566.	California Beef Council, P.O. Box 12171, Pleasanton, CA 94566.
Colorado Beef Council, 6551 S. Revere Parkway, Suite 120, Englewood, CO 80111.	Colorado Beef Council, 6551 S. Revere Parkway, Suite 120, Englewood, CO 80111.
Delaware Beef Advisory Board, 2320 South DuPont Highway, Dover, DE 19901.	Delaware Beef Advisory Board, c/o Delaware Dept. of Agriculture, 2320 South DuPont Highway, Dover, DE 19901.
Florida Beef Council, P.O. Box 1929 (32742–1929), 1818 North Bermuda, Kissimmee, FL 32741.	Florida Beef Council, P.O. Box 421929, Kissimmee, FL 34742–1929.
Georgia Beef Board, 100 Cattlemens Drive (31210), P.O. Box 11347, Macon, GA 31212.	Georgia Beef Board, P.O. Box 6515, Macon, GA 31208–9939.
Hawaii Beef Industry Council, P.O. Box 1166, Ewa Beach, HI 96706	Hawaii Beef Industry Council, P.O. Box 1166, Ewa Beach, HI 96706.
Idaho Beef Council, 212 South Cole Road, Boise, ID 83709	Idaho Beef Council, 212 South Cole Road, Boise, ID 83709.
Illinois Beef Association, 2060 West Iles Ave., Suite B, Springfield, IL 62704.	Illinois Beef Association-Checkoff Division, 2060 West Iles Ave., Suite B, Springfield, IL 62704.
Indiana Beef Council, 8770 Guion Road, Suite A, Indianapolis, IN 46268–3013.	Indiana Beef Council, P.O. Box 66577, Indianapolis, IN 46266.
Iowa Beef Industry Council, P.O. Box 451 (50010), 2055 Ironwood Court, Ames, IA 50014.	Iowa Beef Industry Council, P.O. Box 451, Ames, IA 50010.
Kansas Beef Council, 6031 Southwest 37th, Topeka, KS 66614	Kansas Beef Council, 6031 Southwest 37th, Topeka, KS 66614.
Kentucky Beef Council, 733 Red Mile Road, Lexington, KY 40504	Kentucky Beef Council, 733 Red Mile Road, Lexington, KY 40504.
Louisiana Beef Industry Council, 4921 I–10 Frontage Road, Port Allen, LA 70767.	Louisiana Beef Industry Council, 4921 I–10 Frontage Road, Port Allen, LA 70767.
Maine Beef Industry Council, State House Station #28, Augusta, ME 04333–0028.	Maine Beef Industry Council, c/o Fleet Bank, 192 Water Street, Gardiner, ME 04345.
Maryland Beef Industry Council, University of Maryland, 1129 Animal Science Center, College Park, MD 20742.	Maryland Beef Industry Council, P.O. Box 259, Sykesville, MD 21784.
Michigan Beef Industry Commission, 2145 University Park Drive, Suite 300, Okemos, MI 48864.	Michigan Beef Industry Commission, 2145 University Park Drive, Suite 300, Okemos, MI 48864.
Minnesota Beef Council, 2850 Metro Drive, Suite 426, Minneapolis, MN 55425.	Minnesota Beef Council, 2850 Metro Drive, Suite 426, Minneapolis, MN 55425.
Mississippi Cattle Industry Board, 680 Monroe Street, Suite A, Jackson, MS 39202.	Mississippi Cattle Industry Board, 680 Monroe Street, Suite A, Jackson, MS 39202.
Missouri Beef Industry Council, 2015 Missouri Boulevard, Jefferson City, MO 65109.	Beef Merchandising Fund, c/o Missouri Dept. of Agriculture, P.O. Box 630, Jefferson City, MO 65102–9911.
Montana Beef Council, P.O. Box 5386 (59604–5386), 420 North California Street, Helena, MT 59601.	Montana Beef Council, Montana Dept. of Livestock, Capitol Station, Helena, MT 59620.
Nebraska Beef Council, 1319 Center Avenue, P.O. Box 2108, Kearney, NE 68847–6869.	Nebraska Beef Council, 1319 Center Avenue, P.O. Box 2108, Kearney, NE 68847–6869.
Nevada Beef Council, c/o Nevada Cattlemen's, P.O. Box 310, Elko, NV 89803–0310.	Nevada Division of Agriculture, Bureau of Livestock Identification, ATTN: Checkoff, 350 Capitol Hill Avenue, Reno, NV 89501.
New Jersey Beef Industry Council, c/o Sussex Co. Cooperative Extension, Plotts Road, Sussex Co. Administration Building, Newton, NJ 07860.	New Jersey Beef Industry Council, Warren Co. Administration Building, c/o Betty Wickwiser, 165 County Road, 519 South, Belvideve, NJ 07823–1949.
New Mexico Beef Council, Suite C, 1209 Mountain Road Place, NE., Albuquerque, NM 87110.	New Mexico Beef Council, Suite C, 1209 Mountain Road Place, NE., Albuquerque, NM 87110.
New York Beef Industry Council, 6351 NYS Route 26 South, Rome, NY 13440 (UPS Only), P.O. Box 250, Westmoreland, NY 13490.	New York Beef Industry Council, NY Beef Industry Council, Inc., Department #4021, P.O. Box 22088, Albany, NY 12201–2088.
North Carolina Beef Council, 2228 North Main Street, Fuquay-Varina, NC 27526.	Remit Assessments To: North Carolina Beef Council, North Carolina Dept. of Agric., NCDA, Room 206, P.O. Box 27647, Raleigh, NC 27611.

ADDRESSES OF THE QUALIFIED STATE BEEF COUNCILS—Continued

Inquiries and general business	Remit assessments and accompanying reports to—
	Remit Reports To: NC Cattlemen's Beef Council, 2228 North Main Street, Fuquay-Varina, NC 27526.
North Dakota Beef Commission, 4023 North State Street, Bismarck, ND 58501.	North Dakota Beef Commission, 4023 North State Street, Bismarck, ND 58501.
Ohio Beef Council, 10600 U.S. Route 42, Marysville, OH 43040	Ohio Beef Council, 10600 U.S. Route 42, Marysville, OH 43040.
Oklahoma Beef Industry Council, 5101 North Classen, Oklahoma City, OK 73118.	Oklahoma Beef Industry Council, P.O. Box 850027, Oklahoma City, OK 73185–0027.
Oregon Beef Council, 1200 Naito Parkway, Suite 290, Portland, OR 97209–2829.	Oregon Beef Council, 1200 Naito Parkway, Suite 290, Portland, OR 97209–2829.
Pennsylvania Beef Council, 1500 Fulling Mill Road, Middletown, PA 17057.	Pennsylvania Beef Council, 1500 Fulling Mill Road, Middletown, PA 17057.
South Carolina Beef Board, P.O. Box 11280, Columbia, SC 29201	South Carolina Beef Board, P.O. Box 11280, Columbia, SC 29211.
South Dakota Beef Industry Council 106 West Capitol, Pierre, SD 57501.	South Dakota Beef Industry Council, c/o American State Bank, P.O. Box 912, Pierre, SD 57501.
Tennessee Beef Industry Council, 128 Holiday Court, Suite 113, Franklin, TN 37064.	Tennessee Beef Industry Council, c/o First Tennessee Bank, P.O. Box 305172, Department 25, Nashville, TN 37230–9869.
Texas Beef Council, 8708 Rural Route 620, Austin, TX 78726	Texas Beef Council, P.O. Box 140766, Austin, TX 78714–0766.
Utah Beef Council, 150 S. 6th E., Suite 10B, Salt Lake City, UT 84102	Utah Beef Council, 150 S. 6th E., Suite 10B, Salt Lake City, UT 84102.
Vermont Beef Industry Council, P.O. Box 2029 (05449), 52 Middle Road, Colchester, VT 05446.	Vermont Beef Industry Council, Vermont National Bank, P.O. Box 180, Woodstock, VT 05091.
Virginia Cattle Industry Board, P.O. Box 176, U.S. Route 220, Daleville, VA 24083–0176.	Virginia Cattle Industry Board, P.O. Box 176, U.S. Route 220, Daleville, VA 24083–0176.
Washington State Beef Commission, Denny Building, Suite 105, 2200 Sixth Avenue, Seattle, WA 98121.	Washington State Beef Commission, Denny Building, Suite 105, 2200 Sixth Avenue, Seattle, WA 98121.
West Virginia Beef Industry Council, P.O. Box 668, 40 Chancery Street, Buckhannon, WV 26201.	West Virginia Beef Industry Council, P.O. Box 668, 40 Chancery Street, Buckhannon, WV 26201.
Wisconsin Beef Council, 630 Grand Canyon Drive, Madison, WI 53719	Wisconsin Beef Council, P.O. Box 86, Columbus, WI 53925–0086.
Wyoming Beef Council, P.O. Box 1243, 113 East 20th Street, Cheyenne, WY 82003.	Wyoming Beef Council, P.O. Box 1243, Cheyenne, WY 82003.

Authority: 7 U.S.C. 2901 *et seq.*

Dated: September 19, 1997.

Barry L. Carpenter,

Director, Livestock and Seed Division.

[FR Doc. 97–25413 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–046–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request an extension of approval of an information collection in support of regulations that prevent plant diseases and pests from spreading from infested areas of the United States to noninfested areas.

DATES: Comments on this notice must be received by November 24, 1997 to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 97–046–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket 97–046–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: For information regarding domestic regulations, contact Ms. Coanne E. O'Hern, Operations Officer, Domestic and Emergency Programs, PPQ, APHIS, 4700 River Road, Unit 131, Riverdale, MD 20737–1237, (301) 734–8247. For copies of more detailed information on the information collection, contact Ms. Cheryl Groves, APHIS' Information Collection Coordinator, at (301) 734–5086.

SUPPLEMENTARY INFORMATION:

Title: Domestic Quarantine Notices.

OMB Number: 0579–0088.

Type of Request: Extension of an approval of an information collection.

Abstract: The United States Department of Agriculture is responsible for preventing the spread of plant diseases and pests within the United States. Implementing this mission often requires the use of domestic quarantines and regulations, which in turn require us to collect information from a variety of individuals who are involved in growing, packing, handling, and transporting plants, fruits, vegetables, roots, bulbs, seeds, and other plant products.

The information we collect is vital to helping us ensure that plant diseases and pests are not spread from infested areas to noninfested areas of the United States.

For example, we issue permits to authorize the interstate movement of regulated articles to specified destinations for processing, treatment, or utilization. The person wishing to move these articles, however, must first complete a permit application.

We consider the permit application extremely important, since this process helps us ensure that regulated articles are moved to a specified destination for appropriate handling. In this way, the

movement of items that harbor potentially harmful plant diseases and pests can be controlled and monitored.

Another means we employ to control and monitor the movement of these potentially harmful items is to require shippers to mark each container, waybill, manifest, or bill of lading with certain information, such as the nature and quantity of the contents, name and address of the shipper/owner/forwarder, name of consignee, shipper's identifying mark and number, and the serial number of the certificate or limited permit authorizing the movement.

These and other information gathering tools are critical to our mission of protecting the United States from plant diseases and pests which, if allowed to spread, could cause millions of dollars in damage to U.S. agriculture.

We are asking the Office of Management and Budget (OMB) to approve the continued use of these information collection activities.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our information collection. We need this outside input to help us:

(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 our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of Burden: The public reporting burden for this collection of information is estimated to average .09838 hours per response.

Respondents: U.S. growers, shippers, and exporters; State and county plant health protection authorities.

Estimated Number of Respondents: 174,072.

Estimated Numbers of Responses per Respondent: 5.775.

Estimated Annual Number of Responses: 1,005,331.

Estimated Total Annual Burden on Respondents: 98,910 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

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

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25485 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–098–1]

In Vitro Testing of Veterinary Biologics; Public Meeting

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: We are advising the public that the Animal and Plant Health Inspection Service is hosting a public meeting to discuss the implementation of guidelines for the in vitro testing of veterinary biologics.

PLACE, DATE, AND TIME OF MEETING: The meeting will be held in the main auditorium of the National Animal Disease Center, 2300 Dayton Road, Ames, IA. The meeting will be held from 8 a.m. until noon on Thursday, October 16, 1997.

FOR FURTHER INFORMATION CONTACT: Dr. Jeanette Greenberg, Center for Veterinary Biologics, Licensing and Policy Development, VS, APHIS, 4700 River Road Unit 148, Riverdale, MD 20737–1231; telephone (301) 734–8400; fax (301) 734–8910; or E-mail: jgreenberg@aphis.usda.gov.

SUPPLEMENTARY INFORMATION: In a final rule published on April 18, 1997 (62 FR 19033–19039, Docket No. 94–051–3), we amended our regulations in 9 CFR part 113 to provide for the use of in vitro potency tests when conducting immunoassays to determine the relative antigen content (potency) of a serial of inactivated veterinary biological product once immunogenicity is established using host animal tests. The amended regulations provide that such tests are to be conducted using unexpired immunogenic reference preparations and parallel line assay or another method that is at least equivalent to the parallel line assay in terms of its linearity, specificity, and reproducibility.

The purpose of the public meeting announced in this notice is to present and discuss draft guidelines pertaining to the qualification and requalification of reference preparations used in in vitro immunoassays affected by the change in the regulations.

The meeting on October 16, 1997, will begin at 8 a.m. and end at noon; however, the meeting may end earlier if all persons desiring to speak have been heard. No advance registration is necessary to attend this meeting.

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25484 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–090–1]

User Fees; Agricultural Quarantine and Inspection Services

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This notice pertains to user fees charged for agricultural quarantine and inspection services we provide in connection with commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States. The purpose of this notice is to remind the public of the user fees for fiscal year 1998 (October 1, 1997 through September 30, 1998).

FOR FURTHER INFORMATION CONTACT: For information concerning program Operations, contact Mr. Jim Smith, Operations Officer, Program Support, PPQ, APHIS, 4700 River Road Unit 60, Riverdale, MD 20737–1236, (301) 734–8295.

For information concerning rate development, contact Ms. Donna Ford, User Fees Section Head, FSSB, BAD, APHIS, 4700 River Road Unit 54, Riverdale, MD 20737–1232, (301) 734–8351.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 7 CFR 354.3 (referred to below as the ''regulations'') contain provisions for the collection of user fees for agricultural quarantine and inspection (AQI) services provided by

the Animal and Plant Health Inspection Service (APHIS). These services include, among other things, inspecting commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States. (The Customs territory of the United States is defined in the regulations as the 50 States, the District of Columbia, and Puerto Rico.)

These user fees are authorized by § 2509(a) of the Food, Agriculture, Conservation, and Trade Act of 1990 (21 U.S.C. 136a). This statute, known as the Farm Bill, was amended by § 504 of the Federal Agriculture Improvement and Reform Act of 1996 (Pub. L. 104–127) on April 4, 1996.

On July 24, 1997, we published in the **Federal Register** (62 FR 39747–39755, Docket No. 96–038–3) a final rule to amend the regulations by adjusting our user fees for servicing commercial vessels, commercial trucks, commercial railroad cars, commercial aircraft, and international airline passengers arriving at ports in the Customs territory of the United States from points outside the United States and by setting user fees for these services for fiscal years 1997 through 2002. When we established the user fees for fiscal years 1997 through 2002, we stated that, prior to the beginning of the fiscal year, we would publish a notice to remind the public of the user fees for that fiscal year. This document provides notice to the public of the user fees for fiscal year 1998.

We inspect commercial vessels of 100 net tons or more [1]. As specified in § 354.3(b)(1), our user fee for inspecting commercial vessels will be $454.50 during fiscal year 1998 (October 1, 1997 through September 30, 1998).

We inspect commercial trucks [2] entering the Customs territory of the United States. Commercial trucks may pay the APHIS user fee each time they enter the Customs territory of the United States from Mexico [3] or purchase a prepaid APHIS permit for a calendar year. Since commercial trucks are also subject to Customs user fees, our regulations provide that commercial trucks must prepay the APHIS user fee if they are prepaying the Customs user fee. In that case, the required APHIS user fee is 20 times the user fee for each arrival, and is valid for an unlimited number of entries during the calendar year (see § 354.3(c)(3)(i) of the regulations). The truck owner or operator, upon payment of the APHIS and the Customs user fees, receives a decal to place on the truck windshield. This is a joint decal, indicating that both the Customs and APHIS user fees for the truck have been paid for that calendar year. As specified in § 354.3(c)(1), our user fee for inspecting commercial trucks will be $4.00 for individual arrivals and, as specified in § 354.3(c)(2), $80.00 for a calendar year 1998 decal.

We inspect commercial railroad cars [4] entering the Customs territory of the United States. These user fees may be paid per inspection or prepaid. Prepaid user fees cover one calendar year's worth of AQI inspections. As specified in § 354.3(d)(1), the user fee for this service will be $6.50 per loaded commercial railroad car for each arrival or, if user fees are prepaid, $130 (20 times the individual arrival fee) for each loaded rail car during fiscal year 1998 (October 1, 1997 through September 30, 1998).

We inspect international commercial aircraft [5] arriving at ports in the Customs territory of the United States. As specified in § 354.3(e)(1), the user fee will be $59.75 during fiscal year 1998 (October 1, 1997 through September 30, 1998).

We also inspect international airline passengers [6] arriving at ports in the Customs territory of the United States. As specified in § 354.3(f)(1), the international airline passenger user fee will be $2.00 during fiscal year 1998 (October 1, 1997 through September 30, 1998).

[1] Those commercial vessels subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(b)(2).

[2] Those commercial trucks subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(c)(2).

[3] Section 354.3(c)(2)(i) of the regulations states that commercial trucks entering the Customs territory of the United States from Canada are exempt from paying an APHIS user fee.

[4] Those commercial railroad cars subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(d)(2).

[5] Those commercial aircraft subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(e)(2).

[6] Those international airline passengers subject to inspections are specified in 7 CFR, chapter III, part 330 or in 9 CFR, chapter I, subchapter D of the regulations. Exemptions to these user fees are specified in § 354.3(f)(2).

Done in Washington, DC, this 22nd day of September 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–25483 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF AGRICULTURE

Farm Service Agency

Commodity Credit Corporation

Request for Extension and Revision of a Currently Approved Information Collection; Reinstatement and Extension of a Currently Approved Information Collection; and a Proposed New Information Collection

AGENCY: Farm Service Agency and the Commodity Credit Corporation, USDA.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Commodity Credit Corporation (CCC) and Farm Service Agency (FSA) to request an extension and revision of an approved information collection to support the Tobacco Marketing Quota and Price Support program; a reinstatement and extension of an approved information collection to support Importer Assessments on imported tobacco; and an approval of a new information collection for conducting tobacco marketing quota referenda. These information collections are authorized by the following regulations: 7 CFR part 723, Tobacco; 7 CFR part 1464, Tobacco; and 7 CFR part 717, Holding of Referenda. Such regulations are issued under the authority of the Agricultural Adjustment Act of 1938, as amended, and the Agricultural Act of 1949, as amended.

DATES: Comments on this notice must be received on or before November 24, 1997 to be assured of consideration.

ADDITIONAL INFORMATION OR COMMENTS: Michael D. Thompson, USDA, Farm Service Agency, Tobacco and Peanuts Division, STOP 0514, 1400 Independence Avenue, SW, Washington, DC 20250–0514, (202) 720–4318; facsimile (202) 720–1288; or Internet e-mail, mdthomps@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Title: Tobacco Marketing Quota and Price Support Program, 7 CFR parts 711, 723 and 1464.

OMB Control Number: 0560–0058.

Expiration Date: September 30, 1997.

Type of Request: Extension and revision of an approved information collection.

Abstract: The information collected under OMB Control Number 0560–0058, as identified above, is all that is currently demanded by FSA to meet administrative and statutory requirements for the tobacco marketing quota and price support programs. Information collected from tobacco producers and owners of farms with tobacco allotment or quota is needed to properly establish tobacco acreage allotments and marketing quotas for farms, transfer quota between farms, and determine price support eligibility. Because tobacco marketing quotas are highly regulated, information is needed to show where tobacco acreage is planted, how much is planted, where tobacco is marketed and how much is marketed. Tobacco marketed in excess of a farm marketing quota is subject to a substantial marketing quota penalty equal to 75 percent of the previous year's average price to producers.

Covered information collected from tobacco dealers, auction warehouses, processors, and others involved in the marketing, buying, or handling of tobacco is needed and used to effectively administer the marketing quota provisions of the tobacco program. All tobacco produced on farms is disposed of through commercial marketing channels that involve dealers, warehouses, processors, manufacturers, and others. In order to completely and accurately account for the production and marketing of tobacco on an individual farm basis, records and reports must be submitted by persons that acquire or handle producer tobacco. In order to determine if any tobacco in excess of a farm marketing quota has been marketed, these persons must maintain records and make reports on their purchases and sales of tobacco. Warehouse operators must maintain records and make reports showing the sales and purchases of tobacco handled by the warehouse. These reports are reviewed to ensure that excess tobacco is not being marketed without being subject to marketing quota penalties.

Information collected from domestic manufacturers of cigarettes is needed to establish the national marketing quotas for burley and flue-cured tobacco. By statute, the national marketing quota is based, in part, on the amount of tobacco the domestic cigarette manufacturers intend to purchase from the next crop year. The domestic cigarette manufacturers must also report their actual purchases and maintain records that support their purchases of producer tobacco. There are five major domestic cigarette manufacturers that are subject to these provisions.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 7 minutes per response.

Respondents: Individual tobacco producers, allotment or quota owners, tobacco auction warehouses, dealers, and others involved in the marketing or buying of tobacco which may include small and medium size businesses, and five domestic manufacturers of cigarettes.

Estimated Number of Respondents: 325,455.

Estimated Number of Responses per Respondent: 3 per year.

Estimated Total Annual Burden on Respondents: 113,910 hours.

Title: Tobacco Importer Assessments, 7 CFR part 1464, subpart B.

OMB Control Number: 0560–0148.

Type of Request: Reinstatement and extension of an approved information collection.

Abstract: The information collected under OMB Control Number 0560–0148 is all of the information demanded by FSA in order to effectively administer the statutory provisions for assessments on imported tobacco. Information collected from importers of unmanufactured tobacco is necessary to determine the proper amounts of assessments are timely paid. The Omnibus Budget Reconciliation Act of 1993 amended sections 106, 106A, and 106B, of the Agricultural Act of 1949, to require the payment of importer no-net-cost (INNC), and budget deficient marketing assessments (BDMA) on imported unmanufactured tobacco. The INNC assessments apply only to burley and flue-cured tobacco, and the BDMA applies to all kinds of tobaccos that are subject to a domestic marketing quota and price support program. Information is collected on form CCC–100, Importer Entry and Assessment Worksheet. The data reported includes the importer's name and address, the importer's number, and the tobacco's entry number, Harmonized Tariff Schedule (HTS) number, as well as the quantity of tobacco, and amounts of assessments remitted.

Estimate of Burden: Public reporting burden for this collection of information is estimated at 45 minutes per response.

Respondents: Importers of unmanufactured tobacco for consumption in the United States, who may be individuals, small business, or large tobacco leaf dealers and cigarette manufacturers.

Estimated Number of Respondents: 40.

Estimated Number of Responses per Respondent: 18.

Estimated Total Annual Burden on Respondents: 540 hours.

Title: Holding of Referenda, 7 CFR part 717.

OMB Control Number: New submission.

Type of Request: Proposed new information collection.

Abstract: The Agricultural Adjustment Act of 1938, as amended, requires the establishment of national marketing quotas for certain commodities and the holding of a referendum of farmers engaged in the production of that commodity to determine if they favor or oppose marketing quotas for the next three crop years. Currently there are nine different referenda held every 3 years for tobacco. The number of eligible voters for all referenda is estimated at 400,000, with approximately 155,000 respondents returning voted ballots. Voter eligibility is based on a person being engaged in the production of that kind of tobacco for the preceding year. The actual voting and returning a ballot is strictly voluntary. The voter participation rate ranges from 20 percent to 90 percent. The average voter participation rate for all referenda is about 40 percent. Occasionally, special referenda are conducted as a result of a petition for a referendum, significant changes in the tobacco program, and under a Memorandum of Understanding with another entity or government agency. The Agency plans to continue to use the traditional ballot. The ballot itself has not been assigned an OMB control number, but such number would be assigned as a result of this notice.

Estimate of Burden: Public reporting burden for this collection of information is estimated at 5 minutes per response.

Respondents: Individual tobacco farmers and landowners who are eligible voters that return a voted ballot.

Estimated Number of Respondents: 155,000.

Estimated Number of Responses per Respondent: Once ever 3 years.

Estimated Total Annual Burden on Respondents: 4,300 hours.

Request for Comment: Comment on above information request is sought. Topics for comment may include, but need not be limited to: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the FSA's estimate of burden including the validity of the methodology and assumptions used; (c) enhancing the quality, utility, and clarity of the

information collected; or (d) minimizing the burden of the collection of information on respondents, including the use of appropriate automated electronic, mechanical, or other forms of informational technology. Comments should be sent to the Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, and to Michael D. Thompson at the address listed above. All responses to this notice will be summarized and included in the request for OMB approval. All comments will become a matter of public record.

OMB is required to make a decision concerning the collection(s) of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Signed at Washington, DC, on September 18, 1997.

Keith Kelly,

Administrator, Farm Service Agency and Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–25451 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–05–P

DEPARTMENT OF AGRICULTURE

Forest Service

Silver Creek Integrated Resource Project, Boise National Forest, Idaho

AGENCY: Forest Service, USDA.

ACTION: Notice, intent to prepare environmental impact statement.

SUMMARY: The Emmett Ranger District of the Boise National Forest will prepare an environmental impact statement (EIS) for an integrated resource management project in the Silver Creek subwatershed, a headwater tributary to the Middle Fork Payette River drainage. The project area is located about 80 road miles north of Boise, Idaho.

The Forest Service is seeking information and comments from Federal, State, tribal, and local agencies, as well as individuals and organizations who may be interested and/or affected by the proposed action. The agency invites written comments and suggestions on the issues related to the proposal and the area being analyzed. The information received will be used in preparing the draft and final EIS. For most effective use, comments should be submitted within 30 days from the date of publication of this Notice in the **Federal Register.**

Proposed Action

Six objectives have been identified for the project: (1) Restore and/or maintain the presence of the seral, shade intolerant tree species (i.e., ponderosa pine, aspen) as part of the area's vegetative mosaic; (2) improve forest resilience to damaging insects and disease; (3) improve timber stand vigor and growth; (4) reduce the risk of large, stand-destroying wildfire, especially in the vicinity of the Silver Creek Plunge Hot Springs Resort and rural subdivision; (5) restore streambanks, riparian areas, and other wet, upland sites damaged by unrestricted, cross-country motorized travel; and, (6) provide sawlogs and other wood products to help sustain local sawmills and communities.

The proposed action would treat, either with timber harvest or prescribed fire, a total of 9,545 acres. An estimated 23 million board feet (MMBF) of timber would be harvested by ground-based (1,089 acres), skyline/cable (304 acres), or helicopter (4,722 acres) yarding systems. The proposed action would employ a variety of silvicultural systems, including improvement selection (38 percent), commercial thinning (31 percent), sanitation/salvage (13 percent), irregular shelterwood (9 percent) and group selection (6 percent). Prescribed fire would also occur on another 3,430 acres to rejuvenate old, decadent aspen stands and/or provide seedbeds for potential white-bark pine regeneration. The existing transportation system would be improved to facilitate the harvest operation and reduce sedimentation, 3 miles of road relocation and construction, 1.3 miles of temporary road construction, and spot graveling of intermittent sections of Roads No. 698 (Middle Fork Payette), No. 671 (Silver Creek), and No. 678 (Bridge-Bryan Creek). Two bridges would be constructed to provide log haul access. Six existing helicopter landings would be used, however, each would be first ''stabilized'' to improve drainage and reduce potential sediment delivery. Two dry, upland meadows would also be used as possible log landing sites. An estimated 4 miles of existing, user-developed roads, the majority which either lies immediately adjacent to perennial streams or is deeply eroded, would be obliterated. Five existing, user-developed stream crossings would be closed and rehabilitated. Upon completion of post-harvest activities, motorized travel east of Silver Creek would be restricted to designated routes (i.e., roads and trails), except for snowmobiles during the winter.

To meet the project's objectives, several changes to the Boise Land and Resource Management Plan (Forest Plan) would be needed. The proposed Forest Plan changes include redefining the visual quality objectives (VQO's) for the Peace Rock, Silver Creek, and Lightning Creek management areas (MA's) as well as changing the prohibition concerning the use of ground-based yarding systems, mechanized equipment, and road construction in the Peace Rock MA.

Preliminary Issues

Anticipated concerns related with the proposed action are: (1) Timber harvest and road relocation and/or construction could effect a portion of the Peace Rock inventoried roadless area's (IRA) wild character; (2) bridge construction and road relocation/reconstruction activities could result in short-term increases in the sediment entering area streams; (3) the project could alter the scenic quality of the Silver Creek area; (4) the proposed restrictions on cross-country, motorized travel could displace some outdoor enthusiasts and/or reduce recreational opportunities for some user groups; and (5) the activities resulting from the proposed Forest Plan changes could alter the semiprimitive, motorized character of the area. Other potential issues may be identified during the current scoping period.

Schedule

The draft EIS is anticipated to be available for public review and comment in April 1998; the final EIS by July 1998.

Public Involvement

The Forest Service is inviting the public to visit Silver Creek with Emmett District personnel. Two field tours are scheduled for the project area; one on October 3, 1997; the other on October 4, 1997. Both field tours will be from 9 a.m. to 4 p.m., beginning at the Garden Valley Station, Garden Valley, Idaho, with a brief presentation and then proceeding to the project area. In addition, a public meeting will be held at the Garden Valley Senior Citizens' Center, Crouch, Idaho on October 6, 1997, from 7–9 p.m. to discuss the proposed activities. Comments received from those field tours, as well as the public meeting will be incorporated into the analysis and decision-making process.

Comments

Written comments concerning the proposed project should be received on

or before 30 days following publication of this announcement in the **Federal Register**. Mail comments to, or for further information contact, Chris Worth, Project Team Leader, Emmett Ranger District, 1805 Highway 16, Room 5, Emmett, ID 83617, or telephone 208–365–7000.

Comments received in response to this solicitation, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available to public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to appeal the subsequent decision under 36 CFR 215 or 217. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under FOIA, confidentiality may be granted in only limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within 10 days.

Responsible Official

David D. Rittenhouse, Forest Supervisor, Boise National Forest is the responsible official.

Dated: September 15, 1997.

Cathy Barbouletos,

Acting Forest Supervisor.

[FR Doc. 97–25473 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–11–M

COMMISSION ON CIVIL RIGHTS

Agenda and Notice of Public Meeting of the Vermont Advisory Committee

Notice is hereby given, pursuant to the provisions of the rules and regulations of the U.S. Commission on Civil Rights, that the Vermont Advisory Committee to the Commission will conduct a two-day community forum on November 4 and 5, 1997. The November 4 session will be held at the Sheraton Hotel and Conference Center, Emerald Room I and II, 870 Williston Road, Burlington, Vermont 05403, from 1:00 p.m. to 5:30 p.m. and 7:00 p.m. to 9:30 p.m. The November 5 session will be held at the Franklin Conference Center, Howe Center, One Scale Avenue, Rutland, Vermont 05701, from 1:00 p.m. to 5:30 p.m. and 7:00 p.m. to 9:30 p.m. The Advisory Committee will receive information from Federal and State government officials, community leaders, minority students, and parents concerning racial harassment in the Vermont public schools.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson Kimberly B. Cheney, 802–229–0334, or Ki-Taek Chun, Director of the Eastern Regional Office, 202–376–7533 (TDD 202–376–8116). Hearing-impaired persons who will attend the meeting and require the services of a sign language interpreter should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

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

Dated at Washington, DC, September 15, 1997.

Carol-Lee Hurley,

Chief, Regional Programs Coordination Unit.

[FR Doc. 97–25471 Filed 9–24–97; 8:45 am]

BILLING CODE 6335–01–P

DEPARTMENT OF COMMERCE

Economic Analysis Bureau

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Annual Survey of Royalties, License Fees, and Other Receipts and Payments for Intangible Rights Between U.S. and Unaffiliated Foreign Persons.

Agency Form Number: BE–93.

OMB Approval Number: 0608–0017.

Type of Request: Revision of a currently approved collection.

Burden: 2,200 hours.

Number of Respondents: 550.

Avg. Hours Per Response: 4 hours.

Needs and Uses: The BE–93 annual survey is required in order to obtain reliable, up-to-date and detailed information on transactions in intangible rights between U.S. companies and foreign persons. Data from this survey will be used in monitoring U.S. services trade, analyzing its impact on the U.S. and foreign economies, formulating U.S. international trade policy on services, supporting bilateral and multilateral trade negotiations, monitoring and assessing the impact of trade agreements on the U.S. and foreign economies, compiling the U.S. balance of payments and national income and product accounts, developing U.S. international price indexes for services, assessing and promoting U.S. competitiveness in international trade in services, and improving the ability of U.S. businesses to identify and evaluate market opportunities.

Affected Public: Business or other for-profit organizations, or other institutions receiving royalties and license fees from, or paying royalties and licenses fees to unaffiliated foreign persons.

Frequency: Annually.

Respondent's Obligation: Mandatory.

Legal Authority: Title 22 U.S.C., Sections 3101—3108, as amended.

OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Linda Engelmeier, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days to Paul Bugg OMB Desk Officer, Room 10201, New Executive Office Building, 725 17th Street, N.W., Washington, DC 20503.

Dated: September 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–25438 Filed 9–24–97; 8:45 am]

BILLING CODE: 3510–06–P

DEPARTMENT OF COMMERCE

Economic Analysis Bureau

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Economic Analysis.

Title: Annual Survey of Selected Services Transactions with Unaffiliated Foreign Persons.

Agency Form Number: BE–22.
OMB Approval Number: 0608–0060.
Type of Request: Revision of a currently approved collection.
Burden: 17,250 hours.
Number of Respondents: 1,500.
Avg Hours Per Response: 11.5 hours.
Needs and Uses: The BE–22 annual survey is required to obtain reliable and up-to-date information on selected U.S. services transactions with unaffiliated foreign persons, by type of service cross-classified by foreign country. It is intended to update the results of the BE–20 benchmark survey, which covers the universe of such transactions. The BE–20 survey is conducted once every five years, and the last survey covered 1996. The BE–22 survey is conducted each of the four years between two benchmark surveys; the last BE–22 covered 1995. Some of the major purposes of the survey are to provide information needed in formulating U.S. international trade policy on services, support bilateral and multilateral trade negotiations and monitoring trade agreements, compile the U.S. balance of payments and national income and product accounts, develop U.S. international price indexes for services, assess and promote U.S. competitiveness in international trade in services, and improve the ability of U.S. businesses to identify and evaluate market opportunities.
Affected Public: Business and other for-profit organizations, and non-for profit institutions, state and local government, or other institutions engaging in international transactions in covered services.
Frequency: Annual.
Respondent's Obligation: Mandatory.
Legal Authority: Title 22 U.S.C., Section 3101—3108, as amended.
OMB Desk Officer: Paul Bugg, (202) 395–3093.

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Linda Engelmeier, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days to Paul Bugg, OMB Desk Officer, Room 10201, New Executive Office Building, 725 17th Street, N.W., Washington, DC 20503.

Dated: September 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc 97–25439 Filed 9–24–97; 8:45 am]

BILLING CODE: 3510–06–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).
Title: Fisheries Certificate of Origin.
Agency Form Number: NOAA Form 370.
OMB Approval Number: New number being requested but formerly under 0648–0040.
Type of Request: Reinstatement of a collection but with a request to assign a new OMB Control Number.
Burden: 1,033 hours.
Number of Respondents: 350 respondents with a total 4,000 responses.
Avg Hours Per Response: 20 minutes for processors and importers/exporters and 5 minutes for vessel captains.
Needs and Uses: The purpose of the collection of information is to comply with the requirements of the Marine Mammal Protection Act. The Act requires the Secretary of Commerce to promulgate regulations restricting the importation of tuna from those nations without a marine mammal protection program comparable to that of the United States. In addition, tuna that is not dolphin-safe cannot be transported or sold in the United States. The collection serves three purposes: (1) documents that the shipment is dolphin safe, (2) verifies that the fish was not harvested by large-scale high seas driftnets, and (3) verifies that tuna was not harvested by a nation under primary or secondary embargo.
Affected Public: Businesses or other for-profit organizations.
Frequency: On occasion.
Respondent's Obligation: Mandatory.
OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, DC 20503.

Dated: September 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–25440 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Telecommunications and Information Administration.
Title: Public Telecommunications Facilities Program (PTFP) Application Form.
Agency Form Number: Not applicable.
OMB Approval Number: 0660–0003.
Type of Request: Revision of currently approved collection.
Burden: 40,250 hours.
Ave. Hours Per Response: Approximately 89 hours.
Number of Respondents: Approximately 450.
Needs and Uses: The Public Broadcasting Act authorizes grants to be awarded for the planning and construction of public telecommunications facilities. Members of the public telecommunications community must complete a standardized form to provide information for evaluation by PTFP through a competitive review process.
Affected Public: State and local governments and non-profit institutions.
Frequency: Annually.
Respondent's Obligation: Required to obtain a benefit.
OMB Desk Officer: Tim Fain, (202) 395–3561.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, U.S. Department of Commerce, Room 5327, 14th St. and Constitution Ave, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Tim Fain, OMB Desk Officer, Room 10236, New Executive Office Building, Washington, DC 20503.

Dated: September 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–25441 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–60–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

DOC has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act of 1995, Public Law 104–13.

Bureau: International Trade Administration.

Title: International Buyer Program: Application and Exhibitor Data.

Agency Form Number: ITA–4014P and ITA–4102P.

OMB Number: 0625–0151.

Type of Request: Regular Submission.

Burden: 919 hours.

Number of Respondents: 4,080.

Avg. Hours Per Response: 190 minutes for the application and 10 minutes for the exhibitor data.

Needs and Uses: The International Trade Administration's, International buyer Program (IBP), encourages international buyers to attend selected domestic trade shows in high export potential industries and to facilitate contact between US exhibitors and foreign visitors. The program has been successful having substantially increased the number of foreign visitors attending these selected shows as compared to the attendance when not supported by the program. The number of shows selected to the program increased from 10 in 1986 to 26 in 1997. Among the criteria used to select these shows are: export potential, international interest, scope of the show, stature of the show, exhibitor interest, overseas marketing, logistics, and cooperation of show organizers. Form ITA–4014P, ''Exhibitor Data,'' is used to determine which U.S. firms are interested in meeting with international business visitors and the overseas business interests of the exhibitors. The exhibitor data form is completed by U.S. exhibitors participating in an IBP domestic trade show and is used to list the firm and its products in an Export Interest Directory which is distributed worldwide for use by Foreign Commercial Officers in recruiting delegations of international buyers to attend the show. The Form ITA–4102P, ''Application,'' is used by a potential show organizer to provide (1) his/her experience, (2) ability to meet the special conditions of the IBP, and (3) information about the domestic trade show such as the number of U.S. exhibitors and the percentage of net exhibit space occupied by U.S. companies vis-a-vis non-U.S. exhibitors.

Affected Public: Businesses or other for-profit.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit, voluntary.

OMB Desk Officer: Patrick Boyd, (202) 395–7340.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, Departmental Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Pat Boyd, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, DC 20503.

Dated: September 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–25442 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Bureau of Export Administration (BXA).

Title: Application for a Duplicate License

Agency Form Number: None

OMB Approval Number: 0694–0031

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

Burden: 7 hours

Average Time Per Response: 15 minutes per response

Number of Respondents: 26 respondents

Needs and Uses: This collection of information is necessary to identify original export licenses of respondents who request duplicate export licenses for lost or destroyed licenses. The information is used to issue a new license.

Affected Public: Individuals, businesses or other for-profit institutions.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Patrick Boyd, (202) 395–5871.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington, D.C. 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Patrick Boyd, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, D.C. 20230.

Dated: September 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–25443 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce (DOC) has submitted to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Alaska Region Moratorium Application and Transfer Forms.

Agency Form Number: None.

OMB Approval Number: 0648–0282.

Type of Request: Reinstatement of a previously approved collection.

Burden: 319 hours.

Number of Respondents: 288 (638 responses).

Avg. Hours Per Response: 30 minutes each for the application for a permit, transfer application and the appeal process.

Needs and Uses: The Moratorium on Entry imposes a temporary moratorium on the entry of new (unqualified) vessels into the groundfish fisheries under Federal jurisdiction in the Bering Sea and Aleutian Islands management area, the groundfish fisheries under Federal Management in the Gulf of Alaska, and the crab fisheries under Federal jurisdiction in the Bering Sea/Aleutian Islands. An owner of a qualified vessel must apply for and

receive a permit from the National Marine Fisheries Service before deploying that vessel in one of the above named fisheries. The permit requirement is essential to the purpose of the Moratorium on Entry, which is to curtail increases in fishing capacity and provide industry stability. The Moratorium on Entry is intended to promote the conservation and management objectives of the North Pacific Fishery Management Council and the Magnuson-Stevens Fishery Conservation and Management Act. This collection also includes the request to transfer a vessel moratorium qualification and for the appeal process.

Affected Public: Businesses or other for-profit organizations, individuals, state, local or tribal government.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Linda Engelmeier, DOC Forms Clearance Officer, (202) 482–3272, Department of Commerce, Room 5327, 14th and Constitution Avenue, N.W., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, Room 10202, New Executive Office Building, 725 17th Street, N.W., Washington, DC 20503.

Dated: September 19, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–25449 Filed 9–24–97; 8:45 am]

BILLING CODE: 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews and Requests for Revocation in Part

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

ACTION: Notice of initiation of antidumping and countervailing duty administrative reviews and requests for revocation in part.

SUMMARY: The Department of Commerce (the Department) has received requests to conduct administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. In accordance with the Department's regulations, we are initiating those administrative reviews. The Department also received requests to revoke two antidumping duty orders in part.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT:

Holly A. Kuga, Office of AD/CVD Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230, telephone: (202) 482–4737.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.215(b) (1997), for administrative reviews of various antidumping and countervailing duty orders and findings with August anniversary dates. The Department also received timely requests to revoke in part the antidumping duty orders on pure magnesium from Canada and titanium sponge from Russia.

Initiation of Reviews

In accordance with sections 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than August 31, 1998.

	Period to be reviewed
Antidumping Duty Proceedings	
Argentina:	
Oil Country Tubular Goods	
A–357–810	8/1/96–7/31/97
Siderca S.A.I.C..	
Belgium:	
Cut-to-Length Carbon Steel Plate	
A–423–805	
Fabrique de Fer de Charleroi.	
Phosphoric Acid	
A–423–602	8/1/96–7/31/97
Societe Chimique Prayon-Rupel.	
Brazil:	
Cut-to-Length Carbon Steel Plate	
A–351–817	
Usinas Siderurgica de Minas Gerais, Companhia Siderurgica Paulista	8/1/96–7/31/97
Silicon Metal	
A–351–806	
Companhia Brasileira Carbureto De Calcio,* Companhia Ferroligas Minas Gerais-Minasligas,* Eletrosilex Belo Horizonte,* Rima Industrial, S/A*	7/1/96–6/30/97
*Inadvertently omitted from previous initiation notice.	
Canada:	
Corrosion-Resistant Carbon Steel Flat Products	
A–122–822	
Continuous Color Coat, Ltd., Dofasco, Inc., Sorevco, Inc., Stelco, Inc	8/1/96–7/31/97
Cut-to-Length Carbon Steel Plate	
A–122–823	
A.J. Forsyth & Co., Ltd., Algoma Steel, Inc., Gerdau MRM Steel, Stelco, Inc	8/1/96–7/31/97
Pure Magnesium	
A–122–814	
Norsk Hydro Canada, Inc	8/1/96–7/31/97
Finland:	

	Period to be reviewed
Cut-to-Length Carbon Steel Plate	
A–405–802	
Rautaruukki Oy	8/1/96–7/31/97
France	
Industrial Nitrocellulose	
A–427–009	
Societe Nationale des Poudres et Explosifs	8/1/95–7/31/96
Germany:	
Cut-to-Length Carbon Steel Plate	
A–428–816	
AG der Dillinger Huttenwerke	8/1/96–7/31/97
Seamless Pipe	
A–428–820	
Mannesmannrohren-Werke AG	8/1/96–7/31/97
Italy:	
Granular Polytetrafluoroethylene (PTFE) Resin	
A–475–703	
Ausimont SpA	8/1/96–7/31/97
Japan:	
Corrosion-Resistant carbon Steel Flat Products	
A–588–824	
Nippon Steel Corporation	8/1/96–7/31/97
Granular Polytetrafluoroethylene (PTFE) Resin	
A–588–707	
Mitsui-DuPont Polychemical	8/1/96–7/31/97
Kazakhstan:	
Titanium Sponge	
A–834–803	
Special Metals Company, Titanium-Magnesium Combinat, Ust-Kamenogorsk Titanium and Magnesium Plant	8/1/96–7/31/97
Mexico:	
Cement	
A–201–802	
Apasco, S.A. de C.V., Cemex, S.A. de C.V., Cementos de Chihuahua, S.A. de C.V	8/1/96–7/31/97
Cut-to-Length Carbon Steel Plate	
A–201–809	
Altos Hornos de Mexico S.A. de C.V	8/1/96–7/31/97
Oil Country Tubular Goods	
A–201–817	
Hysla, S.a. de C.V., Tubos de Acero de Mexico S.A	8/1/96–7/31/97
Romania:	
Carbon Steel Plate	
A–485–803	
Windmill International PTE Ltd. of Singapore/Windmill International Romania Branch	8/1/96–7/31/97
Russia:	
Titanium Sponge	
A–821–803	
Avisma Titanium-Magnesium Works, Interlink Metals & Chemicals, S.A., TMC Trading International, Ltd	8/1/96-7/31/97
South Korea:	
Cold-Rolled Carbon Steel Flat Products	
A–580–815	
Dongbu Steel Co., Ltd., Pohang Iron and Steel Co., Ltd., Union Steel Manufacturing Co., Ltd	8/1/96–7/31/97
Corrosion-Resistant Carbon Steel Flat Products	
A–580–816	
Dongbu Steel Co., Ltd., Pohang Iron and Steel Co., Ltd., Union Steel Manufacturing Co., Ltd	8/1/96–7/31/97
Industrial Nitrocellulose*	
A–580–805	
Miwon Co., Ltd	7/1/96–6/30/97
*Inadvertently omitted from previous initiation notice.	
Oil Country Tubular Goods	
A–580–825	
SeAH Steel Corporation	8/1/96–7/31/97
The Netherlands:	
Brass Sheet & Strip	
A–421–701	
Outokumpu Copper Strip B.V	8/1/96–7/31/97
Cold-Rolled Carbon Steel Flat Products	
A–421–804	
Hoogovens Staal BV	8/1/96–7/31/97
The Peoples Republic of China:	

	Period to be reviewed
Sulfanilic Acid*	
A–570–815	
China National Chemicals Import & Export Corporation, Hebei Branch, China National Chemical Construction Corporation, Bejing Branch, China National Chemical Construction Corporation, Qingdao Branch, Sinochem Qingdao, Sinochem Shandong, Baoding No. 3 Chemical Factor, Jinxing Chemical Factory, Zhenxing Chemical Industry Company, Mancheng Xinyu Chemical Factory, Shijiazhuang, Mancheng Xinyu Chemical Factory, Beijing, Hainan Garden Trading Company, Yude Chemical Industry Company, Shunping Lile	8/1/96–7/31/97

*If one of the above named companies does not qualify for a separate rate, all other exporters of sulfanilic acid from the People's Republic of China who have not qualified for a separate rate are deemed to be covered by this review as part of the single PRC entity of which the named exporters are a part.

Turkey:	
Aspirin	
A–489–602	
Atabay Kimya Sanayi ve Ticaret A.S	8/1/96–7/31/97
Countervailing Duty Proceedings	
Belgium:	
Cut-to-Length Carbon Steel Plate	
C–423–806	
Fabrique de Fer de Charleroi, S.A	1/1/96–12/31/96
Canada:	
Live Swine	
C–122–404	
Members of the Canadian Pork Council (19,028 producers)*	4/1/96–3/31/97

*The Canadian Pork Council's request lists 99 individual producers, one marketing group, and seven marketing boards. The Department has determined that it is not practicable to conduct company-specific reviews of the order on *Live Swine from Canada* because a large number of exporters and producers requested the review. Therefore, pursuant to section 777A(e)(2)(B) of the Tariff Act of 1930, as amended, the Department will conduct a country-wide review on the basis of aggregate data. We note the investigation and all prior reviews of this order have been conducted on an aggregate basis.

Canada:	
Alloy Magnesium	
C–122–815	
Norsk Hydro Canada Inc	1/1/96–12/31/96
Pure Magnesium	
C–122–815	
Norsk Hydro Canada Inc	1/1/96–12/31/96
Israel:	
Industrial Phosphoric Acid	
C–508–605	
Haifa Chemicals Ltd., Rotem Amfert Negev Ltd	1/1/96–12/31/96
Malaysia:	
Extruded Rubber Thread	
C–557–806	
Heveafil Sdn. Bhd., Filmax Sdn. Bhd., Rubberflex Sdn. Bhd., Filati Lastex Elastofibre Sdn. Bhd., Rubfil Sdn. Bhd	1/1/96–12/31–96
Mexico:	
Cut-to-Length Carbon Steel Plate	
C–201–810	
Altos Hornos de Mexico S.A. de C.V	1/1/96–12/31–96

During any administrative review covering all or part of a period falling between the first and second or third and fourth anniversary of the publication of an antidumping duty order under section 351.211 or a determination under section 351.218(d) (sunset review), the Secretary, if requested by a domestic interested party within 30 days of the date of publication of the notice of initiation of the review, will determine whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The requester must include the name(s) of the exporter or producer for which the inquiry is requested.

For transition orders defined in section 751(c)(6) of the Act, the Secretary will apply paragraph (j)(1) of this section to any administrative review initiated in 1996 or 1998 (19 CFR 351.213(j)(1–2)).

Interested parties must submit applications for disclosure under administrative protective orders in accordance with 19 CFR 353.34(b) and 355.34(b).

These initiations and this notice are in accordance with section 751(a) of the Tariff Act of 1930, as amended (19 U.S.C. 1675(a)) and 19 CFR 351.221(c)(1)(i).

Dated: September 19, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for Group III.

[FR Doc. 97–25497 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

University of Notre Dame, et al.; Notice of Consolidated Decision on Applications for Duty-Free Entry of Scientific Instruments

This is a decision consolidated pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub.

L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Comments: None received. *Decision*: Approved. No instrument of equivalent scientific value to the foreign instruments described below, for such purposes as each is intended to be used, is being manufactured in the United States.

Docket Number: 97–051. *Applicant*: University of Notre Dame, Notre Dame, IN 46556. *Instrument*: Mass Spectrometer, Model DELTA^{plus}. *Manufacturer*: Finnigan, Germany. *Intended Use*: See notice at 62 FR 40334, July 28, 1997. *Reasons*: The foreign instrument provides a double-focussing magnet sector mass analyzer with an internal precision of 0.006 per mil for 10 bar µl samples of CO_2.

Docket Number: 97–057. *Applicant*: University of Wyoming, Laramie, WY 82071. *Instrument*: Mass Spectrometer, Model Sector 54. *Manufacturer*: Micromass, Inc., United Kingdom. *Intended Use*: See notice at 62 FR 41361, August 1, 1997. *Reasons*: The foreign instrument provides: (1) Motorized multiple collectors for computer-controlled alignment of collectors, (2) mass/energy filtering for 10 ppb abundance sensitivity, and (3) an ion-counting multicollector system for detection of very small ion beams.

Docket Number: 97–058. *Applicant*: University of Miami, Miami, FL 33149. *Instrument*: Mass Spectrometer, Model GEO 20–20. *Manufacturer*: Europa Scientific, United Kingdom. *Intended Use*: See notice at 62 FR 41361, August 1, 1997. *Reasons*: The foreign instrument provides: (1) Sensitivity of 1000 molecules per m/z 44 ion at the collector, (2) an interface to an elemental analyzer, and (3) an abundance sensitivity of 10 ppm for CO_2 using dual inlet mode.

The capabilities of each of the foreign instruments described above are pertinent to each applicant's intended purposes. We know of no instrument or apparatus being manufactured in the United States which is of equivalent scientific value to any of the foreign instruments.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–25399 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Institute of Standards and Technology

Judges Panel of the Malcolm Baldrige National Quality Award

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

ACTION: Notice of closed meeting.

SUMMARY: Pusurant to the Federal Advisory Committee Act, 5 U.S.C. app. 2, notice is hereby given that the Judges Panel of the Malcolm Baldridge National Quality Award will meet on: Monday, October 6, 1997, from 9:00 a.m. to 5:30 p.m.; Tuesday, October 7, 1997, from 8:00 a.m. to 5:30 p.m.; Wednesday, October 8, 1997, from 8:00 p.m. to 5:30 p.m.; and Thursday, October 9, 1997, from 8:00 a.m. to 3:00 p.m. The Judges Panel is composed of nine members prominent in the field of quality management and appointed by the Secretary of Commerce. The Panel's agenda includes reviewing the 1997 award process and final judging of 1997 applicants, including a review of each of the 1997 site visits. The review process involves examination of records and discussions of applicant data, and will be closed to the public in accordance with Section 552b(c) (4) of Title 5, United States Code. .

DATES: The meeting will convene October 6, 1997, at 9:00 a.m. and adjourn at 3:00 p.m. on October 9, 1997.

ADDRESSES: The meeting will be held at the National Institute of Standards and Technology, Administration Building Conference Room, Gaithersburg, Maryland 20899.

FOR FURTHER INFORMATION CONTACT: Dr. Harry Hertz, Director, National Quality Program, National Institute of Standards and Technology, Gaithersburg, Maryland 20899, telephone number (301) 975–2361.

SUPPLEMENTARY INFORMATION: The Assistant Secretary for Administration, with the concurrence of the General Counsel, formally determined on February 10, 1997, that the meeting of the Judges Panel will be closed pursuant to Section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app. 2, section 10(d) for those portions of the meeting which involve examination of records and discussion with section 552b(c) (4) of Title 5, United States Code, since those portions of the meeting are likely to disclose trade secrets and commercial or financial information obtained from a person which is privileged or confidential.

Dated: September 22, 1997.

Elaine Bunten-Mines,

Director, Program Office.

[FR Doc. 97–25496 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–13–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 9707–14173–7173–01]

RIN 0648–ZA31

Coastal Services Center Broad Area Announcement

AGENCY: National Ocean Service (NOS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of availability of Federal assistance.

SUMMARY: The Coastal Services Center announces the availability of Federal assistance for fiscal year 1998 in the following program areas: Landscape Characterization and Restoration; the Coastal Change Analysis Program; Coastal Remote Sensing; Integration and Development; the administration of the Coastal Management Fellowship program; training and meeting facilitation; and Special Projects. This announcement provides general descriptions of the categories of projects for which federal assistance may be available. Detailed guidelines for each of the program areas are available from the technical points of contact. These guidelines will include details for the technical program, evaluation criteria, selection procedures, and the standard NOAA Grants Application forms. Funding will be contingent upon availability of funds.

DATES: Specific guidelines, and NOAA application forms,for each of these program areas will be available and distributed to respondents to these announcements throughout fiscal quarters 1 and 2 for awards throughout FY98.

ADDRESSES: Send requests for general information about the CSC or the assistance programs to Coastal Services Center, Attn: Ms. Violet Legette, NOAA Coastal Service Center, 2234 South Hobson Avenue, Charleston, South Carolina, 29405–2413.

For specific guidelines and information regarding the Landscape Characterization and Restoration Program, please contact: Pace Wilber at (803) 974–6235 or pwilber@csc.noaa.gov.

For specific guidelines and information regarding the Coastal

Change Analysis Program, please contact: Dorsey Worthy at (803) 974–6234 or dworthy@csc.noaa.gov.

For specific guidelines and information regarding the Coastal Remote Sensing program, please contact: John Brock at (803) 974–6239 or jbrock@csc.noaa.gov.

For specific guidelines and information regarding the Integration and Development program, please contact: Miki Schmidt at (803) 974–6237 or mschmidt@csc.noaa.gov.

For specific guidelines and information regarding the Coastal Management Fellowship program, please contact: Paul M. Scholz at (803) 974–6208 or pscholz@csc.noaa.gov.

For specific guidelines and information regarding the Coastal Training Institute program, please contact: Jennet Robinson Alterman at (803) 974–6210 or jralterman@csc.noaa.gov.

For specific guidelines and information regarding the Special Projects program, please contact: Paul M. Scholz at (803) 974–6208 or pscholz@csc.noaa.gov.

FOR FURTHER INFORMATION CONTACT: Ms. Violet Legette, Resource Management Services, at (803) 974–6222 or vlegette@csc.noaa.gov.

SUPPLEMENTARY INFORMATION:

Authority: Statutory authority for these awards is provided under 16 U.S.C. Sec. 1456.c (Technical Assistance); 15 U.S.C. Sec. 1540 (Cooperative Agreements); 33 U.S.C. Sec. 1442 [Research program respecting possible long-range effects of pollution, overfishing, and man-induced changes of ocean ecosystems]; 33 U.S.C. Sec. 883a et seq [Surveys and other activities]; and, 33 U.S.C. Sec. 1441 (Monitoring and research programs).

Catalog of Federal Domestic Assistance (CFDA). The CSC Program is listed in the Catalog of Federal Domestic Assistance under Number 11.473.

Program Description

The goal of the Coastal Services Center is to build capabilities throughout the nation which simultaneously address pressing issues of coastal health and change by conserving coastal environments including coastal wetlands, riparian forested wetlands, maritime forests, fisheries/shell fisheries, and other living marine resources and by promoting efficient and sustainable industry, farming, commercial and residential development, urban redevelopment, and tourism. Each of the following programs is available to provide federal assistance for projects in the areas described below. For specific information about any of the programs, or for instructions on completing an application, please contact the technical points of contact listed for each program.

Landscape Characterization and Restoration Program

The goal of the Landscape Characterization and Restoration Program is to help coastal managers include ecosystem processes in their resource management, regulatory, and land use planning decisions. The Program works towards this goal by examining interrelationships between ecology, land use, human demographic, and socioeconomic trends on ecosystem/watershed scales and by developing tools needed to integrate those relationships into management processes. The Program's projects generally include development of habitat, wetland function, demographic, and land use maps; information syntheses; natural resource databases; and environmental models; and a customized geographic information system (GIS) or similar software to forecast results of management alternatives. While the Program routinely uses Unix-based systems, premiums are placed on tools used in a PC environment. Total program budget for FY98 will in the range of $250,000 to $400,000. On a per project basis, the range for funding available for FY98 is $30,000 to $200,000.

During FY98, the Program anticipates pursuing projects along the following lines:

(1) Ecological and socioeconomic characterizations of special management areas (e.g., National Marine Sanctuaries of Estuarine Research Reserves), small- to medium-size watersheds that represent special management issues (e.g., Kachemak Bay, AK, Great Bay, NH, Casco Bay, ME, Savannah River Estuary, GA).

(2) Ecological and socioeconomic characterizations of specific coastal management issues over broad geographic ranges (e.g., shellfish in the Gulf of Mexico, water delivery to estuaries in the southeastern U.S., invasions by non-native species to Pacific ports).

(3) Reviews and development of GIS-based tools for siting habitat restoration projects and forecasting success (e.g., identification of filled marshes from aerial photography, using wind and wave models to forecast the erosion potential of marsh and seagrass restoration sites).

For more information, please contact Pace Wilber at (803) 974–6235 or pwilber@csc.noaa.gov.

Coastal Change Analysis Program

The Coastal Change Analysis Program (C–CAP) is a nationwide effort by the NOAA Coastal Services Center, U.S. Department of Commerce (DOC), to produce standardized land cover and benthic habitat maps and change data for all coastal areas of the United States. This work is accomplished in close cooperation with state and local resource management agencies. The objectives of the program are to produce nationally consistent baseline and change data, and to determine the impacts these changes have on living marine resources for informed coastal decision making as well as for identifying and protecting essential fish habitat. For these C–CAP projects, consideration for funding will be limited to public resource management agencies in the following states: Alaska, California, Florida, Maine, Massachusetts, New York, Oregon, and Washington.

C–CAP anticipates initiating projects in three general areas in FY98:

(1) New Terrestrail land Cover Change Analysis Projects will be initiated to derive Landsat Thematic Mapper (TM)-based terrestrial wetland sand uplands land cover characterizations and change for state or regional scale studies. These projects are part of the continuing C–CAP effort to establish a baseline change assessment for all coastal areas of the United States. Anticipated funding for FY98 will range from $10,000 to $300,000.

(2) New Seagrass and Other Submerged-Benthic Mapping Projects will be initiated to derive location and change maps of seagrass and other nearshore benthic resources as part of the continuing C–CAP effort to establish a baseline change assessment for all coastal areas of the United States. Anticipated funding for FY98 will range form $10,000 to 100,000.

(3) State and Local Land Cover and Benthic Change Applications Projects will be initiated to foster local (county or township level) use of C–CAP land cover and benthic resource maps for coastal land use planning and management. Anticipated funding for FY98 will range from $10,000 to $30,000.

For more information, please contact Dorsey Worthy at 803–974–6234 or dwothy@csc.noaa.gov.

Coastal Remote Sensing Program

The Coastal Remote Sensing (CRS) Program seeks to provide coastal resource managers with practical high-technology data products based on new developments in remote sensing CRS

identifies promising new remote sensing technologies, and works to bridge science and management by prototyping remote sensing data products that aid coastal decision makers. Current CRS projects involve the creation of advanced coastal resource mangement tools through both satellite and aircraft-based remote sensing. In support of this goal, CRS is currently conducing several closely related field-sampling and satellite ocean color remote sensing projects, in addition to several aircraft remote sensing projects. Any possible funding for assistance in FY98 may range in amount between $1,000 and $200,000.

During FY98, the Coastal Remote Sensing Program anticipates pursuing the following project activities:

(1) CRS is pursuing the multi-regional collection of in situ bio-optical data in diverse US Case 2 and Case 1 coastal waters. CRS is analyzing this high quality bio-optical data to yield a full suite of geographically widespread measurements appropriate for the evaluation, intercomparison and regional enhancement of the NASDA and NASA in-water bio-optical algorithms for ADEOS/OCTS and SeaWiFS data products.

(2) The CRS coastal US data archive of advanced multiple-season, in-situ bio-optical measurements from disparate US coastal, plus all collected historical B/O/WQ data, is being made publicly available via a World Wide Web-accessible Coastal Bio-optical data Analysis and Storage System (CoBASS). Documentation in the form of cruise reports will be provided for these advanced bio-optical data sets collected by the CRS Program.

(3) CRS will undertake the evaluation, intercomparison, and further refinement of standard algorithms for the generation of ocean color products for diverse coastal US bio-optical provinces. We will seek to explain the performance of standard OCTS and SeasWiFS in-water algorithms in the context of inter-regional and inter-seasonal variation in inherent optical properties arising through planktonic ecosystem functioning and structure, and variability in the biochemistry and sedimentology of major terrestial inputs, such as river plumes.

(4) CRS will undertake the adaption of NASA software to create a software package tailored to support the high scientific quality processing of coastal US satellite ocean color observations acquired by either ADEOS/OCTS and SeaWiFS, to support the creation of data products for coastal resource management and applied research.

(5) CRS will pursue the development of high scientific-quality, full resolution retrospective time series of satellite data products. CRS will create and make available via the WWW near-real time data products based on the fusion of satellite and in situ data with model forecasts; these products will provide timely information on issues of relevance to coastal resource managers.

(6) CRS will undertake the development of aircraft remote sensing techniques for high spatial resolution sensing of biological water quality within inshore coastal areas at costs that are low enough to allow repetitive surveys. These project activities are intended to: (1) Develop a capability for regional, low-cost monitoring of the chlorophyll, salinity, and turbidity fields in coastal areas, and (2) provide ground truth information for ocean color satellites in Case 2 water and (3) aid in the development of algorithms specific to regional water types.

(7) In response to the need for accurate, timely information on beach and dune field topography, and also pertaining to gradual or catastrophic coastal change, and erosion over broad expanses of coastline, CRS will undertake the mapping of coastal topography using aircraft LIDAR techniques. To establish the capability for highly accurate retrieval of coastal topography and erosion, CRS will map beach elevation over the middle and south Atlantic coast. CRS anticipates that these data will be useful in monitoring and assessing coastal erosion, including severe erosion due to hurricanes and other meteorological disturbances.

For more information, please contact John Brock at 803–974–6239 or jbrock@csc.noaa.gov.

Integration and Development

The Integration and Development (I&D) program focuses on product development, I&D's primary customers are the nation's coastal resource managers and other Coastal Services Center components. I&D specializes in linking the technical benefits of geographic information systems (GIS) with the political needs of coastal managers to enhance decisions. For coastal managers, I&D strives to provide readily accessible, spatial (geographic) information for decision-making support and visualization. To support this goal, I&D has a program for local government planning, management, and liaison services in developing community based hazard mitigation GIS-based decision support systems.

In FY98, the Coastal Services Center will participate in three local demonstration projects to develop integrated hazard mitigation decision support systems in Florida, North Carolina and Ohio. These projects will involve partnerships with various federal, state, and local agencies but will be targeted primarily for implementation at the local government level. Liaison services will be required from an organization with strong local government connections and expertise. Specific expertise will also be required in the areas of community planning, emergency management, and hazard mitigation. Total grant amount is estimated between $100,000 and $300,000.

For more information, please contact Miki Schmidt at 803–974–6237 or mschmidt@csc.noaa.gov.

Coastal Management Fellowship

The Coastal Services Center Coastal Management Fellowship was established to provide professional on-the-job education and training opportunities for post-graduate students in coastal resource management and policy and to provide specific technical assistance for state coastal resource management programs. The program matches highly qualified recently graduated masters, professional degree, and doctoral students with hosts around the U.S. in state coastal zone management programs. For two years the recipients will work on substantive state-level coastal resource management issues that pertain to federal management policies and regulations. The recipients are designated Coastal Services Center Coastal Management Fellows.

Funding to support the CSC Coastal Management Fellows is provided by several sources: the federal government, state governmental agencies, private industry, and non-profit organizations (501.c3's). The two year Fellowship award of $64,000 with an additional $12,000 State match made for each Fellow includes $30,000 per year salary for the Fellow, divided into a $20,000 stipend and $10,000 for per diem living expenses. The remaining $8,000 per year shall be divided as follows: $5,000 for fringe benefits, including health insurance, worker's compensation insurance, and the employer's share of FICA; $1,000 for reimbursable moving expenses; and $2,000 for travel associated with the fellowship experience. NOAA and the other funding sources will provide funding directly to the organization that will administer the Fellowship awards. The organization selected to administer the Fellowship awards shall be capable of receiving and processing funding from

all existing and potential funding sources. The organization selected to administer the grants shall be capable of providing all administrative and financial support required for between six and twenty Fellows per year, according to the guidelines set forth by the Coastal Services Center. Total program budget for FY98 will be in the range of $128,000 to $700,000. This program will be administered as a Cooperative Agreement, with substantial involvement by the Coastal Services Center in the implementation and coordination of the Fellowship Program.

For more information, please contact Paul M. Scholz at 803–974–6208 or pscholz@csc.noaa.gov.

Coastal Training Institute

The goal of the Coastal Training Institute is to provide technical training to support the development and use of Coastal Services Center products and services by the coastal management community. The Training Institute serves as an ongoing resource for training design, delivery and professional meeting/conference planning and logistics. Through specialized training workshops, professional conferences and meeting support services, the Coastal Training Institute provides ongoing opportunities for professional development and technical training. Services provided by the Training Institute include:

- Training development and design
- Needs assessment and evaluation
- Training delivery and training of trainers
- Facilitation and meeting management
- Meeting planning and logistical support

In FY98 the Coastal Training Institute will conduct up to 10 technical workshops and conferences in partnership with NOAA line offices, other federal agencies and state natural resource management agencies. Specific expertise in on site meeting management/logistical support, facilitation services, training design and delivery as well as technical trainers will be required. Anticipated funding for FY98 will be between $25,000 and $200,000. On a per project basis, the range for funding available is between $25,000 and $100,000. For more information, please contact Jennet Robinson Alterman at (803) 974–6210 or jralterman@csc.noaa.gov.

Special Projects

The Coastal Services Center has conducted a variety of projects that have resulted in technical, management or planning for outcomes that apply directly to the state and local coastal management community. The goal of this program is to provide assistance to the coastal management community for technical management related issued on a very broad range of topics related to coastal resources and their wise management. This has ranged from boating, shipping and navigation, to beach management and conservation, coastal hazards mitigation, protected areas, all forms of pollution and control, as well as training, education and outreach activities. In some cases, projects have included use of high-end spatial data and in other level meetings, workshops, and reports. The Coastal Services Center expects to work an equally broad range of topics and will be granting awards to organizations across the United States with proven abilities to implement practical solutions at a state and local level. All project proposal received in this category will be reviewed for technical merit and management relevance. The specific guidelines will include special projects evaluation criteria with point values to be assigned. In addition, program policy factors may be considered in final award decisions to ensure a variety of topic areas, geographical distribution, and/or organization type are represented in the final mix by quarter. Project proposals received for this program will be reviewed on the following timelines: Proposals received October 1–December 31—January review; January 1–March 31—April review; April 1–September 30—October review.

Anticipated funding for this in FY98 will be between $50,000 and $750,000. On a per project basis, the range for funding available is between $25,000 and $300,000.

For more information, please contact Paul M. Scholz at 803–974–6208 or pschol@csc.noaa.gov.

Evaluation

Specific evaluation criteria and selection procedures will be identified in the program guidelines distributed to requesters. These guidelines will include point value for each ranking criteria and a detailed description of the selection process and timeline.

Funding Availability

Specific funding available for awards in each of these categories will be finalized after the NOAA budget for FY98 is authorized, however, total funding availability for this announcement will be between $500,000 and $3,000,000. There is no guarantee that sufficient funds will be available to make awards for all approved projects. Publication of this notice does not obligate NOAA to award any specific grant or cooperative agreement or to obligate all or any parts of the available funds.

Cost Sharing

Applications must reflect the total budget to accomplish the project, including contributions and/or donations. Cost sharing is not required by general office policy, however, individual program guidelines may indicate cost share requirements and assign point values.

Type of Funding Instrument

The projects will be awarded either as a Grant or a Cooperative Agreement, distributed by the Coastal Service Center.

Eligibility Criteria

Applications for grants and cooperative agreements under this program announcement may be submitted, in accordance with the procedures set forth in the specific guidelines to be published by each program area, by any state resource management agency, college or university, private industry, or any nonprofit organization relating to cooperative research units. Other Federal agencies or institutions are not eligible to receive Federal assistance under this notice. Specific eligibility criteria for each program will be provided in the guidelines for proposal submission.

Before submitting an application under this program, applicants should contact the appropriate technical point of contact for a copy of the specific proposal guidelines for the program area. Applications for the project funding under this program must be complete and in accordance with the instructions in the proposal guidelines.

Award Period

The normal award period under this announcement will be one year, but for some programs the period will be longer. Interested applicants should consult with specific technical points of contact for additional information.

Indirect Costs

The total dollar amount of the indirect costs proposed in an application under this program must not exceed the current indirect cost rate negotiated and approved by the applicant's cognizant Federal agency, prior to the proposed effective date of the award or 100 percent of the total proposed direct

costs dollar amount in the application, whichever is less.

Project Funding Priorities

Funding priorities will be set by individual programs award categories depending on the FY98 appropriations.

Federal Policies and Procedures

Recipients and sub-recipients are subject to all Federal laws and Federal and DOC policies, regulations, and procedures applicable to Federal assistance awards.

Name Check Review

All non-profit and for-profit applicants are subject to a name check review process. Name checks are intended to reveal if any key individuals associated with the recipient have been convicted of, or are presently facing, criminal charges such as fraud, theft, perjury, or other matters that significantly reflect on the recipient's management, honesty, or financial integrity.

Past Performance

Unsatisfactory performance under prior Federal awards may result in an application not being considered for funding.

Pre-Award Activities

If applicants incur any costs prior to an award being made, they do so solely at their own risk of not being reimbursed by the Government. Notwithstanding any verbal or written assurance that may have been received, there is no obligation on the part of DOC to cover pre-award costs.

No Obligation for Future Funding

If the application is selected for funding, DOC has no obligation to provide any additional future funding in connection with that award. Renewal of an award to increase funding or extend the period of performance is at the total discretion of DOC.

Delinquent Federal Debts

No award or Federal Funds shall be made to an applicant who has an outstanding delinquent Federal debt until either:

(i) The delinquent account is paid in full,

(ii) A negotiated repayment schedule is established and at least one payment is received, or

(iii) Other arrangements satisfactory to DOC are made.

Primary Applicant Certifications

All organizations or individuals preparing grant applications must submit a completed Form CD–511 ''Certifications Regarding Debarment, Suspension, and Other Responsibility Matters; Drug-Free Workplace Requirements and Lobbying,'' and explanations are hereby provided:

Non-Procurement Debarment and Suspension

Prospective participants (as defined at 15 CFR part 26, Section 105) are subject to 15 CFR part 26, ''Nonprocurement Debarment and Suspension'' and the related section of the certification form prescribed above applies;

Drug-Free Workplace

Grantees (as defined at 15 CFR part 26, Section 605) are subject to 15 CFR part 26, subpart f, ''Government side Requirements for Drug-Free Workplace (Grants)'' and the related section of the certification form prescribed above applies;

Anti-Lobbying

Persons (as defined at 15 CFR part 28, Section 105) are subject to the lobbying provisions of 31 U.S.C. 1352, ''Limitation on use of appropriated funds to influence certain Federal contracting and financial transactions,'' and the lobbying section of the certification form prescribed above applies to application/bids for grants, cooperative agreements, and contracts for more than $100,000, and loans and loan guarantees for more than $150,000, or the single family maximum mortgage limit for affected programs, whichever is greater; and

Anti-Lobbying Disclosures

Any applicant that has paid or will pay for lobbying using any funds must submit an SF–LLL, ''Disclosure of Lobbying Activities,'' as required under 15 CFR part 28, Appendix B.

Lower-Tier Certifications

Recipients shall require applicants/bidders for sub-grants, contracts, subcontracts, or other lower-tier-covered transactions at any tier under the award to submit, if applicable, a completed Form CD–512, ''Certifications Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions and Lobbying'' and disclosure form, SF–LLL, ''Disclosure of Lobbying Activities.'' Form CD–512 is intended for the use of recipients and should not be transmitted to DOC. SF–LLL submitted by any tier recipient or sub-recipient should be submitted to DOC in accordance with the instructions contained in the aware document.

False Statements

A false statement on an application is grounds for denial or termination of funds and grounds for possible punishment by a fine or imprisonment as provided in 18 U.S.C. 1001.

Intergovernmental Review

Applications under this program are subject to Executive Order 12372, ''Intergovernmental Review of Federal Programs.''

Buy American-Made Equipment or Products

Applicants are hereby notified that they will be encouraged, to the greatest extent practicable, to purchase American-made equipment and products with funding provided under this program in accordance with Congressional intent.

Classification

This action has been determined to be not significant for purposes of Executive Order 12866.

Prior notice and an opportunity for public comment are not required by the Administrative Procedure Act or any other law for this notice concerning grants, cooperative agreements, benefits, and contracts. Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

Notwithstanding any other provision of law, no person is required to respond to, nor shall a person be subject to, a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB control number.

This notice contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection-of-information has been approved by OMB, OMB Control Numbers 0348–0043, 0348–0044, 0348–0040, 0348–0046, and 0605–0001.

Dated: September 17, 1997.

Nancy Foster,

Assistant Administrator for Ocean Services and Coastal Zone Management.

[FR Doc. 97–25437 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[Docket No. 970624154–7154–01]

RIN 0648–ZA30

Dean John A. Knauss Marine Policy Fellowship National Sea Grant College Federal Fellows Program

AGENCY: Office of Oceanic and Atmospheric Research, National Oceanic and Atmospheric Administration, Commerce.

ACTION: Notice.

SUMMARY: This notice announces that applications may be submitted for a Fellowship program which was initiated by the National Sea Grant College Program Office (NSGCPO), in fulfilling its broad educational responsibilities, to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine related fields. The Fellowship program accepts applications once a year during the month of September. All applicants must submit an application to one of the state Sea Grant College Programs in their area.

FOR FURTHER INFORMATION CONTACT: Information and brochures can be obtained from Dr. Shirley J. Fiske, Director, National Sea Grant Federal Fellows Program, National Sea Grant College Program, 1315 East-West Highway, Silver Spring, Maryland 20910, telephone (301) 713–2431 extension 148 or call your nearest Sea Grant program:

University of Alaska—(907) 474–7086
University of California—(619) 534–4440
University of Connecticut—(860) 405–9128
University of Delaware—(302) 831–2841
University of Florida—(352) 392–5870
University of Georgia—(706) 542–6009
University of Hawaii—(808) 956–7031
University of Illinois—(317) 494–3593
Louisiana State University—(504) 388–6710
University of Maine—(207) 581–1436
University of Maryland—(301) 405–6371
Massachusetts Institute of Technology—(617) 253–7131
University of Michigan—(313) 763–1437
University of Minnesota—(218) 726–8106
Mississippi-Alabama Sea Grant Consortium—(601) 875–9341
University of New Hampshire—(603) 862–3505
New Jersey Marine Science Consortium—(908) 872–1300
State University of New York—(516) 632–6905
University of North Carolina—(919) 515–2454
The Ohio State University—(614) 292–8949
Oregon State University—(541) 737–3396
University of Puerto Rico—(787) 832–3585
Purdue University—(317) 494–3593
University of Rhode Island—(401) 874–6800
South Carolina Sea Grant Consortium—(803) 727–2078
University of Southern California—(213) 740–1961
Texas A&M University—(409) 845–3854
Virginia Graduate Marine Science Consortium—(804) 924–5965
University of Washington—(206) 543–6600
University of Wisconsin—(608) 262–0905
Woods Hole Oceanographic Institute—(508) 457–2000 ext. 2665

SUPPLEMENTARY INFORMATION:

Purpose of the Fellowship Program

In 1979, the National Sea Grant College Program Office (NSGCPO), in fulfilling its broad educational responsibilities, initiated a program to provide educational experience in the policies and processes of the Legislative and Executive Branches of the Federal Government to graduate students in marine related fields. The U.S. Congress recognized the value of this program and in 1987, Public Law 100–220 stipulated that the Sea Grant Federal Fellows Program was to be a formal part of the National Sea Grant College Program Act. The recipients are designated Dean John A. Knauss Marine Policy Fellows pursuant to 33 U.S.C. 1127(b).

Announcement

Fellows program announcements are sent annually to all participating Sea Grant institutions and campuses by the state Sea Grant Director upon receipt of notice from the National Sea Grant College Program Office (NSGCPO). A brochure describing the program is also available from the NSGCPO for distribution by both that office and the state Sea Grant programs.

Eligibility

Any student who, on September 30, 1998, is in a master's, doctoral or professional program in a marine related field from any accredited institution of higher education may apply to the NSGCPO through any state Sea Grant program. NOAA makes financial assistance funds available to the National Sea Grant Colleges to implement the fellowship program. The National Sea Grant College Program is listed in the Catalog of Federal Domestic Assistance under number 11.417: Sea Grant Support.

Deadlines

Students applications must be obtained from and submitted with their signature (no copies required) to the state Sea Grant Director, who will be the applicant's sponsor, by the date set by the Directors in their individual program announcement (usually early to mid-September).

Applications are to be submitted to the NSGCPO by the sponsoring state Sea Grant Director, no later than close of business on September 30th of any given year. The competitive selection process and subsequent notification will be completed by October 31st of any given year.

Stipend and Expenses

For 1998 a Fellow will receive an award of $30,000 which is distributed between salary (stipend) and living expenses in accordance with University guidelines. Other expenses covered are travel, moving costs, health insurance and institutional overhead.

Application

An application will include:

Personal and academic resume or curriculum vitae.
Personal education and career goal statement which emphasizes expectations from the experience in the way of career development. (not to exceed 2 pages)
No more than two letters of recommendation with at least one being from the student's major professor.
A letter of endorsement from the sponsoring state Sea Grant Director.
Copy of undergraduate and graduate student transcripts.

Thesis papers are not desired.

It is our intent that all applicants be evaluated only on their ability, therefore letters of endorsements from members of Congress, friends, relatives or others will not be considered. Placement preference in the Executive or Legislative Branches of the Government may be stated, and will be honored to the extent possible.

Selection Criteria

The selection criteria will include:

Strength of Academic Performance.
Communications Skills (both written and oral).
Diversity of Academic Background.

Work Experience.
Support of Major Professor.
Support of Sea Grant Director.
Ability to Work with People.

Selection

Applicants will be individually reviewed and ranked by a panel chaired by the Director of Federal Fellowships of the NSGCPO and include representation from: (1) The Council of Sea Grant Directors, (2) the Office of the Assistant Administrator for Oceanic and Atmospheric Research, and (3) the current and possibly last past group of Fellows. The individuals representative of these groups will be chosen on a year by year basis according to availability, timing, and other exigencies. Selection of finalists by the panel will be done by the Panel Chair according to the criteria outlined above. After selection, the panel chair will group applicants into the two categories, legislative and executive, based upon the applicant's stated preference and/or judgment of the panel based upon material submitted. The number of fellows assigned to the Congress will be limited to 10.

Federal Policies and Procedures

Fellows receive funds directly from the National Sea Grant Colleges and are considered to be subrecipients of federal assistance subject to all Federal laws and Federal and Commerce policies, regulations, and procedures applicable to Federal financial assistance awards.

Delinquent Federal Debts

No award of Federal funds shall be made to a Fellow applicant who has an outstanding delinquent Federal debt or fine until either:

a. The delinquent account is paid in full,

b. A negotiated repayment schedule is established and at least one payment is received, or

c. Other arrangements satisfactory to Commerce are made.

Classification

Prior notice and an opportunity for public comments are not required by the Administrative Procedure Act or any other law for this notice concerning grants, benefits, and contracts.

Therefore, a regulatory flexibility analysis is not required for purposes of the Regulatory Flexibility Act.

This action has been determined to be not significant for purposes of E.O. 12866.

This document contains a collection-of-information requirement subject to the Paperwork Reduction Act. The collection of this information has been approved by OMB under control number 0648–0294. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number.

Dated: July 15, 1997.

Elbert W. Friday,

Assistant Administrator, Office of Oceanic and Atmospheric Research.

[FR Doc. 97–25313 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–12–U

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 091697E]

Marine Mammals; Permit No. 970 (P557E)

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

ACTION: Scientific research permit amendment.

SUMMARY: Notice is hereby given that a request for amendment of scientific research permit no. 970 submitted by Scripps Institution of Oceanography, Acoustic Thermometry of Ocean Climate Project, Institute for Geophysics and Planetary Physics, 9500 Gilman Drive, La Jolla, California 92093–02252, has been granted.

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

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

Regional Administrator, Southwest Region, NMFS, 501 West Ocean Boulevard, Suite 4200, Long Beach, CA 90802–4213 (310/980–4001); and

Protected Species Program Manager, Pacific Area Office, NMFS, 2570 Dole Street, Room 106, Honolulu, HI 96822–2396 (808/973–2987).

SUPPLEMENTARY INFORMATION: On July 16, 1997, notice was published in the Federal Register (62 FR 38070) that an amendment of permit no. 970, had been requested. The requested amendment has been granted under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the provisions of § 216.39 of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*),and the provisions of § 222.25 of the regulations governing the taking, importing, and exporting of endangered fish and wildlife (50 CFR 222.23). The amendment extends the expiration date of Permit No. 970 through December 31, 1999.

Issuance of this amendment, as required by the ESA was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of the endangered species which is the subject of this permit; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: September 17, 1997.

Ann D. Terbush,

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

[FR Doc. 97–25505 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of an Import Limit for Certain Cotton Textile Products Produced or Manufactured in Mauritius

September 19, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs reducing a limit.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limit for Categories 338/339 is being reduced for carryforward used in 1996.

A description of the textile and apparel categories in terms of HTS numbers is available in the

CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 56522, published on November 1, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

September 19, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on October 28, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Mauritius and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on September 25, 1997, you are directed to reduce the limit for Categories 338/339 to 510,362 dozen [1], as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–25364 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Director, Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 24, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: September 19, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of the Under Secretary

Type of Review: New.

Title: Guidance for Reporting on Waivers Granted by the U.S. Department of Education.

Frequency: Annually.

Affected Public: State, local or Tribal Gov't, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 20.
Burden Hours: 100.

Abstract: The Department is required by statute to collect reports from state education agencies on the uses of waivers in their states. The purpose of this guidance is to assist states in meeting the statutory requirements. Information from this collection will be used to monitor the progress of waiver recipients in improving teaching and learning and to inform the Department's annual report to Congress on waivers.

[FR Doc. 97–25432 Filed 9–24–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP96–190–010]

Colorado Interstate Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 19, 1997.

Take notice that on September 16, 1997, Colorado Interstate Gas Company (CIG), tendered for filing to become part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed in the Appendix A to the filing, to be effective October 1, 1997.

CIG states it is making this filing to implement lower rates for all of its jurisdictional services pending final Commission approval of the uncontested Settlement filed by CIG in Docket No. RP–190 on August 27, 1997 and certified to the Commission on September 10, 1997. CIG further states that Section 2.10 of the August 27, 1997 Settlement provides for the filing of this interim rate reduction. The Settlement also makes it clear that if the Commission modifies or rejects the

[1] The limit has not been adjusted to account for any imports exported after December 31, 1996.

August 27 Settlement and, as a result, the August 27 Settlement is never implemented, CIG can implement surcharges and/or refunds to reflect revenue recovery that would have occurred if this interim rate reduction had not gone into effect.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Regulations. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25383 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–61–008]

NorAm Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 19, 1997.

Take notice that on September 16, 1997, NorAm Gas Transmission Company (NGT) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, the following revised tariff sheet to be effective November 1, 1997:

Third Revised Sheet No. 306

NGT states that the purpose of this filing is to comply with the letter order issued in this docket on June 30, 1997.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). All such protests must be filed as provided in Section 154.210 of the Commission's regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25382 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–747–000]

NorAm Gas Transmission Company; Notice of Request Under Blanket Authorization

September 19, 1997.

Take notice that on September 11, 1997, NorAm Gas Transmission Company (NGT), 1600 Smith Street, Houston, Texas 77002, filed in the above docket, a request pursuant to §§ 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) and under NorAm's blanket certificate issued in Docket Nos. CP82–384–000 and CP82–384–001, to own and operate certain facilities in Arkansas to deliver gas to ARKLA, a division of NorAm Energy Corp. (ARKLA), all as more fully set forth in the request which is on file with the Commission and open to public inspection.

NGT specifically proposes to own and operate a 2-inch delivery tap on NGT's Line BT–14 in Faulkner County, Arkansas to provide service to ARKLA. ARKLA will provide the meter station, install it and then deed it to NGT at zero cost. NGT will buy the lot for the location site of the tap and install electronic flow measurement at the site. The estimated volumes to be delivered through the above facilities are 400 MMBtu annually and 2 MMBtu on a peak day. NGT's construction costs are estimated at $12,781 and ARKLA will reimburse NGT $10,250 of the costs.

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 Rules of Practice and Procedure (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 is deemed to be authorized effective on 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. 97–25388 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–753–000]

Northern Natural Gas Company; Notice of Request Under Blanket Authorization

September 19, 1997.

Take notice that on September 12, 1997, Northern Natural Gas Company (Northern), 1111 South 103rd Street, Omaha, Nebraska 68124–1000, filed in Docket No. CP97–753–000 a request pursuant to §§ 157.205, 157.212 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212 and 157.216) for authorization to upgrade the Dodge Center TBS #1, an existing delivery point in Dodge County, Minnesota, to accommodate incremental interruptible natural gas deliveries to UtiliCorp United Inc. (UCU), under Northern's blanket certificate issued in Docket No. CP82–401–000 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.

Northern states that interruptible service will be provided to UCU pursuant to currently effective throughput service agreement(s). The proposed incremental volumes to be delivered for UCU at the proposed delivery point are 935 MMBtu on a peak day and 97,001 MMBtu on an annual basis. The total estimated cost to upgrade is $266,000 and UCU will compensate Northern. The upgrade will consist of a replacement of the existing meter and appurtenant facilities. Northern states that UCU requested the proposed upgrade of the delivery point to serve local residential, commercial, and industrial customers.

Northern states that the proposed upgrade is not prohibited by its existing tariff and that it has sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers and that the total volumes delivered after the request will not exceed total volumes authorized prior to the 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. 97–25387 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–451–001]

Questar Pipeline Company; Notice of Tariff Filing

September 19, 1997.

Take notice that on September 16, 1997, Questar Pipeline Company (Questar) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute First Revised Sheet No. 75B, to be effective September 15, 1997, in compliance with the Commission's September 10, 1997, Order Accepting Tariff Sheets Subject to Conditions.

Questar states that this tariff filing complies with the September 10 order by deleting from Section 11.1(i) of Part 1 of the General Terms and Conditions of its tariff the sentence ''Intra-day nominations received during this batch period may not bump gas that is already flowing.''

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25379 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–129–007]

Questar Pipeline Company; Notice of Tariff Filing

September 19, 1997.

Take notice that on September 16, 1997, Questar Pipeline Company (Questar), tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Second Substitute Fourth Revised Sheet No. 92, Second Revised Sheet No. 92A, Substitute Second Revised Sheet No. 93 and Second Substitute Second Revised Sheet No. 94, to be effective June 1, 1997.

Questar states that the proposed tariff sheets incorporate into its tariff previously approved tariff language regarding crediting of interruptible revenues, which was inadvertently omitted from Section 18, Billing and Payment, when revised according to Order Nos. 587, 587–A and 587–B in Docket No. RP97–129.

Questar states further that it respectfully requests Commission waiver of Section 154.207 of its regulations so that the proposed tariff sheets may become effective June 1, 1997. Questar explains that Section 18.3, regarding crediting of interruptible revenues, has been in effect since February 1, 1996, and that continued effectiveness of this tariff provision is vital for proper administration of the billing provisions implemented by its tariff. Questar explains further that approval of the proposed date, which date is consistent with the effective date of Questar's tariff filings implementing Order 587, will allow Section 18.3 to continue to be effective without interruption.

Questar states that a copy of this filing has been served upon its customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make Protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25381 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–723–000]

Southern Natural Gas Company; Notice of Request Under Blanket Authorization

September 19, 1997.

Take notice that on September 3, 1997, Southern Natural Gas Company (Southern), Post Office Box 2563, Birmingham, Alabama 35202–2563, filed a request with the Commission in Docket No. CP97–763–000 pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to relocate a portion of its North Main Line, North Main Loop Line and Second North Main Line, under its blanket certificate issued in Docket No. CP82–406–000 pursuant to Section 7 of the NGA, all are more fully set forth in the request which is open to public inspection.

Southern states that it proposes to relocate certain facilities in order to remove its system from the threat of soil subsidence which may occur as a result of a long-wall coal seam mining. Southern states that it will relocate its 22-inch North Main Line and 24-inch North Main Loop Line facilities in Jefferson County, Alabama. It is stated that the estimated cost would be about $17.7 million and that there would be no adverse impact to firm deliveries.

Any person or the Commission's staff may, within 45 days after the Commission has issued this notice, 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 NGA (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 NGA.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25389 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–541–000]

Southern Natural Gas Company; Notice of Site Visit

September 19, 1997.

Between September 29 and October 2, 1997, the Office of Pipeline Regulation staff will conduct a compliance inspection of the Brunswick Loop, South Main 2nd Loop, South Main 3rd Loop, and 2nd North Main Loop portions of the Southern Natural Gas Company Zone III Expansion Project.

On September 29, the Brunswick Loop will be inspected in Jones and Twiggs Counties, Georgia. This inspection will begin at 8:30 a.m. at the 57 QuickStop, located on Route 19 at the corner of Route 57 and Ridge Road in Macon, Georgia.

On September 30, the South Main 2nd Loop will be inspected in Crawford and Monroe Counties, Georgia. This inspection will begin at 8:30 a.m. at Southern Natural Gas Company's Warehouse Site, located at 24 Industrial Park Drive in Roberta, Georgia.

On October 1, the South Main 3rd Loop will be inspected in Lee County, Alabama. This inspection will begin at 9 a.m. All persons wishing to attend must meet in the lobby of the Holiday Inn in Opelika, Alabama, located at I–85 at US Highway 280 and US Highway 431.

On October 2, the 2nd North Main Loop in Pickens and Tuscaloosa Counties, Alabama will be inspected. The inspection will begin at 10 a.m. All persons wishing to attend must meet in the lobby of the Best Western Catalina Inn in Northport, Alabama, located at 2015 US Highway 82 West.

All parties may attend. Those planning to attend must provide their own transportation. For further information, please contact Paul McKee at (202) 208–1088.

Robert J. Cupina,

Deputy Director, Office of Pipeline Regulation.

[FR Doc. 97–25391 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–344–000]

Texas Gas Transmission Corporation; Notice of Informal Settlement Conference

September 19, 1997.

Take notice that an informal settlement conference will be convened in this proceeding on Wednesday, October 8, 1997, at 10 a.m. and Thursday, October 9, 1997, at the offices of the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426, for the purpose of exploring the possible settlement of the above-referenced docket.

Any party, as defined by 18 CFR 385.102(c), or any participant as defined in 18 CFR 385.102(b), is invited to attend. Persons wishing to become a party must move to intervene and receive intervenor status pursuant to the Commission's regulations (18 CFR 385.214).

For additional information, please contact Kathleen M. Dias at (202) 209–0524 or Michael D. Cotleur at (202) 208–1076.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25380 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–746–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

September 19, 1997.

Take notice that on September 11, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed a request pursuant to Section 7 of the Natural Gas Act and Sections 157.205 and 157.216 of the Commission's Regulations thereunder to abandon two delivery taps and related facilities in Mckenzie and Williams Counties, North Dakota, all as more fully described in the filed application.

Williston states that both of these taps were installed to deliver gas to Phillips Petroleum Company for fuel to field gathering compressors which have been removed.

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 Rules of Practice and Procedure (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 is deemed to be authorized effective on 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. 97–25390 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission (Major License)

September 19, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application*: Major License.

b. *Project No.*: P–11607–000.

c. *Date Filed*: August 29, 1997.

d. *Applicant*: Ashburnham Municipal Light Plant and Massachusetts Municipal Wholesale Electric Company.

e. *Name of Project*: Holyoke Hydroelectric Project.

f. *Location:* On the Connecticut River in Hampden, Hampshire, and Franklin Counties, Massachusetts.

g. *Filed Pursuant to*: Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact*: Roger W. Bacon, Director, Power Services Division, Massachusetts Wholesale Electric Company, Randall Road, P.O. Box 426, Ludlow, MA 01056, (413) 589–1041.

Thomas E. Lewis, Jr., General Manager, Ashburnham Municipal Light Plant,

78 Central Street, P.O. Box 823, Ashburnham, MA 01430–4423, (508) 827–4423

i. *FERC Contact*: Allan Creamer (202) 219–0365.

j. *Comment Date*: 60 days from the filing date shown in paragraph (c).

k. *Description of Project*:

The proposed run-of-river project would consist of the following features: (1) An approximately 1,000-foot-long masonry dam to elevation 97.47 feet NGVD, topped with a 3.1-foot-high rubber dam; (2) upstream and downstream fish passage facilities; (3) the Fish Lift Park adjoining the dam; (4) a 2,290-acre reservoir that extends approximately 25 miles upstream; (5) a three-level canal system adjacent to the river with headgates at the dam; (6) six separate hydroelectric facilities, named Hadley Falls Station, Riverside Station, Boatlock Station, Beebe-Holbrook Units, Skinner Unit and Chemical Units, and, except for the Hadley Falls Station which has its intake structure adjacent to the canal headgate structure, the facilities withdraw water from the canal system; (7) a total nameplate capacity of 58,756 kW, consisting of the existing 43,756 kW project plus a 15,000 kW expansion at the Hadley Falls Station; (8) transmission line connections; and (9) appurtenant facilities. The applicant estimates that the total average annual generation would be 212,000 MWh, which would increase to 257,600 MWh after completing the expansion in 2006.

l. With this notice, we are initiating consultation with the *Massachusetts State Historic Preservation Officer (SHPO)*, as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to section 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on each of the applicants.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25384 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Ready for Environmental Analysis

September 19, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Minor License.

b. *Project No.:* 11512–000.

c. *Date filed:* December 27, 1994, amended September 2, 1997.

d. *Applicant:* John H. Bigelow.

e. *Name of Project:* McKenzie.

f. *Location:* On the McKenzie River in Lane County, Oregon, Section 10, Township 16S, Range 6E, West Meridian.

g. *Filed Pursuant to:* Federal Power Act 16 U.S.C. 791(a) —825(r).

h. *Applicant Contract:* Robert Parker, Community Planning Workshop, 1209 University of Oregon, Eugene, OR 97403, (541) 346–3801.

i. *FERC Contact:* Héctor M. Pérez at (202) 219–2843.

j. The project would consist of: (1) A diversion dam constructed of large rocks at river mile 73.6 (partially breached); (2) a concrete headgate; (3) a power canal about 1,500 feet long; (4) a 32-foot-long and 5-foot-diameter penstock; (5) a powerhouse with an installed capacity of 76 kilowatts; (6) a 30-foot-long tailrace; and (7) other appurtenances.

The applicant amended the application to delete modifications proposed originally: Reconstruct the diversion structure, yearly removal of sediment in front of the headgate, and placement of adult fish barrier in the tailrace.

k. *Status of Environmental Analysis:* This application is now ready for environmental analysis—see attached paragraph D9.

l. *Deadline for comments, recommendations, terms and conditions, and prescriptions:* See paragraph D9.

m. *This notice also consists of the following standard paragraph:* A4 and D9.

n. *Available Locations of Application:* A copy of the application, as amended, is available for inspection and reproduction at the Commission's Public Reference and Files Maintenance Branch, located at 888 First Street, N.E. Washington, D.C. 20426, or by calling (202) 208–1371. A copy is also available for inspection and reproduction at the address shown in item h above.

A4. Development Application—Public notice of the filing of the initial development application, which has already been given, established the due date for filing competing applications or notices of intent. Under the Commission's regulations, any competing development application must be filed in response to and in compliance with public notice of the initial development application. No competing applications or notices of intent may be filed in response to this notice.

D9. Filing and Service of Responsive Documents—The application is ready for environmental analysis at this time, and the Commission is requesting comments, reply comments, recommendations, terms and conditions, and prescriptions.

The Commission directs, pursuant to Section 4.34(b) of the Regulations (see Order No. 533 issued May 8, 1991, 56 FR 23108, May 20, 1991) that all comments, recommendations, terms and conditions and prescriptions concerning the application be filed with the Commission within 60 days from the issuance date of this notice. All reply comments must be filed with the Commission within 105 days from the date of this notice.

Anyone may obtain an extension of time for these deadlines from the Commission only upon a showing of good cause or extraordinary circumstances in accordance with 18 CFR 385.2008.

All filings must (1) bear in all capital letters the title ''COMMENTS'', ''REPLY COMMENTS'', ''RECOMMENDATIONS,'' ''TERMS AND CONDITIONS,'' or ''PRESCRIPTIONS;'' (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person submitting the filing; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, recommendations, terms and conditions or prescriptions must set forth their evidentiary basis and otherwise comply with the requirements of 18 CFR 4.34(b). Any of these documents must be filed by providing the original and the number of copies required by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426. An additional copy must be sent to Director, Division of Project Review, Office of Hydropower Licensing, Federal Energy Regulatory Commission, at the above address. Each filing must be accompanied by proof of

service on all persons listed on the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 4.34(b), and 385.2010.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25385 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Application Tendered for Filing With the Commission (Major License)

September 19, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Major License.

b. *Project No.:* P–2004–073.

c. *Date Filed:* September 2, 1997.

d. *Applicant:* Holyoke Water Power Company.

e. *Name of Project:* Holyoke Hydroelectric Project.

f. *Location:* On the Connecticut River in Hampden, Hampshire, and Franklin Counties, Massachusetts.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:*

Ronald G. Chevalier, Vice President, Holyoke Water Power Company, P.O. Box 270, Hartford, CT 06141–0270, (860) 665–5315

James J. Kearns, Project Manager, Northeast Utilities Service Company, P.O. Box 270, Hartford, CT 06141–0270, (860) 665–5936

Catherine E. Shively, Counsel, Public Service Company of New Hampshire, 1000 Elm Street, Manchester, NH 03105, (603) 634–2326

i. *FERC Contact:* Allan Creamer, (202) 219–0365.

j. *Comment Date:* 60 days from the filing date shown in paragraph (c).

k. *Description of Project:*

The proposed run-of-river project would consist of the following features: (1) An approximately 1,000-foot-long masonry dam to elevation 97.47 feet NGVD, topped with a 3.1-foot-high rubber dam; (2) upstream and downstream fish passage facilities; (3) a 2,290-acre reservoir that extends approximately 25 miles upstream; (4) a three-level canal system adjacent to the river with headgates at the dam; (5) six separate hydroelectric facilities, named Hadley Falls Station, Riverside Station, Boatlock Station, Beebe-Holbrook Units, Skinner Unit and Chemical Units, and, except for the Hadley Falls Station which has its intake structure adjacent to the canal headgate structure, the facilities withdraw water from the canal system; (6) a total nameplate capacity of 43,756 kW; (7) transmission line connections; and (9) appurtenant facilities. The applicant estimates that the total average annual generation would be approximately 223,389 MWh.

l. With this notice, we are initiating consultation with the *Massachusetts State Historic Preservation Officer (SHPO),* as required by section 106, National Historic Preservation Act, and the regulations of the Advisory Council on Historic Preservation, 36 CFR 800.4.

m. Pursuant to § 4.32(b)(7) of 18 CFR of the Commission's regulations, if any resource agency, Indian Tribe, or person believes that an additional scientific study should be conducted in order to form an adequate factual basis for a complete analysis of the application on its merit, the resource agency, Indian Tribe, or person must file a request for a study with the Commission not later than 60 days from the filing date and serve a copy of the request on the applicant.

Lois D. Cashell,

Secretary.

[FR Doc. 97–25386 Filed 9–24–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Southwestern Power Administration

Open Access Transmission Service Tariff

AGENCY: Southwestern Power Administration, DOE.

ACTION: Notice of proposed tariff.

SUMMARY: The Southwestern Power Administration (Southwestern) is proposing to adopt this Open Access Transmission Service Tariff (Tariff) in order to be consistent with the Federal Energy Regulatory Commission (FERC) Orders 888 and 888–A, to the extent practicable and consistent with laws and regulations applicable to Southwestern's activities.

DATES: The comment period on the proposed Tariff will begin with the publication of this notice in the **Federal Register** and will end November 10, 1997. To be assured of consideration, all written comments must be received by the end of the comment period. Southwestern has scheduled a public meeting to discuss the proposed Tariff on October 9, 1997, at 1:30 p.m., CDT, in Tulsa, Oklahoma. An opportunity for interested parties to make oral comments on the proposed Tariff is scheduled for October 20, 1997, at 1:30 p.m. CDT, also in Tulsa, Oklahoma.

ADDRESSES: Southwestern will hold its public meetings at Southwestern's offices, Room 1402, Williams Center Tower I, One West Third Street, Tulsa, Oklahoma 74103. All copies of written comments should be submitted to the Assistant Administrator, Corporate Operations, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma, 74101.

FOR FURTHER INFORMATION CONTACT: Mr. Forrest E. Reeves, Assistant Administrator, Office of Corporate Operations, Southwestern Power Administration, U.S. Department of Energy, P.O. Box 1619, Tulsa, OK 74101, (918) 595–6696. Electronic Mail: Reeves@swpa.gov; Facsimile: (918) 595–6656.

SUPPLEMENTARY INFORMATION:

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I. Procedures

After all public comments have been considered, Southwestern will prepare a final Tariff and publish it in the **Federal Register**. Southwestern will submit this final Tariff to FERC under a non-jurisdictional docket, and will request a declaratory order that the Tariff meets FERC comparability standards as set forth in FERC Orders 888 and 888–A. Interested parties will have an opportunity to comment on the Tariff by following appropriate procedures to intervene with FERC. Southwestern will make any necessary changes required by the FERC declaratory order, and will publish the final approved Tariff in the **Federal Register**.

There will be a public meeting on October 9, 1997, to discuss the proposed tariff. In addition, persons interested in attending the public meeting tentatively scheduled for October 20, 1997, should indicate in writing, by letter or facsimile transmission (918–595–6656), on or before October 15, 1997, of their intent to appear. No meeting will be held if no one indicates an intent to attend.

II. Background

Southwestern Power Administration (Southwestern) was created by Secretarial Order No. 1865, dated August 31, 1943, as an agency of the Department of the Interior, to carry out the power marketing responsibilities assigned to the Secretary of Interior by

Executive Order 9366, dated July 30, 1943, and Order 9373, dated August 30, 1943. Section 5 of the Flood Control Act of December 22, 1944 (58 Stat. 887, 890; 16 U.S.C. 825s) broadened the power marketing responsibilities of the Secretary of the Interior by placing in him the responsibility for marketing the electric power and energy generated at reservoir projects built by and under the control of the Department of the Army. The U.S. Department of Energy was created by an Act of the U.S. Congress under the Department of Energy Organization Act, Public Law 95–91, dated August 4, 1977. Pursuant to Sections 302(a) and 301(b) of such Act, the functions of the Secretary of the Interior and the Federal Power Commission under Section 5 of the Flood Control Act of 1944 which relate to Southwestern were transferred to and vested in the Secretary of Energy effective October 1, 1977.

Under the said Section 5, Southwestern is enjoined to market power and energy generated at U.S. Army Corps of Engineers dams to public bodies and cooperatives, in such manner as to encourage the most widespread use of the resource, at the lowest possible rates to consumers consistent with sound business principles. The dams from which Southwestern currently markets power and energy are located in the States of Arkansas, Missouri, Oklahoma, and Texas. By the nature of its hydroelectric power resource, Southwestern is a partial requirements supplier to 93 municipal, cooperative, and military electric systems in the States of Arkansas, Kansas, Louisiana, Missouri, Oklahoma, and Texas. Southwestern markets Federal power and energy and owns and operates a transmission system to integrate its hydroelectric resources in order to reliably deliver such power and energy. Southwestern markets Transmission Services for the transmission of non-Federal power and energy across Southwestern's transmission system only to the extent that capacity is available over and above the capacity required to fulfill Southwestern's mission. Nothing in the proposed Tariff is intended to alter, amend, or abridge Southwestern's statutory obligation to market Federal power and to repay the Federal investment in the hydroelectric generation projects from which it markets power as well as the investment in its associated transmission system.

The Federal Energy Regulatory Commission (FERC) issued a Notice of Proposed Rulemaking (NOPR) for Open Access Transmission Service, published at 60 FR 17662, on April 7, 1995. On October 4, 1995, the Secretary, Department of Energy (DOE), adopted a ''Power Marketing Administration Open Transmission Access Policy'' in which the Secretary states that DOE supports the spirit and intent of the NOPR and directs the Power Marketing Administrations to prepare tariffs which conform to the principles set forth in the FERC's final rule. FERC issued its final rule, Order 888, published at 61 FR 21540, on May 10, 1996, and followed with supplementary Order 888–A, published at 62 FR 12273, on March 14, 1997. Southwestern's Tariff includes an Attachment J which is specific to Southwestern and is not found in the Pro Forma Tariff (Pro Forma) published as Appendix B to FERC Order 888–A.

III. Summary of Changes from the FERC Pro Forma Tariff

Southwestern has adopted the Pro Forma as the basis for its open access Tariff. However, Southwestern has made a number of changes that it deems necessary to reflect Southwestern's unique status as a Federal agency. Southwestern describes this unique status in an added Attachment J, ''Authorities and Obligations,'' to its Tariff.

Southwestern has identified three general areas of difference from the Pro Forma in its Tariff that it believes are necessary to adapt the Pro Forma to the requirements of its unique status. These differences are:

(1) FERC Jurisdictional Issues

Since Southwestern is not a jurisdictional utility under the FERC, provisions which are based on such jurisdiction are deleted from the Pro Forma. This general approach necessitated deletions in Sections 1.10, 2.2, 9, 12.1, 13.3, 14.3, 20.3, 26, 29.5, 34, and 34.5 of the Pro Forma. Since Southwestern is not required to file its service agreements with the FERC, deletions and other changes were made in Sections 1.45, 7.3, 13.4, 14.4, 15.3, 17.6, 19.3, 19.4, 29.1, 29.5, 32.3, and 32.4 of the Pro Forma.

(2) Impact of Federal Law and Regulations.

Southwestern, as a Federal agency, is subject to Federal laws, regulations, and policies which supersede certain provisions in the Pro Forma. This fact accounts for most differences between the Pro Forma and Southwestern's Tariff, which changes fall into three general categories:

(a) General statements of Southwestern's requirements to conform to Federal laws and regulations, or references to specific Federal laws and regulations, account for additions and other changes to Sections 1.2, 10.2, 12.2, 18.2, 26, 34.5, Schedules 1 through 8 of the Pro Forma, and the submission of a new Attachment J.

(b) Under the Anti-Deficiency Act and appropriations laws, Southwestern cannot normally use appropriated funds to do work for others. Likewise, Southwestern is prohibited from entering into contracts that obligate expenditure of funds it does not have. Finally, some kinds of work, such as construction changes to facilities, are specifically contingent on the availability of funds to Southwestern, or on its reimbursable authority to use funds provided by customers, both of which are provided in the Congressional appropriations process. These limitations caused additions and other changes in Sections 13.5, 15.4, 19.1, 19.2, 19.4, 19.8, 20.3, 23.2, 28.2, 31.5, 32.1, 32.2, and 32.4 of the Pro Forma.

(c) Southwestern's current financial system and procedures make collecting deposits for refund and providing for the payment of interest on deposited funds unduly burdensome. Consequently, Southwestern has deleted all references to deposits and their return with interest. Southwestern has substituted provisions for payment of a processing fee to cover its costs in evaluating applications for firm transmission service arrangements of one year or longer, or, in the event that Southwestern is able to provide Network Integration Transmission Service, for applications for such service. The sections of the original Pro Forma which are affected by these changes are: Sections 1.5, 17.3, 17.4, 20.3, 22.2, 29.2, 31.5, 32.1, and 32.4.

(3) Operational Considerations

Southwestern has certain operational considerations that require changes to the Pro Forma.

(a) The development and filing of Southwestern's rates are dictated by Federal law and regulations separate and apart from the Tariff. Rate Schedules, as required by such laws and regulations, will be attached to Service Agreements in place of or in addition to Schedules 1 through 8. Thus, changes in the language of Pro Forma Section 2.2, and in Schedules 1 through 8 were required.

(b) Southwestern's primary mission is to market Federal power. The nature of this resource—hydroelectric power generation—may, under certain hydrological conditions, restrict Southwestern's ability to provide some Ancillary Services which support the transmission of non-Federal power and energy. This limitation is recognized in

changes to Section 3 and Schedules 3 through 6 of the Pro Forma.

(c) Southwestern added language to Section 10.1 to provide for notice between the Parties where Force Majeure renders either Party unable to fulfill obligations under the Service Agreement.

(d) Sections 15.7 and 28.5 cover Real Power Losses, which Southwestern normally addresses in Service Agreements. Changes were made to these Sections to acknowledge such practice.

(e) Section 19.2(iii) of the Pro Forma is changed from an internal reference to Section 20 to a reference to Section 8, which is more pertinent to Southwestern's administrative procedures.

Attachments

For Attachments A, B, and F, which are the form of the Service Agreements associated with the Tariff, Southwestern has elected to describe its proposed agreements, for Firm Transmission Service (2 types, for long- and short-term arrangements); for Non-Firm Transmission Service; and for Network Integration Transmission Service, in general terms rather than to publish specific contract language. Southwestern's practice is to develop standard contracts and to evolve language, especially for new operational arrangements, over time. Changes, if any, become part of the new standard language as such provisions evolve. Also, as a Federal agency, Southwestern has a number of provisions which are required to be in all its contracts but which are not directly pertinent to offering transmission service. Southwestern considers maintaining flexibility to allow continuous improvements in its contract language to be good policy. Therefore, Southwestern has described the contract forms rather than prescribed them. Additionally, this approach avoids unnecessary burdening of the filing and notice processes for the Tariff by omitting from the text of the Tariff standard, general provisions which are not directly germane to the issue of open access for transmission services.

In Attachments C and D, Southwestern acknowledges that, as a member of the Southwest Power Pool, Southwestern's methodology for determining Available Transfer Capability and performing System Impact Studies will follow the methodology of the Southwest Power Pool, which is readily and publicly available.

Attachments G and H will permit Southwestern to provide Network Integration Transmission Service, if such service is requested, and if Southwestern's Transmission System is determined to be capable of providing such service. Southwestern has no present arrangements equivalent to Network Service. In the absence of any particular request for Network Integration Transmission Service, Southwestern has not yet determined whether Network Service is practicable on its system. Until such determination is made, Southwestern deemed it advisable to prepare these attachments with very general language.

Attachment J was developed by Southwestern to describe its authorities and obligations as a Federal Power Marketing Administration. Such authorities and obligations are significantly different from the authorities and obligations of the public utilities for which the Pro Forma was developed, and this Attachment sets forth such differences. Attachments E and I, which are indexes of firm and network contracts, have been left blank.

IV. Coordination With Adoption of Open Access Transmission Rates

Southwestern's rate process is distinct from the rate process used by public utilities. This process, which includes mandatory public participation procedures, is described in 10 CFR 903. Additionally, Southwestern's rates are reviewed by the FERC under different parameters than those used for review of public utility rates. Southwestern is presently in the process of preparing new rate schedules for a FERC filing, and expects such new rates to be implemented January 1, 1998. The proposed rate schedules for Transmission Service will be structured in general accordance with the Pro Forma and Southwestern's Tariff. The new rate schedules will be attached to Service Agreements executed under the Tariff.

Review Under Executive Order 12866

Southwestern has an exemption from centralized regulatory review under Executive Order 12866; accordingly, no clearance of this notice by the Office of Management and Budget (OMB) is required.

Review Under the Regulatory Flexibility Act

The Regulatory Flexibility Act, 5 U.S.C. 601 *et seq.*, requires Federal agencies to perform a regulatory flexibility analysis if a proposed regulation is likely to have a significant economic impact on a substantial number of small entities. By the execution of this **Federal Register** notice, the Administrator, Southwestern, certifies that no significant economic impact on a substantial number of small entities will occur.

A redline/strikeout comparison of Southwestern's proposed Tariff to the FERC Pro Forma is available on the Internet at http://www.swpa.gov.

Dated: September 15, 1997.

Michael A. Deihl,

Administrator.

Southwestern Power Administration

Open Access Transmission Service Tariff

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Southwestern Power Administration

Open Access Transmission Service Tariff

Part I. Common Service Provisions

1 Definitions

1.1 *Ancillary Services:* Those services that are necessary to support the transmission of capacity and energy from resources to loads while maintaining reliable operation of the Transmission Provider's Transmission System in accordance with Good Utility Practice.

1.2 *Annual Transmission Costs:* The total annual cost of the Transmission System for purposes of Network Integration Transmission Service shall be the amount specified in Attachment H until amended by the Transmission Provider or modified by the Commission, pursuant to Federal law.

1.3 *Application:* A request by an Eligible Customer for transmission service pursuant to the provisions of the Tariff.

1.4 *Commission:* The Federal Energy Regulatory Commission.

1.5 *Completed Application:* An Application that satisfies all of the information and other requirements of the Tariff, including any required application processing fee.

1.6 *Control Area:* An electric power system or combination of electric power systems to which a common automatic generation control scheme is applied in order to:

(1) Match, at all times, the power output of the generators within the electric power system(s) and capacity and energy purchased from entities outside the electric power system(s), with the load within the electric power system(s);

(2) Maintain scheduled interchange with other Control Areas, within the limits of Good Utility Practice;

(3) Maintain the frequency of the electric power system(s) within reasonable limits in accordance with Good Utility Practice; and

(4) Provide sufficient generating capacity to maintain operating reserves in accordance with Good Utility Practice.

1.7 *Curtailment:* A reduction in firm or non-firm transmission service in response to a transmission capacity shortage as a result of system reliability conditions.

1.8 *Delivering Party:* The entity supplying capacity and energy to be transmitted at Point(s) of Receipt.

1.9 *Designated Agent:* Any entity that performs actions or functions on behalf of the Transmission Provider, an Eligible Customer, or the Transmission Customer required under the Tariff.

1.10 *Direct Assignment Facilities:* Facilities or portions of facilities that are constructed by the Transmission Provider for the sole use/benefit of a particular Transmission Customer requesting service under the Tariff. Direct Assignment Facilities shall be specified in the Service Agreement that governs service to the Transmission Customer.

1.11 *Eligible Customer:* (i) Any electric utility (including the Transmission Provider and any power marketer), Federal power marketing agency, or any person generating electric energy for sale for resale is an Eligible Customer under the Tariff. Electric energy sold or produced by such entity may be electric energy produced in the United States, Canada or Mexico. However, with respect to transmission service that the Commission is prohibited from ordering by Section 212(h) of the Federal Power Act, such entity is eligible only if the service is provided pursuant to a state requirement that the Transmission Provider offer the unbundled transmission service, or pursuant to a voluntary offer of such service by the Transmission Provider. (ii) Any retail customer taking unbundled transmission service pursuant to a state requirement that the Transmission Provider offer the transmission service, or pursuant to a voluntary offer of such service by the Transmission Provider is an Eligible Customer under the Tariff.

1.12 *Facilities Study:* An engineering study conducted by the Transmission Provider to determine the required modifications to the Transmission Provider's Transmission System, including the cost and scheduled completion date for such modifications, that will be required to provide the requested transmission service.

1.13 *Firm Point-To-Point Transmission Service:* Transmission Service under this Tariff that is reserved and/or scheduled between specified Points of Receipt and Delivery pursuant to Part II of this Tariff.

1.14 *Good Utility Practice:* Any of the practices, methods and acts engaged in or approved by a significant portion of the electric utility industry during the relevant time period, or any of the practices, methods and acts which, in the exercise of reasonable judgment in light of the facts known at the time the decision was made, could have been expected to accomplish the desired result at a reasonable cost consistent with good business practices, reliability, safety and expedition. Good Utility

Practice is not intended to be limited to the optimum practice, method, or act to the exclusion of all others, but rather to be acceptable practices, methods, or acts generally accepted in the region.

1.15 *Interruption:* A reduction in non-firm transmission service due to economic reasons pursuant to Section 14.7.

1.16 *Load Ratio Share:* Ratio of a Transmission Customer's Network Load to the Transmission Provider's total load computed in accordance with Sections 34.2 and 34.3 of the Network Integration Transmission Service under Part III of the Tariff and calculated on a rolling twelve month basis.

1.17 *Load Shedding:* The systematic reduction of system demand by temporarily decreasing load in response to transmission system or area capacity shortages, system instability, or voltage control considerations under Part III of the Tariff.

1.18 *Long-Term Firm Point-To-Point Transmission Service:* Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of one year or more.

1.19 *Native Load Customers:* The wholesale and retail power customers of the Transmission Provider on whose behalf the Transmission Provider, by statute, franchise, regulatory requirement, or contract, has undertaken an obligation to construct and operate the Transmission Provider's system to meet the reliable electric needs of such customers.

1.20 *Network Customer:* An entity receiving transmission service pursuant to the terms of the Transmission Provider's Network Integration Transmission Service under Part III of the Tariff.

1.21 *Network Integration Transmission Service:* The transmission service provided under Part III of the Tariff.

1.22 *Network Load:* The load that a Network Customer designates for Network Integration Transmission Service under Part III of the Tariff. The Network Customer's Network Load shall include all load served by the output of any Network Resources designated by the Network Customer. A Network Customer may elect to designate less than its total load as Network Load but may not designate only part of the load at a discrete Point of Delivery. Where an Eligible Customer has elected not to designate a particular load at discrete points of delivery as Network Load, the Eligible Customer is responsible for making separate arrangements under Part II of the Tariff for any Point-To-Point Transmission Service that may be necessary for such non-designated load.

1.23 *Network Operating Agreement:* An executed agreement that contains the terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Network Integration Transmission Service under Part III of the Tariff.

1.24 *Network Operating Committee:* A group made up of representatives from the Network Customer(s) and the Transmission Provider established to coordinate operating criteria and other technical considerations required for implementation of Network Integration Transmission Service under Part III of this Tariff.

1.25 *Network Resource:* Any designated generating resource owned, purchased, or leased by a Network Customer under the Network Integration Transmission Service Tariff. Network Resources do not include any resource, or any portion thereof, that is committed for sale to third parties or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis.

1.26 *Network Upgrades:* Modifications or additions to transmission-related facilities that are integrated with and support the Transmission Provider's overall Transmission System for the general benefit of all users of such Transmission System.

1.27 *Non-Firm Point-To-Point Transmission Service:* Point-To-Point Transmission Service under the Tariff that is reserved and scheduled on an as-available basis and is subject to Curtailment or Interruption as set forth in Section 14.7 under Part II of the Tariff. Non-Firm Point-To-Point Transmission Service is available on a stand-alone basis for periods ranging from one hour to one month.

1.28 *Open Access Same-Time Information System (OASIS):* The information system and standards of conduct contained in Part 37 of the Commission's regulations and all additional requirements implemented by subsequent Commission orders dealing with OASIS.

1.29 *Part I:* Tariff Definitions and Common Service Provisions contained in Sections 2 through 12.

1.30 *Part II:* Tariff Sections 13 through 27 pertaining to Point-To-Point Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

1.31 *Part III:* Tariff Sections 28 through 35 pertaining to Network Integration Transmission Service in conjunction with the applicable Common Service Provisions of Part I and appropriate Schedules and Attachments.

1.32 *Parties:* The Transmission Provider and the Transmission Customer receiving service under the Tariff.

1.33 *Point(s) of Delivery:* Point(s) on the Transmission Provider's Transmission System where capacity and energy transmitted by the Transmission Provider will be made available to the Receiving Party under Part II of the Tariff. The Point(s) of Delivery shall be specified in the Service Agreement for Long-Term Firm Point-to-Point Transmission Service.

1.34 *Point(s) of Receipt:* Point(s) of interconnection on the Transmission Provider's Transmission System where capacity and energy will be made available to the Transmission Provider by the Delivering Party under Part II of the Tariff. The Point(s) of Receipt shall be specified in the Service Agreement for Long-Term Firm Point-to-Point Transmission Service.

1.35 *Point-To-Point Transmission Service:* The reservation and transmission of capacity and energy on either a firm or non-firm basis from the Point(s) of Receipt to the Point(s) of Delivery under Part II of the Tariff.

1.36 *Power Purchaser:* The entity that is purchasing the capacity and energy to be transmitted under the Tariff.

1.37 *Receiving Party:* The entity receiving the capacity and energy transmitted by the Transmission Provider to Point(s) of Delivery.

1.38 *Regional Transmission Group (RTG):* A voluntary organization of transmission owners, transmission users and other entities approved by the Commission to efficiently coordinate transmission planning (and expansion), operation and use on a regional (and interregional) basis.

1.39 *Reserved Capacity:* The maximum amount of capacity and energy that the Transmission Provider agrees to transmit for the Transmission Customer over the Transmission Provider's Transmission System between the Point(s) of Receipt and the Point(s) of Delivery under Part II of the Tariff. Reserved Capacity shall be expressed in terms of whole megawatts on a sixty (60) minute interval (commencing on the clock hour) basis.

1.40 *Service Agreement:* The initial agreement and any amendments or supplements thereto entered into by the Transmission Customer and the Transmission Provider for service under the Tariff.

1.41 *Service Commencement Date:* The date the Transmission Provider

begins to provide service pursuant to the terms of an executed Service Agreement, or the date the Transmission Provider begins to provide service in accordance with Section 15.3 or Section 29.1 under the Tariff.

1.42 *Short-Term Firm Point-To-Point Transmission Service:* Firm Point-To-Point Transmission Service under Part II of the Tariff with a term of less than one year.

1.43 *System Impact Study:* An assessment by the Transmission Provider of (i) the adequacy of the Transmission System to accommodate a request for either Firm Point-To-Point Transmission Service or Network Integration Transmission Service and (ii) whether any additional costs may be incurred in order to provide transmission service.

1.44 *Third-Party Sale:* Any sale for resale in interstate commerce to a Power Purchaser that is not designated as part of Network Load under the Network Integration Transmission Service.

1.45 *Transmission Customer:* Any Eligible Customer (or its Designated Agent) that (i) executes a Service Agreement or (ii) requests in writing that the Transmission Provider provide transmission service without a Service Agreement, pursuant to Section 15.3 of the Tariff. This term is used in the Part I Common Service Provisions to include customers receiving transmission service under Part II and Part III of this Tariff.

1.46 *Transmission Provider:* Southwestern Power Administration, which owns, controls, or operates the facilities used for the transmission of electric energy in interstate commerce and provides transmission service under the Tariff.

1.47 *Transmission Provider's Monthly Transmission System Peak:* The maximum firm usage of the Transmission Provider's Transmission System in a calendar month.

1.48 *Transmission Service:* Point-To-Point Transmission Service provided under Part II of the Tariff on a firm and non-firm basis.

1.49 *Transmission System:* The facilities owned, controlled or operated by the Transmission Provider that are used to provide transmission service under Part II and Part III of the Tariff.

2 Initial Allocation and Renewal Procedures

2.1 Initial Allocation of Available Transmission Capability

For purposes of determining whether existing capability on the Transmission Provider's Transmission System is adequate to accommodate a request for firm service under this Tariff, all Completed Applications for new firm transmission service received during the initial sixty (60) day period commencing with the effective date of the Tariff will be deemed to have been filed simultaneously. A lottery system conducted by an independent party shall be used to assign priorities for Completed Applications filed simultaneously. All Completed Applications for firm transmission service received after the initial sixty (60) day period shall be assigned a priority pursuant to Section 13.2.

2.2 Reservation Priority For Existing Firm Service Customers

Existing firm service customers (wholesale requirements and transmission-only, with a contract term of one-year or more), have the right to continue to take transmission service from the Transmission Provider when the contract expires, rolls over or is renewed. This transmission reservation priority is independent of whether the existing customer continues to purchase capacity and energy from the Transmission Provider or elects to purchase capacity and energy from another supplier. If at the end of the contract term, the Transmission Provider's Transmission System cannot accommodate all of the requests for transmission service, the existing firm service customer must agree to accept a contract term at least equal to a competing request by any new Eligible Customer and to pay the current rate for such service. This transmission reservation priority for existing firm service customers is an ongoing right that may be exercised at the end of all firm contract terms of one-year or longer.

3 Ancillary Services

Ancillary Services are needed with transmission service to maintain reliability within and among the Control Areas affected by the transmission service. The Transmission Provider is required to provide (or offer to arrange with the local Control Area operator as discussed below), and the Transmission Customer is required to purchase, the following Ancillary Services (i) Scheduling, System Control and Dispatch, and (ii) Reactive Supply and Voltage Control from Generation Sources.

The Transmission Provider is required, to the extent possible, to offer to provide (or offer to arrange with the local Control Area operator as discussed below) the following Ancillary Services only to the Transmission Customer serving load within the Transmission Provider's Control Area (i) Regulation and Frequency Response, (ii) Energy Imbalance, (iii) Operating Reserve—Spinning, and (iv) Operating Reserve—Supplemental. The Transmission Customer serving load within the Transmission Provider's Control Area is required to acquire these Ancillary Services, whether from the Transmission Provider, from a third party, or by self-supply. The Transmission Customer may not decline the Transmission Provider's offer of Ancillary Services unless it demonstrates that it has acquired the Ancillary Services from another source. The Transmission Provider will offer to provide Ancillary Services to the Transmission Customer only to the extent that surplus Federal generation is available for such services. However, the Transmission Provider may purchase Ancillary Services from others on behalf of the Transmission Customer under the terms of an agreement separate from the Service Agreement. The costs of such purchases on behalf of a Transmission Customer will be passed directly through to that Transmission Customer. The Transmission Customer must list in its Application which Ancillary Services it will purchase from the Transmission Provider.

If the Transmission Provider is a utility providing transmission service, but is not a Control Area operator, it may be unable to provide some or all of the Ancillary Services. In this case, the Transmission Provider can fulfill its obligation to provide Ancillary Services by acting as the Transmission Customer's agent to secure these Ancillary Services from the Control Area operator. The Transmission Customer may elect to: (i) Have the Transmission Provider act as its agent, (ii) secure the Ancillary Services directly from the Control Area operator, or (iii) secure the Ancillary Services (discussed in Schedules 3, 4, 5, and 6) from a third party or by self-supply when technically feasible.

The Transmission Provider shall specify the rate treatment and all related terms and conditions in the event of an unauthorized use of Ancillary Services by the Transmission Customer.

The specific Ancillary Services, prices and/or compensation methods for each are described on the Schedules that are attached to and made a part of the Tariff. Three principal requirements apply to discounts for Ancillary Services provided by the Transmission Provider in conjunction with its provision of transmission service as follows: (1) Any offer of a discount made by the Transmission Provider

must be announced to all Eligible Customers solely by posting on the OASIS, (2) any customer-initiated requests for discounts (including requests for use by one's wholesale merchant or an affiliate's use) must occur solely by posting on the OASIS, and (3) once a discount is negotiated, details must be immediately posted on the OASIS. A discount agreed upon for an Ancillary Service must be offered for the same period to all Eligible Customers on the Transmission Provider's system. Sections 3.1 through 3.6 below list the six Ancillary Services.

3.1 Scheduling, System Control and Dispatch Service: The rates and/or methodology are described in Schedule 1.

3.2 Reactive Supply and Voltage Control from Generation Sources Service: The rates and/or methodology are described in Schedule 2.

3.3 Regulation and Frequency Response Service: Where applicable the rates and/or methodology are described in Schedule 3.

3.4 Energy Imbalance Service: Where applicable the rates and/or methodology are described in Schedule 4.

3.5 Operating Reserve—Spinning Reserve Service: Where applicable the rates and/or methodology are described in Schedule 5.

3.6 Operating Reserve—Supplemental Reserve Service: Where applicable the rates and/or methodology are described in Schedule 6.

4 Open Access Same-Time Information System (OASIS)

Terms and conditions regarding Open Access Same-Time Information System and standards of conduct are set forth in 18 CFR § 37 of the Commission's regulations (Open Access Same-Time Information System and Standards of Conduct for Public Utilities). In the event available transmission capability as posted on the OASIS is insufficient to accommodate a request for firm transmission service, additional studies may be required as provided by this Tariff pursuant to Sections 19 and 32.

5 Local Furnishing Bonds

5.1 Transmission Providers That Own Facilities Financed by Local Furnishing Bonds

This provision is applicable only to Transmission Providers that have financed facilities for the local furnishing of electric energy with tax-exempt bonds, as described in Section 142(f) of the Internal Revenue Code (''local furnishing bonds''). Notwithstanding any other provision of this Tariff, the Transmission Provider shall not be required to provide transmission service to any Eligible Customer pursuant to this Tariff if the provision of such transmission service would jeopardize the tax-exempt status of any local furnishing bond(s) used to finance the Transmission Provider's facilities that would be used in providing such transmission service.

5.2 Alternative Procedures for Requesting Transmission Service

(i) If the Transmission Provider determines that the provision of transmission service requested by an Eligible Customer would jeopardize the tax-exempt status of any local furnishing bond(s) used to finance its facilities that would be used in providing such transmission service, it shall advise the Eligible Customer within thirty (30) days of receipt of the Completed Application.

(ii) If the Eligible Customer thereafter renews its request for the same transmission service referred to in (i) by tendering an application under Section 211 of the Federal Power Act, the Transmission Provider, within ten (10) days of receiving a copy of the Section 211 application, will waive its rights to a request for service under Section 213(a) of the Federal Power Act and to the issuance of a proposed order under Section 212(c) of the Federal Power Act. The Commission, upon receipt of the Transmission Provider's waiver of its rights to a request for service under Section 213(a) of the Federal Power Act and to the issuance of a proposed order under Section 212(c) of the Federal Power Act, shall issue an order under Section 211 of the Federal Power Act. Upon issuance of the order under Section 211 of the Federal Power Act, the Transmission Provider shall be required to provide the requested transmission service in accordance with the terms and conditions of this Tariff.

6 Reciprocity

A Transmission Customer receiving transmission service under this Tariff agrees to provide comparable transmission service that it is capable of providing to the Transmission Provider on similar terms and conditions over facilities used for the transmission of electric energy owned, controlled or operated by the Transmission Customer and over facilities used for the transmission of electric energy owned, controlled or operated by the Transmission Customer's corporate affiliates. A Transmission Customer that is a member of a power pool or Regional Transmission Group also agrees to provide comparable transmission service to the members of such power pool and Regional Transmission Group on similar terms and conditions over facilities used for the transmission of electric energy owned, controlled or operated by the Transmission Customer and over facilities used for the transmission of electric energy owned, controlled or operated by the Transmission Customer's corporate affiliates.

This reciprocity requirement applies not only to the Transmission Customer that obtains transmission service under the Tariff, but also to all parties to a transaction that involves the use of transmission service under the Tariff, including the power seller, buyer and any intermediary, such as a power marketer. This reciprocity requirement also applies to any Eligible Customer that owns, controls or operates transmission facilities that uses an intermediary, such as a power marketer, to request transmission service under the Tariff. If the Transmission Customer does not own, control or operate transmission facilities, it must include in its Application a sworn statement of one of its duly authorized officers or other representatives that the purpose of its Application is not to assist an Eligible Customer to avoid the requirements of this provision.

7 Billing and Payment

7.1 Billing Procedure

Within a reasonable time after the first day of each month, the Transmission Provider shall submit an invoice to the Transmission Customer for the charges for all services furnished under the Tariff during the preceding month. The invoice shall be paid by the Transmission Customer within twenty (20) days of receipt. All payments shall be made in immediately available funds payable to the Transmission Provider, or by wire transfer to a bank named by the Transmission Provider.

7.2 Interest on Unpaid Balances

Interest on any unpaid amounts (including amounts placed in escrow) shall be calculated in accordance with the methodology specified for interest on refunds in the Commission's regulations at 18 CFR § 35.19a(a)(2)(iii). Interest on delinquent amounts shall be calculated from the due date of the bill to the date of payment. When payments are made by mail, bills shall be considered as having been paid on the date of receipt by the Transmission Provider.

7.3 Customer Default

In the event the Transmission Customer fails, for any reason other than a billing dispute as described below, to make payment to the Transmission Provider on or before the due date as described above, and such failure of payment is not corrected within thirty

(30) calendar days after the Transmission Provider notifies the Transmission Customer to cure such failure, a default by the Transmission Customer shall be deemed to exist. Within the same 30 calendar days after notice of failure to make payment, the Transmission Customer shall have the right of appeal to the Administrator, Southwestern Power Administration. The Transmission Provider shall continue service until the Administrator makes a determination on the Transmission Customer's appeal. In the event of a billing dispute between the Transmission Provider and the Transmission Customer, the Transmission Provider will continue to provide service under the Service Agreement as long as the Transmission Customer: (i) Continues to make all payments not in dispute, and (ii) pays into an independent escrow account the portion of the invoice in dispute, pending resolution of such dispute. If the Transmission Customer fails to meet these two requirements for continuation of service, then the Transmission Provider may provide notice to the Transmission Customer of its intention to suspend service in sixty (60) days, in accordance with Commission policy.

8 Accounting for the Transmission Provider's Use of the Tariff

The Transmission Provider shall record the following amounts, as outlined below.

8.1 Transmission Revenues

Include in a separate operating revenue account or subaccount the revenues it receives from Transmission Service when making Third-Party Sales under Part II of the Tariff.

8.2 Study Costs and Revenues

Include in a separate transmission operating expense account or subaccount, costs properly chargeable to expense that are incurred to perform any System Impact Studies or Facilities Studies which the Transmission Provider conducts to determine if it must construct new transmission facilities or upgrades necessary for its own uses, including making Third-Party Sales under the Tariff; and include in a separate operating revenue account or subaccount the revenues received for System Impact Studies or Facilities Studies performed when such amounts are separately stated and identified in the Transmission Customer's billing under the Tariff.

9 Regulatory Filings

Nothing contained in the Tariff or any Service Agreement shall be construed as affecting in any way the ability of any Party receiving service under the Tariff to exercise its rights under the Federal Power Act and pursuant to the Commission's rules and regulations promulgated thereunder.

10 Force Majeure and Indemnification

10.1 Force Majeure

An event of Force Majeure means any act of God, labor disturbance, act of the public enemy, war, insurrection, riot, fire, storm or flood, explosion, breakage or accident to machinery or equipment, any Curtailment, order, regulation or restriction imposed by governmental military or lawfully established civilian authorities, or any other cause beyond a Party's control. A Force Majeure event does not include an act of negligence or intentional wrongdoing. Neither the Transmission Provider nor the Transmission Customer will be considered in default as to any obligation under this Tariff if prevented from fulfilling the obligation due to an event of Force Majeure. However, a Party whose performance under this Tariff is hindered by an event of Force Majeure shall make all reasonable efforts to perform its obligations under this Tariff. Either Party rendered unable to fulfill any of its obligations under the Service Agreement by reason of an uncontrollable force shall give prompt written notice of such fact to the other Party and shall exercise due diligence to remove such inability with all reasonable dispatch.

10.2 Indemnification

The Transmission Customer shall at all times indemnify, defend, and save the Transmission Provider harmless from, any and all damages, losses, claims, including claims and actions relating to injury to or death of any person or damage to property, demands, suits, recoveries, costs and expenses, court costs, attorney fees, and all other obligations by or to third parties, arising out of or resulting from the Transmission Provider's performance of its obligations under this Tariff on behalf of the Transmission Customer, except in cases of negligence or intentional wrongdoing by the Transmission Provider. The liability of the Transmission Provider shall be determined in accordance with the provisions of the Federal Tort Claims Act, as amended.

11 Creditworthiness

For the purpose of determining the ability of the Transmission Customer to meet its obligations related to service hereunder, the Transmission Provider may require reasonable credit review procedures. This review shall be made in accordance with standard commercial practices. In addition, the Transmission Provider may require the Transmission Customer to provide and maintain in effect during the term of the Service Agreement, an unconditional and irrevocable letter of credit as security to meet its responsibilities and obligations under the Tariff, or an alternative form of security proposed by the Transmission Customer and acceptable to the Transmission Provider and consistent with commercial practices established by the Uniform Commercial Code that protects the Transmission Provider against the risk of non-payment.

12 Dispute Resolution Procedures

12.1 Internal Dispute Resolution Procedures

Any dispute between a Transmission Customer and the Transmission Provider involving transmission service under the Tariff shall be referred to a designated senior representative of the Transmission Provider and a senior representative of the Transmission Customer for resolution on an informal basis as promptly as practicable.

12.2 Disputes

Any dispute regarding service provided under the Service Agreement will be resolved in a manner consistent with the Administrative Disputes Resolution Act, as amended, subject to statutory and regulatory limits on the Transmission Provider's authority to submit disputes to arbitration.

12.3 Rights Under The Federal Power Act

Nothing in this section shall restrict the rights of any party to file a Complaint with the Commission under relevant provisions of the Federal Power Act.

Part II. Point-to-Point Transmission Service

Preamble

The Transmission Provider will provide Firm and Non-Firm Point-To-Point Transmission Service pursuant to the applicable terms and conditions of this Tariff. Point-To-Point Transmission Service is for the receipt of capacity and energy at designated Point(s) of Receipt and the transmission of such capacity and energy to designated Point(s) of Delivery.

13 Nature of Firm Point-To-Point Transmission Service

13.1 Term

The minimum term of Firm Point-To-Point Transmission Service shall be one day and the maximum term shall be specified in the Service Agreement.

13.2 Reservation Priority

Long-Term Firm Point-To-Point Transmission Service shall be available on a first-come, first-served basis *i.e.,* in the chronological sequence in which each Transmission Customer reserved service. Reservations for Short-Term Firm Point-To-Point Transmission Service will be conditional based upon the length of the requested transaction. If the Transmission System becomes oversubscribed, requests for longer term service may preempt requests for shorter term service up to the following deadlines; one day before the commencement of daily service, one week before the commencement of weekly service, and one month before the commencement of monthly service. Before the conditional reservation deadline, if available transmission capability is insufficient to satisfy all Applications, an Eligible Customer with a reservation for shorter term service has the right of first refusal to match any longer term reservation before losing its reservation priority. A longer term competing request for Short-Term Firm Point-To-Point Transmission Service will be granted if the Eligible Customer with the right of first refusal does not agree to match the competing request within 24 hours (or earlier if necessary to comply with the scheduling deadlines provided in § 13.8) from being notified by the Transmission Provider of a longer-term competing request for Short-Term Firm Point-To-Point Transmission Service. After the conditional reservation deadline, service will commence pursuant to the terms of Part II of the Tariff. Firm Point-To-Point Transmission Service will always have a reservation priority over Non-Firm Point-To-Point Transmission Service under the Tariff. All Long-Term Firm Point-To-Point Transmission Service will have equal reservation priority with Native Load Customers and Network Customers. Reservation priorities for existing firm service customers are provided in § 2.2.

13.3 Use of Firm Transmission Service by the Transmission Provider

The Transmission Provider will be subject to the rates, terms and conditions of Part II of the Tariff when making Third-Party Sales under agreements executed on or after November 24, 1997. The Transmission Provider will maintain separate accounting, pursuant to Section 8, for any use of the Point-To-Point Transmission Service to make Third-Party Sales.

13.4 Service Agreements

The Transmission Provider shall offer a standard form Firm Point-To-Point Transmission Service Agreement (Attachment A) to an Eligible Customer when it submits a Completed Application for Long-Term Firm Point-To-Point Transmission Service. The Transmission Provider shall offer a standard form Firm Point-to-Point Transmission Service Agreement (Attachment A) to an Eligible Customer when it first submits a Completed Application for Short-Term Firm Point-to-Point Transmission Service pursuant to the Tariff.

13.5 Transmission Customer Obligations for Facility Additions or Redispatch Costs

In cases where the Transmission Provider determines that the Transmission System is not capable of providing Firm Point-To-Point Transmission Service without: (1) Degrading or impairing the reliability of service to Native Load Customers, Network Customers, and other Transmission Customers taking Firm Point-To-Point Transmission Service, or (2) interfering with the Transmission Provider's ability to meet prior firm contractual commitments to others, the Transmission Provider will be obligated to expand or upgrade its Transmission System pursuant to the terms of § 15.4. The Transmission Customer must agree to compensate the Transmission Provider in advance for any necessary transmission facility additions pursuant to the terms of Section 27. To the extent the Transmission Provider can relieve any system constraint more economically by redispatching the Transmission Provider's resources than through constructing Network Upgrades, it shall do so, provided that the Eligible Customer agrees to compensate the Transmission Provider pursuant to the terms of Section 27. Any redispatch, Network Upgrade or Direct Assignment Facilities costs to be charged to the Transmission Customer on an incremental basis under the Tariff will be specified in the Service Agreement or a separate agreement, as appropriate, prior to initiating service.

13.6 Curtailment of Firm Transmission Service

In the event that a Curtailment on the Transmission Provider's Transmission System, or a portion thereof, is required to maintain reliable operation of such system, Curtailments will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the constraint. If multiple transactions require Curtailment, to the extent practicable and consistent with Good Utility Practice, the Transmission Provider will curtail service to Network Customers and Transmission Customers taking Firm Point-To-Point Transmission Service on a basis comparable to the curtailment of service to the Transmission Provider's Native Load Customers. All Curtailments will be made on a non-discriminatory basis; however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Transmission Service. When the Transmission Provider determines that an electrical emergency exists on its Transmission System and implements emergency procedures to Curtail Firm Transmission Service, the Transmission Customer shall make the required reductions upon request of the Transmission Provider. However, the Transmission Provider reserves the right to Curtail, in whole or in part, any Firm Transmission Service provided under the Tariff when, in the Transmission Provider's sole discretion, an emergency or other unforeseen condition impairs or degrades the reliability of its Transmission System. The Transmission Provider will notify all affected Transmission Customers in a timely manner of any scheduled Curtailments.

13.7 Classification of Firm Transmission Service

(a) The Transmission Customer taking Firm Point-To-Point Transmission Service may: (1) Change its Receipt and Delivery Points to obtain service on a non-firm basis consistent with the terms of Section 22.1, or (2) request a modification of the Points of Receipt or Delivery on a firm basis pursuant to the terms of Section 22.2.

(b) The Transmission Customer may purchase transmission service to make sales of capacity and energy from multiple generating units that are on the Transmission Provider's Transmission System. For such a purchase of transmission service, the resources will be designated as multiple Points of Receipt, unless the multiple generating units are at the same generating plant in which case the units would be treated as a single Point of Receipt.

(c) The Transmission Provider shall provide firm deliveries of capacity and energy from the Point(s) of Receipt to the Point(s) of Delivery. Each Point of Receipt at which firm transmission

capacity is reserved by the Transmission Customer shall be set forth in the Firm Point-To-Point Service Agreement for Long-Term Firm Transmission Service along with a corresponding capacity reservation associated with each Point of Receipt. Points of Receipt and corresponding capacity reservations shall be as mutually agreed upon by the Parties for Short-Term Firm Transmission. Each Point of Delivery at which firm transmission capacity is reserved by the Transmission Customer shall be set forth in the Firm Point-To-Point Service Agreement for Long-Term Firm Transmission Service along with a corresponding capacity reservation associated with each Point of Delivery. Points of Delivery and corresponding capacity reservations shall be as mutually agreed upon by the Parties for Short-Term Firm Transmission. The greater of either: (1) The sum of the capacity reservations at the Point(s) of Receipt, or (2) the sum of the capacity reservations at the Point(s) of Delivery shall be the Transmission Customer's Reserved Capacity. The Transmission Customer will be billed for its Reserved Capacity under the terms of Schedule 7. The Transmission Customer may not exceed its firm capacity reserved at each Point of Receipt and each Point of Delivery except as otherwise specified in Section 22. The Transmission Provider shall specify the rate treatment and all related terms and conditions applicable in the event that a Transmission Customer (including Third-Party Sales by the Transmission Provider) exceeds its firm reserved capacity at any Point of Receipt or Point of Delivery.

13.8 Scheduling of Firm Point-To-Point Transmission Service

Schedules for the Transmission Customer's Firm Point-To-Point Transmission Service must be submitted to the Transmission Provider no later than *10:00 a.m.* of the day prior to commencement of such service. Schedules submitted after 10:00 a.m. will be accommodated, if practicable. Hour-to-hour schedules of any capacity and energy that is to be delivered must be stated in increments of 1,000 kW per hour. Transmission Customers within the Transmission Provider's service area with multiple requests for Transmission Service at a Point of Receipt, each of which is under 1,000 kW per hour, may consolidate their service requests at a common point of receipt into units of 1,000 kW per hour for scheduling and billing purposes. Scheduling changes will be permitted up to *twenty (20) minutes* before the start of the next clock hour provided that the Delivering Party and Receiving Party also agree to the schedule modification. The Transmission Provider will furnish to the Delivering Party's system operator, hour-to-hour schedules equal to those furnished by the Receiving Party (unless reduced for losses) and shall deliver the capacity and energy provided by such schedules. Should the Transmission Customer, Delivering Party or Receiving Party revise or terminate any schedule, such party shall immediately notify the Transmission Provider, and the Transmission Provider shall have the right to adjust accordingly the schedule for capacity and energy to be received and to be delivered.

14 Nature of Non-Firm Point-To-Point Transmission Service

14.1 Term

Non-Firm Point-To-Point Transmission Service will be available for periods ranging from one (1) hour to one (1) month. However, a Purchaser of Non-Firm Point-To-Point Transmission Service will be entitled to reserve a sequential term of service (such as a sequential monthly term without having to wait for the initial term to expire before requesting another monthly term) so that the total time period for which the reservation applies is greater than one month, subject to the requirements of Section 18.3.

14.2 Reservation Priority

Non-Firm Point-To-Point Transmission Service shall be available from transmission capability in excess of that needed for reliable service to Native Load Customers, Network Customers, and other Transmission Customers taking Long-Term and Short-Term Firm Point-To-Point Transmission Service. A higher priority will be assigned to reservations with a longer duration of service. In the event the Transmission System is constrained, competing requests of equal duration will be prioritized based on the highest price offered by the Eligible Customer for the Transmission Service. Eligible Customers that have already reserved shorter term service have the right of first refusal to match any longer term reservation before being preempted. A longer term competing request for Non-Firm Point-To-Point Transmission Service will be granted if the Eligible Customer with the right of first refusal does not agree to match the competing request: (a) Immediately for hourly Non-Firm Point-To-Point Transmission Service after notification by the Transmission Provider; and, (b) within 24 hours (or earlier if necessary to comply with the scheduling deadlines provided in Section 14.6) for Non-Firm Point-To-Point Transmission Service other than hourly transactions after notification by the Transmission Provider. Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have the lowest reservation priority under the Tariff.

14.3 Use of Non-Firm Point-To-Point Transmission Service by the Transmission Provider

The Transmission Provider will be subject to the rates, terms and conditions of Part II of the Tariff when making Third-Party Sales under agreements executed on or after November 24, 1997. The Transmission Provider will maintain separate accounting, pursuant to Section 8, for any use of Non-Firm Point-To-Point Transmission Service to make Third-Party Sales.

14.4 Service Agreements

The Transmission Provider shall offer a standard form Non-Firm Point-To-Point Transmission Service Agreement (Attachment B) to an Eligible Customer when it first submits a Completed Application for Non-Firm Point-To-Point Transmission Service pursuant to the Tariff.

14.5 Classification of Non-Firm Point-To-Point Transmission Service

Non-Firm Point-To-Point Transmission Service shall be offered under terms and conditions contained in Part II of the Tariff. The Transmission Provider undertakes no obligation under the Tariff to plan its Transmission System in order to have sufficient capacity for Non-Firm Point-To-Point Transmission Service. Parties requesting Non-Firm Point-To-Point Transmission Service for the transmission of firm power do so with the full realization that such service is subject to availability and to Curtailment or Interruption under the terms of the Tariff. The Transmission Provider shall specify the rate treatment and all related terms and conditions applicable in the event that a Transmission Customer (including Third-Party Sales by the Transmission Provider) exceeds its non-firm capacity reservation. Non-Firm Point-To-Point Transmission Service shall include transmission of energy on an hourly basis and transmission of scheduled short-term capacity and energy on a daily, weekly or monthly

basis, but not to exceed one month's reservation for any one Application under Schedule 8.

14.6 Scheduling of Non-Firm Point-To-Point Transmission Service

Schedules for Non-Firm Point-To-Point Transmission Service must be submitted to the Transmission Provider no later than *2:00 p.m.* of the day prior to commencement of such service. Schedules submitted after 2:00 p.m. will be accommodated, if practicable. Hour-to-hour schedules of energy that are to be delivered must be stated in increments of 1,000 kW per hour. Transmission Customers within the Transmission Provider's service area with multiple requests for Transmission Service at a Point of Receipt, each of which is under 1,000 kW per hour, may consolidate their schedules at a common Point of Receipt into units of 1,000 kW per hour. Scheduling changes will be permitted up to *twenty (20) minutes* before the start of the next clock hour provided that the Delivering Party and Receiving Party also agree to the schedule modification. The Transmission Provider will furnish to the Delivering Party's system operator, hour-to-hour schedules equal to those furnished by the Receiving Party (unless reduced for losses) and shall deliver the capacity and energy provided by such schedules. Should the Transmission Customer, Delivering Party or Receiving Party revise or terminate any schedule, such party shall immediately notify the Transmission Provider, and the Transmission Provider shall have the right to adjust accordingly the schedule for capacity and energy to be received and to be delivered.

14.7 Curtailment or Interruption of Service

The Transmission Provider reserves the right to Curtail, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for reliability reasons when, an emergency or other unforeseen condition threatens to impair or degrade the reliability of its Transmission System. The Transmission Provider reserves the right to Interrupt, in whole or in part, Non-Firm Point-To-Point Transmission Service provided under the Tariff for economic reasons in order to accommodate (1) A request for Firm Transmission Service, (2) a request for Non-Firm Point-To-Point Transmission Service of greater duration, (3) a request for Non-Firm Point-To-Point Transmission Service of equal duration with a higher price, or (4) transmission service for Network Customers from non-designated resources. The Transmission Provider also will discontinue or reduce service to the Transmission Customer to the extent that deliveries for transmission are discontinued or reduced at the Point(s) of Receipt. Where required, Curtailments or Interruptions will be made on a non-discriminatory basis to the transaction(s) that effectively relieve the constraint, however, Non-Firm Point-To-Point Transmission Service shall be subordinate to Firm Transmission Service. If multiple transactions require Curtailment or Interruption, to the extent practicable and consistent with Good Utility Practice, Curtailments or Interruptions will be made to transactions of the shortest term (*e.g.*, hourly non-firm transactions will be Curtailed or Interrupted before daily non-firm transactions and daily non-firm transactions will be Curtailed or Interrupted before weekly non-firm transactions). Transmission service for Network Customers from resources other than designated Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. Non-Firm Point-To-Point Transmission Service over secondary Point(s) of Receipt and Point(s) of Delivery will have a lower priority than any Non-Firm Point-To-Point Transmission Service under the Tariff. The Transmission Provider will provide advance notice of Curtailment or Interruption where such notice can be provided consistent with Good Utility Practice.

15 Service Availability

15.1 General Conditions

The Transmission Provider will provide Firm and Non-Firm Point-To-Point Transmission Service over, on or across its Transmission System to any Transmission Customer that has met the requirements of Section 16.

15.2 Determination of Available Transmission Capability

A description of the Transmission Provider's specific methodology for assessing available transmission capability posted on the Transmission Provider's OASIS (Section 4) is contained in Attachment C of the Tariff. In the event sufficient transmission capability may not exist to accommodate a service request, the Transmission Provider will respond by performing a System Impact Study.

15.3 Initiating Service in the Absence of an Executed Service Agreement

If the Transmission Provider and the Transmission Customer requesting Firm or Non-Firm Point-To-Point Transmission Service cannot agree on all the terms and conditions of the Point-To-Point Service Agreement, the Transmission Provider shall commence providing Transmission Service subject to the Transmission Customer agreeing to: (i) Compensate the Transmission Provider at the existing rate placed in effect pursuant to Federal law and regulations, and (ii) comply with the terms and conditions of the Tariff including paying the appropriate processing fees in accordance with the terms of Section 17.3. If the Transmission Customer cannot accept all of the terms and conditions of the offered Service Agreement, the Transmission Customer may request resolution of the unacceptable terms and conditions under Section 12, Dispute Resolution Procedures, of the Tariff. Any changes resulting from the dispute resolution procedures will be effective upon the date of initial service.

15.4 Obligation to Provide Transmission Service that Requires Expansion or Modification of the Transmission System

If the Transmission Provider determines that it cannot accommodate a Completed Application for Firm Point-To-Point Transmission Service because of insufficient capability on its Transmission System, the Transmission Provider will use due diligence to expand or modify its Transmission System to provide the requested Firm Transmission Service, provided the Transmission Customer agrees to compensate the Transmission Provider in advance for such costs pursuant to the terms of Section 27. The Transmission Provider will conform to Good Utility Practice in determining the need for new facilities and in the design and construction of such facilities. The obligation applies only to those facilities that the Transmission Provider has the right to expand or modify.

15.5 Deferral of Service

The Transmission Provider may defer providing service until it completes construction of new transmission facilities or upgrades needed to provide Firm Point-To-Point Transmission Service whenever the Transmission Provider determines that providing the requested service would, without such new facilities or upgrades, impair or degrade reliability to any existing firm services.

15.6 Other Transmission Service Schedules

Eligible Customers receiving transmission service under other agreements on file with the Commission

may continue to receive transmission service under those agreements until such time as those agreements may be modified by the Commission.

15.7 Real Power Losses

Real Power Losses are associated with all transmission service. The Transmission Provider is not obligated to provide Real Power Losses. The Transmission Customer is responsible for replacing losses associated with all transmission service as calculated by the Transmission Provider. The applicable Real Power Loss factors are specified in the Service Agreements.

16 Transmission Customer Responsibilities

16.1 Conditions Required of Transmission Customers

Point-To-Point Transmission Service shall be provided by the Transmission Provider only if the following conditions are satisfied by the Transmission Customer:

a. The Transmission Customer has pending a Completed Application for service;

b. The Transmission Customer meets the creditworthiness criteria set forth in Section 11;

c. The Transmission Customer will have arrangements in place for any other transmission service necessary to effect the delivery from the generating source to the Transmission Provider prior to the time service under Part II of the Tariff commences;

d. The Transmission Customer agrees to pay for any facilities constructed and chargeable to such Transmission Customer under Part II of the Tariff, whether or not the Transmission Customer takes service for the full term of its reservation; and

e. The Transmission Customer has executed a Point-To-Point Service Agreement or has agreed to receive service pursuant to Section 15.3.

16.2 Transmission Customer Responsibility for Third-Party Arrangements

Any scheduling arrangements that may be required by other electric systems shall be the responsibility of the Transmission Customer requesting service. The Transmission Customer shall provide, unless waived by the Transmission Provider, notification to the Transmission Provider identifying such systems and authorizing them to schedule the capacity and energy to be transmitted by the Transmission Provider pursuant to Part II of the Tariff on behalf of the Receiving Party at the Point of Delivery or the Delivering Party at the Point of Receipt. However, the Transmission Provider will undertake reasonable efforts to assist the Transmission Customer in making such arrangements, including, without limitation, providing any information or data required by such other electric system pursuant to Good Utility Practice.

17 Procedures for Arranging Firm Point-To-Point Transmission Service

17.1 Application

A request for Firm Point-To-Point Transmission Service for periods of one year or longer must contain a written Application to Administrator, Southwestern Power Administration, P.O. Box 1619, Tulsa, Oklahoma 74101–1619, at least sixty (60) days in advance of the calendar month in which service is to commence. The Transmission Provider will consider requests for such firm service on shorter notice when feasible. Requests for firm service for periods of less than one year shall be subject to expedited procedures that shall be negotiated between the Parties within the time constraints provided in Section 17.5. All Firm Point-To-Point Transmission Service requests should be submitted by entering the information listed below on the Transmission Provider's OASIS. Prior to implementation of the Transmission Provider's OASIS, a Completed Application may be submitted by (i) transmitting the required information to the Transmission Provider by telefax, or (ii) providing the information by telephone over the Transmission Provider's time-recorded telephone line. Each of these methods will provide a time-stamped record for establishing the priority of the Application.

17.2 Completed Application

A Completed Application shall provide all of the information included in 18 CFR § 2.20 including but not limited to the following:

(i) The identity, address, telephone number and facsimile number of the entity requesting service

(ii) A statement that the entity requesting service is, or will be upon commencement of service, an Eligible Customer under the Tariff

(iii) The location of the Point(s) of Receipt and Point(s) of Delivery and the identities of the Delivering Parties and the Receiving Parties

(iv) The location of the generating facility(ies) supplying the capacity and energy and the location of the load ultimately served by the capacity and energy transmitted. The Transmission Provider will treat this information as confidential except to the extent that disclosure of this information is required by the Tariff, by regulatory or judicial order, for reliability purposes pursuant to Good Utility Practice or pursuant to RTG transmission information sharing agreements. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations

(v) A description of the supply characteristics of the capacity and energy to be delivered

(vi) An estimate of the capacity and energy expected to be delivered to the Receiving Party

(vii) The Service Commencement Date and the term of the requested Transmission Service

(viii) The transmission capacity requested for each Point of Receipt and each Point of Delivery on the Transmission Provider's Transmission System; customers may combine their requests for service in order to satisfy the minimum transmission capacity requirement

The Transmission Provider shall treat this information consistent with the standards of conduct contained in part 37 of the Commission's regulations.

17.3 Processing Fee

A Completed Application for Firm Point-To-Point Transmission Service also shall include a processing fee for all requests for Firm Transmission Service of one year or longer. The processing fee shall be calculated using the estimated average number of hours required to process an application. The fee will be posted on the Transmission Provider's OASIS and may change as average costs/per/hour for the Transmission Provider change. This fee does not apply to costs to complete System Impact Studies or Facility Studies or to add new facilities.

17.4 Notice of Deficient Application

If an Application fails to meet the requirements of the Tariff, the Transmission Provider shall notify the entity requesting service within fifteen (15) days of receipt of the reasons for such failure. The Transmission Provider will attempt to remedy minor deficiencies in the Application through informal communications with the Eligible Customer. If such efforts are unsuccessful, the Transmission Provider shall return the Application. Upon receipt of a new or revised Application that fully complies with the requirements of Part II of the Tariff, the Eligible Customer shall be assigned a new priority consistent with the date of the new or revised Application.

17.5 Response to a Completed Application

Following receipt of a Completed Application for Firm Point-To-Point Transmission Service, the Transmission Provider shall make a determination of available transmission capability as required in Section 15.2. The Transmission Provider shall notify the Eligible Customer as soon as practicable, but not later than thirty (30) days after the date of receipt of a Completed Application either (i) If it will be able to provide service without performing a System Impact Study or (ii) if such a study is needed to evaluate the impact of the Application pursuant to Section 19.1. Responses by the Transmission Provider must be made as soon as practicable to all completed applications (including applications by its own merchant function) and the timing of such responses must be made on a non-discriminatory basis.

17.6 Execution of a Service Agreement

Whenever the Transmission Provider determines that a System Impact Study is not required and that the service can be provided, it shall notify the Eligible Customer as soon as practicable but no later than thirty (30) days after receipt of the Completed Application. Where a System Impact Study is required, the provisions of Section 19 will govern the execution of a Service Agreement. Failure of an Eligible Customer to execute and return the Service Agreement or request service without an executed service agreement pursuant to Section 15.3 within fifteen (15) days after it is tendered by the Transmission Provider will be deemed a withdrawal and termination of the Application. Nothing herein limits the right of an Eligible Customer to file another Application after such withdrawal and termination.

17.7 Extensions for Commencement of Service

The Transmission Customer can obtain up to *five (5) one-year extensions* for the commencement of service. The Transmission Customer may postpone service by paying a non-refundable annual reservation fee equal to one-month's charge for Firm Transmission Service for each year or fraction thereof. If during any extension for the commencement of service an Eligible Customer submits a Completed Application for Firm Transmission Service, and such request can be satisfied only by releasing all or part of the Transmission Customer's Reserved Capacity, the original Reserved Capacity will be released unless the following condition is satisfied. Within thirty (30) days, the original Transmission Customer agrees to pay the Firm Point-To-Point transmission rate for its Reserved Capacity concurrent with the new Service Commencement Date. In the event the Transmission Customer elects to release the Reserved Capacity, the reservation fees or portions thereof previously paid will be forfeited.

18 Procedures for Arranging Non-Firm Point-To-Point Transmission Service

18.1 Application

Eligible Customers seeking Non-Firm Point-To-Point Transmission Service must submit a Completed Application to the Transmission Provider. Applications should be submitted by entering the information listed below on the Transmission Provider's OASIS. Prior to implementation of the Transmission Provider's OASIS, a Completed Application may be submitted by: (i) Transmitting the required information to the Transmission Provider by telefax, or (ii) providing the information by telephone over the Transmission Provider's time-recorded telephone line. Each of these methods will provide a time-stamped record for establishing the service priority of the Application.

18.2 Completed Application

A Completed Application shall provide all of the information included in 18 CFR § 2.20 including but not limited to the following:

(i) The identity, address, telephone number and facsimile number of the entity requesting service.

(ii) A statement that the entity requesting service is, or will be upon commencement of service, an Eligible Customer under the Tariff.

(iii) The Point(s) of Receipt and the Point(s) of Delivery.

(iv) The maximum amount of capacity requested at each Point of Receipt and Point of Delivery; and

(v) The proposed dates and hours for initiating and terminating transmission service hereunder.

In addition to the information specified above, when required to properly evaluate system conditions, the Transmission Provider also may ask the Transmission Customer to provide the following:

(vi) The electrical location of the initial source of the power to be transmitted pursuant to the Transmission Customer's request for service.

(vii) The electrical location of the ultimate load.

The Transmission Provider will treat this information in (vi) and (vii) as confidential at the request of the Transmission Customer except to the extent that disclosure of this information is required by this Tariff, by Federal law or regulatory or judicial order, for reliability purposes pursuant to Good Utility Practice, or pursuant to RTG transmission information sharing agreements. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations.

18.3 Reservation of Non-Firm Point-To-Point Transmission Service

Requests for monthly service shall be submitted *no earlier than sixty (60) days* before service is to commence; requests for weekly service shall be submitted *no earlier than fourteen (14) days* before service is to commence, requests for daily service shall be submitted *no earlier than two (2) days* before service is to commence, and requests for hourly service shall be submitted *no earlier than noon the day* before service is to commence. Requests for service received *later than 2:00 p.m.* prior to the day service is scheduled to commence will be accommodated if practicable.

18.4 Determination of Available Transmission Capability

Following receipt of a tendered schedule the Transmission Provider will make a determination on a non-discriminatory basis of available transmission capability pursuant to Section 15.2. Such determination shall be made as soon as reasonably practicable after receipt, but not later than the following time periods for the following terms of service: *(i) Thirty (30) minutes for hourly service, (ii) thirty (30) minutes for daily service, (iii) four (4) hours for weekly service, and (iv) two (2) days for monthly service.*

19 Additional Study Procedures For Firm Point-To-Point Transmission Service Requests

19.1 Notice of Need for System Impact Study

After receiving a request for service, the Transmission Provider shall determine on a non-discriminatory basis whether a System Impact Study is needed. A description of the Transmission Provider's methodology for completing a System Impact Study is provided in Attachment D. If the Transmission Provider determines that a System Impact Study is necessary to accommodate the requested service, it shall so inform the Eligible Customer, as soon as practicable. In such cases, the Transmission Provider shall within

thirty (30) days of receipt of a Completed Application, tender a System Impact Study Agreement pursuant to which the Eligible Customer shall agree to advance funds to the Transmission Provider for performing the required System Impact Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the System Impact Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the System Impact Study Agreement, its application shall be deemed withdrawn.

19.2 System Impact Study Agreement and Compensation

(i) The System Impact Study Agreement will clearly specify the Transmission Provider's estimate of the actual cost, and time for completion of the System Impact Study. The charge will not exceed the actual cost of the study. In performing the System Impact Study, the Transmission Provider shall rely, to the extent reasonably practicable, on existing transmission planning studies. The Eligible Customer will not be assessed a charge for such existing studies; however, the Eligible Customer will be responsible for charges associated with any modifications to existing planning studies that are reasonably necessary to evaluate the impact of the Eligible Customer's request for service on the Transmission System.

(ii) If, in response to multiple Eligible Customers requesting service in relation to the same competitive solicitation, a single System Impact Study is sufficient for the Transmission Provider to accommodate the requests for service, the costs of that study shall be pro-rated among the Eligible Customers.

(iii) For System Impact Studies that the Transmission Provider conducts on its own behalf, the Transmission Provider shall record the cost of the System Impact Studies pursuant to Section 8.

19.3 System Impact Study Procedures

Upon receipt of an executed System Impact Study Agreement, the Transmission Provider will use due diligence to complete the required System Impact Study within a sixty (60) day period. The System Impact Study shall identify any system constraints and redispatch options, additional Direct Assignment Facilities or Network Upgrades required to provide the requested service. In the event that the Transmission Provider is unable to complete the required System Impact Study within such time period, it shall so notify the Eligible Customer and provide an estimated completion date along with an explanation of the reasons why additional time is required to complete the required studies. A copy of the completed System Impact Study and related work papers shall be made available to the Eligible Customer. The Transmission Provider will use the same due diligence in completing the System Impact Study for an Eligible Customer as it uses when completing studies for itself. The Transmission Provider shall notify the Eligible Customer immediately upon completion of the System Impact Study if the Transmission System will be adequate to accommodate all or part of a request for service or that no costs are likely to be incurred for new transmission facilities or upgrades. In order for a request to remain a Completed Application, within fifteen (15) days of completion of the System Impact Study the Eligible Customer must execute a Service Agreement or request service without an executed Service Agreement pursuant to Section 15.3, or the Application shall be deemed terminated and withdrawn.

19.4 Facilities Study Procedures

If a System Impact Study indicates that additions or upgrades to the Transmission System are needed to supply the Eligible Customer's service request, the Transmission Provider, within thirty (30) days of the completion of the System Impact Study, shall tender to the Eligible Customer a Facilities Study Agreement pursuant to which the Eligible Customer shall agree to advance funds to the Transmission Provider for performing the required Facilities Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the Facilities Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the Facilities Study Agreement, its application shall be deemed withdrawn. Upon receipt of an executed Facilities Study Agreement, the Transmission Provider will use due diligence to complete the required Facilities Study within a sixty (60) day period. If the Transmission Provider is unable to complete the Facilities Study in the allotted time period, the Transmission Provider shall notify the Transmission Customer and provide an estimate of the time needed to reach a final determination along with an explanation of the reasons that additional time is required to complete the study. When completed, the Facilities Study will include a good faith estimate of: (i) The cost of Direct Assignment Facilities to be charged to the Transmission Customer, (ii) the Transmission Customer's appropriate share of the cost of any required Network Upgrades as determined pursuant to the provisions of Part II of the Tariff, and (iii) the time required to complete such construction and initiate the requested service. The Transmission Customer shall pay the Transmission Provider, in advance, the Transmission Customer's share of the costs of new facilities or upgrades. The Transmission Customer shall have thirty (30) days to execute a construction agreement and a Service Agreement and to provide the advance payment or request service without an executed Service Agreement pursuant to Section 15.3, and provide the required letter of credit or other form of security, or the request will no longer be a Completed Application and shall be deemed terminated and withdrawn.

19.5 Facilities Study Modifications

Any change in design arising from inability to site or construct facilities as proposed will require development of a revised good faith estimate. New good faith estimates also will be required in the event of new statutory or regulatory requirements that are effective before the completion of construction or other circumstances beyond the control of the Transmission Provider that significantly affect the final cost of new facilities or upgrades to be charged to the Transmission Customer pursuant to the provisions of Part II of the Tariff.

19.6 Due Diligence in Completing New Facilities

The Transmission Provider shall use due diligence to add necessary facilities or upgrade its Transmission System within a reasonable time. The Transmission Provider will not upgrade its existing or planned Transmission System in order to provide the requested Firm Point-To-Point Transmission Service if doing so would impair system reliability or otherwise impair or degrade existing firm service.

19.7 Partial Interim Service

If the Transmission Provider determines that it will not have adequate transmission capability to satisfy the full amount of a Completed Application for Firm Point-To-Point Transmission Service, the Transmission Provider nonetheless shall be obligated to offer and provide the portion of the requested Firm Point-To-Point Transmission Service that can be accommodated without addition of any facilities and through redispatch.

However, the Transmission Provider shall not be obligated to provide the incremental amount of requested Firm Point-To-Point Transmission Service that requires the addition of facilities or upgrades to the Transmission System until such facilities or upgrades have been placed in service.

19.8 Expedited Procedures for New Facilities

In lieu of the procedures set forth above, the Eligible Customer shall have the option to expedite the process by requesting the Transmission Provider to tender at one time, together with the results of required studies, an ''Expedited Service Agreement'' pursuant to which the Eligible Customer would agree to compensate the Transmission Provider in advance for all costs incurred pursuant to the terms of the Tariff. In order to exercise this option, the Eligible Customer shall request in writing an expedited Service Agreement covering all of the above-specified items within thirty (30) days of receiving the results of the System Impact Study identifying needed facility additions or upgrades or costs incurred in providing the requested service. While the Transmission Provider agrees to provide the Eligible Customer with its best estimate of the new facility costs and other charges that may be incurred, such estimate shall not be binding and the Eligible Customer must agree in writing to compensate the Transmission Provider in advance for all costs incurred pursuant to the provisions of the Tariff. The Eligible Customer shall execute and return such an Expedited Service Agreement within fifteen (15) days of its receipt or the Eligible Customer's request for service will cease to be a Completed Application and will be deemed terminated and withdrawn.

20 Procedures if the Transmission Provider is Unable to Complete New Transmission Facilities for Firm Point-To-Point Transmission Service

20.1 Delays in Construction of New Facilities

If any event occurs that will materially affect the time for completion of new facilities, or the ability to complete them, the Transmission Provider shall promptly notify the Transmission Customer. In such circumstances, the Transmission Provider shall, within thirty (30) days of notifying the Transmission Customer of such delays, convene a technical meeting with the Transmission Customer to evaluate the alternatives available to the Transmission Customer. The Transmission Provider also shall make available to the Transmission Customer studies and work papers related to the delay, including all information that is in the possession of the Transmission Provider that is reasonably needed by the Transmission Customer to evaluate any alternatives.

20.2 Alternatives to the Original Facility Additions

When the review process of Section 20.1 determines that one or more alternatives exist to the originally planned construction project, the Transmission Provider shall present such alternatives for consideration by the Transmission Customer. If, upon review of any alternatives, the Transmission Customer desires to maintain its Completed Application subject to construction of the alternative facilities, it may request the Transmission Provider to submit a revised Service Agreement for Firm Point-To-Point Transmission Service. If the alternative approach solely involves Non-Firm Point-To-Point Transmission Service, the Transmission Provider shall promptly tender a Service Agreement for Non-Firm Point-To-Point Transmission Service providing for the service. In the event the Transmission Provider concludes that no reasonable alternative exists and the Transmission Customer disagrees, the Transmission Customer may seek relief under the dispute resolution procedures pursuant to Section 12 or it may refer the dispute to the Commission for resolution.

20.3 Refund Obligation for Unfinished Facility Additions

If the Transmission Provider and the Transmission Customer mutually agree that no other reasonable alternatives exist and the requested service cannot be provided out of existing capability under the conditions of Part II of the Tariff, the obligation to provide the requested Firm Point-To-Point Transmission Service shall terminate and any advance payment made by the Transmission Customer that is in excess of the costs incurred by the Transmission Provider through the time construction was suspended shall be returned. However, the Transmission Customer shall be responsible for all prudently incurred costs by the Transmission Provider through the time construction was suspended.

21 Provisions Relating to Transmission Construction and Services on the Systems of Other Utilities

21.1 Responsibility for Third-Party System Additions

The Transmission Provider shall not be responsible for making arrangements for any necessary engineering, permitting, and construction of transmission or distribution facilities on the system(s) of any other entity or for obtaining any regulatory approval for such facilities. The Transmission Provider will undertake reasonable efforts to assist the Transmission Customer in obtaining such arrangements, including, without limitation, providing any information or data required by such other electric system pursuant to Good Utility Practice.

21.2 Coordination of Third-Party System Additions

In circumstances where the need for transmission facilities or upgrades is identified pursuant to the provisions of Part II of the Tariff, and if such upgrades further require the addition of transmission facilities on other systems, the Transmission Provider shall have the right to coordinate construction on its own system with the construction required by others. The Transmission Provider, after consultation with the Transmission Customer and representatives of such other systems, may defer construction of its new transmission facilities if the new transmission facilities on another system cannot be completed in a timely manner. The Transmission Provider shall notify the Transmission Customer in writing of the basis for any decision to defer construction and the specific problems which must be resolved before it will initiate or resume construction of new facilities. Within sixty (60) days of receiving written notification by the Transmission Provider of its intent to defer construction pursuant to this section, the Transmission Customer may challenge the decision in accordance with the dispute resolution procedures pursuant to Section or it may refer the dispute to the Commission for resolution.

22 Changes in Service Specifications

22.1 Modifications on a Non-Firm Basis

The Transmission Customer taking Firm Point-To-Point Transmission Service may request the Transmission Provider to provide transmission service on a non-firm basis over Receipt and Delivery Points other than those

specified in the Service Agreement (''Secondary Receipt and Delivery Points''), in amounts not to exceed its firm capacity reservation, without incurring an additional Non-Firm Point-To-Point Transmission Service charge or executing a new Service Agreement, subject to the following conditions.

(a) Service provided over Secondary Receipt and Delivery Points will be non-firm only, on an as-available basis, and will not displace any firm or non-firm service reserved or scheduled by third-parties under the Tariff or by the Transmission Provider on behalf of its Native Load Customers.

(b) The sum of all Firm and non-firm Point-To-Point Transmission Service provided to the Transmission Customer at any time pursuant to this section shall not exceed the Reserved Capacity in the relevant Service Agreement under which such services are provided.

(c) The Transmission Customer shall retain its right to schedule Firm Point-To-Point Transmission Service at the Receipt and Delivery Points specified in the relevant Service Agreement in the amount of its original capacity reservation.

(d) Service over Secondary Receipt and Delivery Points on a non-firm basis shall not require the filing of an Application for Non-Firm Point-To-Point Transmission Service under the Tariff. However, all other requirements of Part II of the Tariff (except as to transmission rates) shall apply to transmission service on a non-firm basis over Secondary Receipt and Delivery Points.

22.2 Modifications on a Firm Basis

Any request by a Transmission Customer to modify Receipt and Delivery Points on a firm basis shall be treated as a new request for service in accordance with Section 17 hereof except that such Transmission Customer shall not be obligated to pay any additional application processing fee if the capacity reservation does not exceed the amount reserved in the existing Service Agreement. While such new request is pending, the Transmission Customer shall retain its priority for service at the existing firm Receipt and Delivery Points specified in its Service Agreement.

23 Sale or Assignment of Transmission Service

23.1 Procedures for Assignment or Transfer of Service

Subject to Commission approval of any necessary filings, a Transmission Customer may sell, assign, or transfer all or a portion of its rights under its Service Agreement, but only to another Eligible Customer (the Assignee). The Transmission Customer that sells, assigns or transfers its rights under its Service Agreement is hereafter referred to as the Reseller. Compensation to the Reseller shall not exceed the higher of (i) the original rate paid by the Reseller, (ii) the Transmission Provider's maximum rate on file at the time of the assignment, or (iii) the Reseller's opportunity cost capped at the Transmission Provider's cost of expansion. If the Assignee does not request any change in the Point(s) of Receipt or the Point(s) of Delivery, or a change in any other term or condition set forth in the original Service Agreement, the Assignee will receive the same services as did the Reseller and the priority of service for the Assignee will be the same as that of the Reseller. A Reseller should notify the Transmission Provider as soon as possible after any assignment or transfer of service occurs but in any event, notification must be provided prior to any provision of service to the Assignee. The Assignee will be subject to all terms and conditions of the Tariff. If the Assignee requests a change in service, the reservation priority of service will be determined by the Transmission Provider pursuant to Section 13.2.

23.2 Limitations on Assignment or Transfer of Service

If the Assignee requests a change in the Point(s) of Receipt or Point(s) of Delivery, or a change in any other specifications set forth in the original Service Agreement, the Transmission Provider will consent to such change subject to the provisions of the Tariff, provided that the change will not impair the operation and reliability of the Transmission Provider's generation, transmission, or distribution systems. The Assignee shall compensate the Transmission Provider in advance for performing any System Impact Study needed to evaluate the capability of the Transmission System to accommodate the proposed change and any additional costs resulting from such change. The Reseller shall remain liable for the performance of all obligations under the Service Agreement, except as specifically agreed to by the Parties through an amendment to the Service Agreement.

23.3 Information on Assignment or Transfer of Service

In accordance with Section 4, Resellers may use the Transmission Provider's OASIS to post transmission capacity available for resale.

24 Metering and Power Factor Correction at Receipt and Delivery Point(s)

24.1 Transmission Customer Obligations

Unless otherwise agreed, the Transmission Customer shall be responsible for installing and maintaining compatible metering and communications equipment to accurately account for the capacity and energy being transmitted under Part II of the Tariff and to communicate the information to the Transmission Provider. Such equipment shall remain the property of the Transmission Customer.

24.2 Transmission Provider Access to Metering Data

The Transmission Provider shall have access to metering data, which may reasonably be required to facilitate measurements and billing under the Service Agreement.

24.3 Power Factor

Unless otherwise agreed, the Transmission Customer is required to maintain a power factor within the same range as the Transmission Provider pursuant to Good Utility Practices. The power factor requirements are specified in the Service Agreement where applicable.

25 Compensation for Transmission Service

Rates for Firm and Non-Firm Point-To-Point Transmission Service are provided in the Schedules appended to the Tariff: Firm Point-To-Point Transmission Service (Schedule 7); and Non-Firm Point-To-Point Transmission Service (Schedule 8). The Transmission Provider shall use Part II of the Tariff to make its Third-Party Sales. The Transmission Provider shall account for such use at the applicable Tariff rates, pursuant to Section 8.

26 Stranded Cost Recovery

The Transmission Provider may seek to recover stranded costs from the Transmission Customer in a manner consistent with applicable Federal law and regulations.

27 Compensation for New Facilities and Redispatch Costs

Whenever a System Impact Study performed by the Transmission Provider in connection with the provision of Firm Point-To-Point Transmission Service identifies the need for new facilities, the Transmission Customer shall be responsible for such costs to the extent consistent with Commission

policy. Whenever a System Impact Study performed by the Transmission Provider identifies capacity constraints that may be relieved more economically by redispatching the Transmission Provider's resources than by building new facilities or upgrading existing facilities to eliminate such constraints, the Transmission Customer shall be responsible for the redispatch costs to the extent consistent with Commission policy.

Part III. Network Integration Transmission Service

Preamble

The Transmission Provider will provide Network Integration Transmission Service pursuant to the applicable terms and conditions contained in the Tariff and Service Agreement. Network Integration Transmission Service allows the Network Customer to integrate, economically dispatch and regulate its current and planned Network Resources to serve its Network Load in a manner comparable to that in which the Transmission Provider utilizes its Transmission System to serve its Native Load Customers. Network Integration Transmission Service also may be used by the Network Customer to deliver economy energy purchases to its Network Load from non-designated resources on an as-available basis without additional charge. Transmission service for sales to non-designated loads will be provided pursuant to the applicable terms and conditions of Part II of the Tariff.

28 Nature of Network Integration Transmission Service

28.1 Scope of Service

Network Integration Transmission Service is a transmission service that allows Network Customers to efficiently and economically utilize their Network Resources (as well as other non-designated generation resources) to serve their Network Load located in the Transmission Provider's Control Area and any additional load that may be designated pursuant to Section 31.3 of the Tariff. The Network Customer taking Network Integration Transmission Service must obtain or provide Ancillary Services pursuant to Section 3.

28.2 Transmission Provider Responsibilities

The Transmission Provider will plan, construct, operate and maintain its Transmission System in accordance with Good Utility Practice in order to provide the Network Customer with Network Integration Transmission Service over the Transmission Provider's Transmission System. The Transmission Provider, on behalf of its Native Load Customers, shall be required to designate resources and loads in the same manner as any Network Customer under Part III of the Tariff. This information must be consistent with the information used by the Transmission Provider to calculate available transmission capability. The Transmission Provider shall include the Network Customer's Network Load in its Transmission System planning and shall, consistent with Good Utility Practice, endeavor to construct and place into service sufficient transmission capacity to deliver the Network Customer's Network Resources to serve its Network Load on a basis comparable to the Transmission Provider's delivery of its own generating and purchased resources to its Native Load Customers. This obligation to construct and place into service sufficient capacity to deliver the Network Customer's Network Resources to serve its Network Load is contingent upon the availability to the Transmission Provider of sufficient appropriations, when needed, and the Transmission Customer's advanced funds.

28.3 Network Integration Transmission Service

The Transmission Provider will provide firm transmission service over its Transmission System to the Network Customer for the delivery of capacity and energy from its designated Network Resources to service its Network Loads on a basis that is comparable to the Transmission Provider's use of the Transmission System to reliably serve its Native Load Customers.

28.4 Secondary Service

The Network Customer may use the Transmission Provider's Transmission System to deliver energy to its Network Loads from resources that have not been designated as Network Resources. Such energy shall be transmitted, on an as-available basis, at no additional charge. Deliveries from resources other than Network Resources will have a higher priority than any Non-Firm Point-To-Point Transmission Service under Part II of the Tariff.

28.5 Real Power Losses

Real Power Losses are associated with all transmission service. The Transmission Provider is not obligated to provide Real Power Losses. The Network Customer is responsible for replacing losses associated with all transmission service as calculated by the Transmission Provider. The applicable Real Power Loss factors are specified in the Service Agreements.

28.6 Restrictions on Use of Service

The Network Customer shall not use Network Integration Transmission Service for (i) sales of capacity and energy to non-designated loads, or (ii) direct or indirect provision of transmission service by the Network Customer to third parties. All Network Customers taking Network Integration Transmission Service shall use Point-To-Point Transmission Service under Part II of the Tariff for any Third-Party Sale which requires use of the Transmission Provider's Transmission System.

29 Initiating Service

29.1 Condition Precedent for Receiving Service

Subject to the terms and conditions of Part III of the Tariff, the Transmission Provider will provide Network Integration Transmission Service to any Eligible Customer provided that: (i) The Eligible Customer completes an Application for service as provided under Part III of the Tariff, (ii) the Eligible Customer and the Transmission Provider complete the technical arrangements set forth in Sections 29.3 and 29.4, (iii) the Eligible Customer executes a Service Agreement pursuant to Attachment F for service under Part III of the Tariff or requests in writing that the Transmission Provider provide service without an executed Service Agreement, and (iv) the Eligible Customer executes a Network Operating Agreement with the Transmission Provider pursuant to Attachment G. If the Transmission Provider and the Network Customer cannot agree on all the terms and conditions of the Network Service Agreement, the Transmission Provider shall commence providing Network Integration Transmission Service subject to the Network Customer's agreeing to: (i) Compensate the Transmission Provider at the existing rate placed in effect pursuant to applicable Federal law and regulations, and (ii) comply with the terms and conditions of the Tariff, including paying the appropriate processing fees in accordance with the terms of Section 29.2. If the Network Customer cannot accept all of the terms and conditions of the offered Service Agreement, the Network Customer may request resolution of the unacceptable terms and conditions under Section 12, Dispute Resolution Procedures, of the Tariff. Any changes resulting from the

dispute resolution procedures will be effective upon the date of initial service.

29.2 Application Procedures

An Eligible Customer requesting service under Part III of the Tariff must submit an Application to the Transmission Provider as far as possible in advance of the month in which service is to commence. Unless subject to the procedures in Section 2, Completed Applications for Network Integration Transmission Service will be assigned a priority according to the date and time the Application is received, with the earliest Application receiving the highest priority. Applications should be submitted by entering the information listed below on the Transmission Provider's OASIS. Prior to implementation of the Transmission Provider's OASIS, a Completed Application may be submitted by: (i) Transmitting the required information to the Transmission Provider by telefax, or (ii) providing the information by telephone over the Transmission Provider's time-recorded telephone line. Each of these methods will provide a time-stamped record for establishing the service priority of the Application. A Completed Application for Network Integration Transmission Service shall include an application processing fee. The processing fee shall be calculated using the estimated average number of hours required to process an application. The fee will be posted on the Transmission Provider's OASIS and may change as average costs/per/hour for the Transmission Provider change. This fee does not apply to costs to complete System Impact Studies or Facility Studies or to add new facilities. A Completed Application shall provide all of the information included in 18 CFR § 2.20 including but not limited to the following:

(i) The identity, address, telephone number and facsimile number of the party requesting service;

(ii) A statement that the party requesting service is, or will be upon commencement of service, an Eligible Customer under the Tariff;

(iii) A description of the Network Load at each delivery point. This description should separately identify and provide the Eligible Customer's best estimate of the total loads to be served at each transmission voltage level, and the loads to be served from each Transmission Provider substation at the same transmission voltage level. The description should include a ten (10) year forecast of summer and winter load and resource requirements beginning with the first year after the service is scheduled to commence;

(iv) The amount and location of any interruptible loads included in the Network Load. This shall include the summer and winter capacity requirements for each interruptible load (had such load not been interruptible), that portion of the load subject to interruption, the conditions under which an interruption can be implemented and any limitations on the amount and frequency of interruptions. An Eligible Customer should identify the amount of interruptible customer load (if any), included in the 10 year load forecast provided in response to (iii) above;

(v) A description of Network Resources (current and 10-year projection), which shall include, for each Network Resource:

—Unit size and amount of capacity from that unit to be designated as Network Resource
—VAR capability (both leading and lagging), of all generators
—Operating restrictions
—Any periods of restricted operations throughout the year
—Maintenance schedules
—Minimum loading level of unit
—Normal operating level of unit
—Any must-run unit designations required for system reliability or contract reasons
—Approximate variable generating cost ($/MWH) for redispatch computations
—Arrangements governing sale and delivery of power to third parties from generating facilities located in the Transmission Provider Control Area, where only a portion of unit output is designated as a Network Resource
—Description of purchased power designated as a Network Resource including source of supply, Control Area location, transmission arrangements and delivery point(s) to the Transmission Provider's Transmission System;

(vi) Description of Eligible Customer's transmission system:

—Load flow and stability data, such as real and reactive parts of the load, lines, transformers, reactive devices and load type, including normal and emergency ratings of all transmission equipment in a load flow format compatible with that used by the Transmission Provider
—Operating restrictions needed for reliability
—Operating guides employed by system operators
—Contractual restrictions or committed uses of the Eligible Customer's transmission system, other than the Eligible Customer's Network Loads and Resources
—Location of Network Resources described in subsection (v) above
—10 year projection of system expansions or upgrades
—Transmission System maps that include any proposed expansions or upgrades
—Thermal ratings of Eligible Customer's Control Area ties with other Control Areas;

(vii) Service Commencement Date and the term of the requested Network Integration Transmission Service. The minimum term for Network Integration Transmission Service is one year.

Unless the Parties agree to a different time frame, the Transmission Provider must acknowledge the request within ten (10) days of receipt. The acknowledgment must include a date by which a response, including a Service Agreement, will be sent to the Eligible Customer. If an Application fails to meet the requirements of this section, the Transmission Provider shall notify the Eligible Customer requesting service within fifteen (15) days of receipt and specify the reasons for such failure. Wherever possible, the Transmission Provider will attempt to remedy deficiencies in the Application through informal communications with the Eligible Customer. If such efforts are unsuccessful, the Transmission Provider shall return the Application without prejudice to the Eligible Customer filing a new or revised Application that fully complies with the requirements of this section. The Eligible Customer will be assigned a new priority consistent with the date of the new or revised Application. The Transmission Provider shall treat this information consistent with the standards of conduct contained in Part 37 of the Commission's regulations.

29.3 Technical Arrangements to be Completed Prior to Commencement of Service

Network Integration Transmission Service shall not commence until the Transmission Provider and the Network Customer or a third party, have completed installation of all equipment specified under the Network Operating Agreement consistent with Good Utility Practice and any additional requirements reasonably and consistently imposed to ensure the reliable operation of the Transmission System. The Transmission Provider shall exercise reasonable efforts, in coordination with the Network Customer to complete such arrangements as soon as practicable taking into consideration the Service Commencement Date.

29.4 Network Customer Facilities

The provision of Network Integration Transmission Service shall be conditioned upon the Network Customer constructing, maintaining and operating the facilities on its side of each delivery point or interconnection necessary to reliably deliver capacity and energy from the Transmission Provider's Transmission System to the Network Customer. The Network Customer shall be solely responsible for constructing or installing all facilities on the Network Customer's side of each such delivery point or interconnection.

29.5 This Section is Intentionally Left Blank

30 Network Resources

30.1 Designation of Network Resources

Network Resources shall include all generation owned, purchased, or leased by the Network Customer designated to serve Network Load under the Tariff. Network Resources may not include resources, or any portion thereof, that are committed for sale to non-designated third party load or otherwise cannot be called upon to meet the Network Customer's Network Load on a non-interruptible basis. Any owned or purchased resources that were serving the Network Customer's loads under firm agreements entered into on or before the Service Commencement Date shall initially be designated as Network Resources until the Network Customer terminates the designation of such resources.

30.2 Designation of New Network Resources

The Network Customer may designate a new Network Resource by providing the Transmission Provider with as much advance notice as practicable. A designation of a new Network Resource must be made by a request for modification of service pursuant to an Application under Section 29.

30.3 Termination of Network Resources

The Network Customer may terminate the designation of all or part of a generating resource as a Network Resource at any time but should provide notification to the Transmission Provider as soon as reasonably practicable.

30.4 Operation of Network Resources

The Network Customer shall not operate its designated Network Resources located in the Network Customer's or Transmission Provider's Control Area such that the output of those facilities exceeds its designated Network Load, plus non-firm sales delivered pursuant to Part II of the Tariff, plus losses. This limitation shall not apply to changes in the operation of a Transmission Customer's Network Resources at the request of the Transmission Provider to respond to an emergency or other unforeseen condition which may impair or degrade the reliability of the Transmission System.

30.5 Network Customer Redispatch Obligation

As a condition to receiving Network Integration Transmission Service, the Network Customer agrees to redispatch its Network Resources as requested by the Transmission Provider pursuant to Section 33.2. To the extent practical, the redispatch of resources pursuant to this section shall be on a least cost, non-discriminatory basis between all Network Customers, and the Transmission Provider.

30.6 Transmission Arrangements for Network Resources Not Physically Interconnected With the Transmission Provider

The Network Customer shall be responsible for any arrangements necessary to deliver capacity and energy from a Network Resource not physically interconnected with the Transmission Provider's Transmission System. The Transmission Provider will undertake reasonable efforts to assist the Network Customer in obtaining such arrangements, including without limitation, providing any information or data required by such other entity pursuant to Good Utility Practice.

30.7 Limitation on Designation of Network Resources

The Network Customer must demonstrate that it owns or has committed to purchase generation pursuant to an executed contract in order to designate a generating resource as a Network Resource. Alternatively, the Network Customer may establish that execution of a contract is contingent upon the availability of transmission service under Part III of the Tariff.

30.8 Use of Interface Capacity by the Network Customer

There is no limitation upon a Network Customer's use of the Transmission Provider's Transmission System at any particular interface to integrate the Network Customer's Network Resources (or substitute economy purchases) with its Network Loads. However, a Network Customer's use of the Transmission Provider's total interface capacity with other transmission systems may not exceed the Network Customer's Load.

30.9 Network Customer Owned Transmission Facilities

The Network Customer that owns existing transmission facilities that are integrated with the Transmission Provider's Transmission System may be eligible to receive consideration either through a billing credit or some other mechanism. In order to receive such consideration the Network Customer must demonstrate that its transmission facilities are integrated into the plans or operations of the Transmission Provider to serve its power and transmission customers. For facilities constructed by the Network Customer subsequent to the Service Commencement Date under Part III of the Tariff, the Network Customer shall receive credit where such facilities are jointly planned and installed in coordination with the Transmission Provider. Calculation of the credit shall be addressed in either the Network Customer's Service Agreement or any other agreement between the Parties.

31 Designation of Network Load

31.1 Network Load

The Network Customer must designate the individual Network Loads on whose behalf the Transmission Provider will provide Network Integration Transmission Service. The Network Loads shall be specified in the Service Agreement.

31.2 New Network Loads Connected With the Transmission Provider

The Network Customer shall provide the Transmission Provider with as much advance notice as reasonably practicable of the designation of new Network Load that will be added to its Transmission System. A designation of new Network Load must be made through a modification of service pursuant to a new Application. The Transmission Provider will use due diligence to install any transmission facilities required to interconnect a new Network Load designated by the Network Customer. The costs of new facilities required to interconnect a new Network Load shall be determined in accordance with the procedures provided in Section 32.4 and shall be charged to the Network Customer in accordance with Commission policies.

31.3 Network Load Not Physically Interconnected With the Transmission Provider

This section applies to both initial designation pursuant to Section 31.1 and the subsequent addition of new Network Load not physically

interconnected with the Transmission Provider. To the extent that the Network Customer desires to obtain transmission service for a load outside the Transmission Provider's Transmission System, the Network Customer shall have the option of: (1) Electing to include the entire load as Network Load for all purposes under Part III of the Tariff and designating Network Resources in connection with such additional Network Load, or (2) excluding that entire load from its Network Load and purchasing Point-To-Point Transmission Service under Part II of the Tariff. To the extent that the Network Customer gives notice of its intent to add a new Network Load as part of its Network Load pursuant to this section the request must be made through a modification of service pursuant to a new Application.

31.4 New Interconnection Points

To the extent the Network Customer desires to add a new Delivery Point or interconnection point between the Transmission Provider's Transmission System and a Network Load, the Network Customer shall provide the Transmission Provider with as much advance notice as reasonably practicable.

31.5 Changes in Service Requests

Under no circumstances shall the Network Customer's decision to cancel or delay a requested change in Network Integration Transmission Service (*e.g.,* the addition of a new Network Resource or designation of a new Network Load) in any way relieve the Network Customer of its obligation to pay the costs of transmission facilities constructed by the Transmission Provider and charged to the Network Customer as reflected in the Service Agreement. However, the Transmission Provider must treat any requested change in Network Integration Transmission Service in a non-discriminatory manner. The Transmission Provider will have no obligation to refund any advance of funds expended for purposes of providing facilities for a Network Customer. However, upon receipt of a Network Customer's written notice of such a cancellation or delay, the Transmission Provider will use the same reasonable efforts to mitigate the costs and charges owed to the Transmission Provider as it would to reduce its own costs and charges.

31.6 Annual Load and Resource Information Updates

The Network Customer shall provide the Transmission Provider with annual updates of Network Load and Network Resource forecasts consistent with those included in its Application for Network Integration Transmission Service under Part III of the Tariff. The Network Customer also shall provide the Transmission Provider with timely written notice of material changes in any other information provided in its Application relating to the Network Customer's Network Load, Network Resources, its transmission system or other aspects of its facilities or operations affecting the Transmission Provider's ability to provide reliable service.

32 Additional Study Procedures for Network Integration Transmission Service Requests

32.1 Notice of Need for System Impact Study

After receiving a request for service, the Transmission Provider shall determine on a non-discriminatory basis whether a System Impact Study is needed. A description of the Transmission Provider's methodology for completing a System Impact Study is provided in Attachment D. If the Transmission Provider determines that a System Impact Study is necessary to accommodate the requested service, it shall so inform the Eligible Customer, as soon as practicable. In such cases, the Transmission Provider shall within thirty (30) days of receipt of a Completed Application, tender a System Impact Study Agreement pursuant to which the Eligible Customer shall agree to advance funds to the Transmission Provider for performing the required System Impact Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the System Impact Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the System Impact Study Agreement, its Application shall be deemed withdrawn.

32.2 System Impact Study Agreement and Compensation

(i) The System Impact Study Agreement will clearly specify the Transmission Provider's estimate of the actual cost, and time for completion of the System Impact Study. The charge shall not exceed the actual cost of the study. In performing the System Impact Study, the Transmission Provider shall rely, to the extent reasonably practicable, on existing transmission planning studies. The Eligible Customer will not be assessed a charge for such existing studies; however, the Eligible Customer will be responsible for charges associated with any modifications to existing planning studies that are reasonably necessary to evaluate the impact of the Eligible Customer's request for service on the Transmission System.

(ii) If in response to multiple Eligible Customers requesting service in relation to the same competitive solicitation, a single System Impact Study is sufficient for the Transmission Provider to accommodate the service requests, the costs of that study shall be pro-rated among the Eligible Customers.

(iii) For System Impact Studies that the Transmission Provider conducts on its own behalf, the Transmission Provider shall record the cost of the System Impact Studies pursuant to Section 8.

32.3 System Impact Study Procedures

Upon receipt of an executed System Impact Study Agreement, the Transmission Provider will use due diligence to complete the required System Impact Study within a sixty (60) day period. The System Impact Study shall identify any system constraints and redispatch options, additional Direct Assignment Facilities or Network Upgrades required to provide the requested service. In the event that the Transmission Provider is unable to complete the required System Impact Study within such time period, it shall so notify the Eligible Customer and provide an estimated completion date along with an explanation of the reasons why additional time is required to complete the required studies. A copy of the completed System Impact Study and related work papers shall be made available to the Eligible Customer. The Transmission Provider will use the same due diligence in completing the System Impact Study for an Eligible Customer as it uses when completing studies for itself. The Transmission Provider shall notify the Eligible Customer immediately upon completion of the System Impact Study if the Transmission System will be adequate to accommodate all or part of a request for service or that no costs are likely to be incurred for new transmission facilities or upgrades. In order for a request to remain a Completed Application, within fifteen (15) days of completion of the System Impact Study the Eligible Customer must execute a Service Agreement or request service without an executed Service Agreement pursuant to Section 29.1, or the Application shall be deemed terminated and withdrawn.

32.4 Facilities Study Procedures

If a System Impact Study indicates that additions or upgrades to the Transmission System are needed to supply the Eligible Customer's service request, the Transmission Provider, within thirty (30) days of the completion of the System Impact Study, shall tender to the Eligible Customer a Facilities Study Agreement pursuant to which the Eligible Customer shall agree to advance funds to the Transmission Provider for performing the required Facilities Study. For a service request to remain a Completed Application, the Eligible Customer shall execute the Facilities Study Agreement and return it to the Transmission Provider within fifteen (15) days. If the Eligible Customer elects not to execute the Facilities Study Agreement, its Application shall be deemed withdrawn and its deposit shall be returned. Upon receipt of an executed Facilities Study Agreement, the Transmission Provider will use due diligence to complete the required Facilities Study within a sixty (60) day period. If the Transmission Provider is unable to complete the Facilities Study in the allotted time period, the Transmission Provider shall notify the Eligible Customer and provide an estimate of the time needed to reach a final determination along with an explanation of the reasons that additional time is required to complete the study. When completed, the Facilities Study will include a good faith estimate of: (i) The cost of Direct Assignment Facilities to be charged to the Eligible Customer, (ii) the Eligible Customer's appropriate share of the cost of any required Network Upgrades, and (iii) the time required to complete such construction and initiate the requested service. The Eligible Customer shall advance funds to the Transmission Provider for the construction of new facilities, and such advance and construction shall be provided for in a separate agreement. If the construction of new facilities requires the expenditure of Transmission Provider funds, such construction shall be contingent upon the availability of appropriated funds. The Eligible Customer shall have thirty (30) days to execute a construction agreement and a Service Agreement or request service without an executed Service Agreement pursuant to Section 29.1, and provide the required letter of credit or other form of security, or the request no longer will be a Completed Application and shall be deemed terminated and withdrawn.

33 Load Shedding and Curtailments

33.1 Procedures

Prior to the Service Commencement Date, the Transmission Provider and the Network Customer shall establish Load Shedding and Curtailment procedures pursuant to the Network Operating Agreement with the objective of responding to contingencies on the Transmission System. The Parties will implement such programs during any period when the Transmission Provider determines that a system contingency exists and such procedures are necessary to alleviate such contingency. The Transmission Provider will notify all affected Network Customers in a timely manner of any scheduled Curtailment.

33.2 Transmission Constraints

During any period when the Transmission Provider determines that a transmission constraint exists on the Transmission System, and such constraint may impair the reliability of the Transmission Provider's system, the Transmission Provider will take whatever actions, consistent with Good Utility Practice, that are reasonably necessary to maintain the reliability of the Transmission Provider's system. To the extent the Transmission Provider determines that the reliability of the Transmission System can be maintained by redispatching resources, the Transmission Provider will initiate procedures pursuant to the Network Operating Agreement to redispatch all Network Resources and the Transmission Provider's own resources on a least-cost basis without regard to the ownership of such resources. Any redispatch under this section may not unduly discriminate between the Transmission Provider's use of the Transmission System on behalf of its Native Load Customers and any Network Customer's use of the Transmission System to serve its designated Network Load.

33.3 Cost Responsibility for Relieving Transmission Constraints

Whenever the Transmission Provider implements least-cost redispatch procedures in response to a transmission constraint, the Transmission Provider and Network Customers will each bear a proportionate share of the total redispatch cost based on their respective Load Ratio Shares.

33.4 Curtailments of Scheduled Deliveries

If a transmission constraint on the Transmission Provider's Transmission System cannot be relieved through the implementation of least-cost redispatch procedures and the Transmission Provider determines that it is necessary to Curtail scheduled deliveries, the Parties shall Curtail such schedules in accordance with the Network Operating Agreement.

33.5 Allocation of Curtailments

The Transmission Provider shall, on a non-discriminatory basis, Curtail the transaction(s) that effectively relieve the constraint. However, to the extent practicable and consistent with Good Utility Practice, any Curtailment will be shared by the Transmission Provider and Network Customer in proportion to their respective Load Ratio Shares. The Transmission Provider shall not direct the Network Customer to Curtail schedules to an extent greater than the Transmission Provider would Curtail the Transmission Provider's schedules under similar circumstances.

33.6 Load Shedding

To the extent that a system contingency exists on the Transmission Provider's Transmission System and the Transmission Provider determines that it is necessary for the Transmission Provider and the Network Customer to shed load, the Parties shall shed load in accordance with previously established procedures under the Network Operating Agreement.

33.7 System Reliability

Notwithstanding any other provisions of this Tariff, the Transmission Provider reserves the right, consistent with Good Utility Practice and on a not unduly discriminatory basis, to Curtail Network Integration Transmission Service without liability on the Transmission Provider's part for the purpose of making necessary adjustments to, changes in, or repairs on its lines, substations and facilities, and in cases where the continuance of Network Integration Transmission Service would endanger persons or property. In the event of any adverse condition(s) or disturbance(s) on the Transmission Provider's Transmission System or on any other system(s) directly or indirectly interconnected with the Transmission Provider's Transmission System, the Transmission Provider, consistent with Good Utility Practice, also may Curtail Network Integration Transmission Service in order to: (i) Limit the extent or damage of the adverse condition(s) or disturbance(s), (ii) prevent damage to generating or transmission facilities, or (iii) expedite restoration of service. The Transmission Provider will give the Network

Customer as much advance notice as is practicable in the event of such Curtailment. Any Curtailment of Network Integration Transmission Service will be not unduly discriminatory relative to the Transmission Provider's use of the Transmission System on behalf of its Native Load Customers. The Transmission Provider shall specify the rate treatment and all related terms and conditions applicable in the event that the Network Customer fails to respond to established Load Shedding and Curtailment procedures.

34 Rates and Charges

The Network Customer shall pay the Transmission Provider for any Direct Assignment Facilities, Ancillary Services, and applicable study costs, consistent with Federal policy, along with the following:

34.1 Monthly Demand Charge

The Network Customer shall pay a monthly Demand Charge, which shall be determined by multiplying its Load Ratio Share times one twelfth (1/12) of the Transmission Provider's Annual Transmission Revenue Requirement specified in Schedule H.

34.2 Determination of Network Customer's Monthly Network Load

The Network Customer's monthly Network Load is its hourly load (including its designated Network Load not physically interconnected with the Transmission Provider under Section 31.3) coincident with the Transmission Provider's Monthly Transmission System Peak.

34.3 Determination of Transmission Provider's Monthly Transmission System Load

The Transmission Provider's monthly Transmission System load is the Transmission Provider's Monthly Transmission System Peak minus the coincident peak usage of all Firm Point-To-Point Transmission Service customers pursuant to Part II of this Tariff plus the Reserved Capacity of all Firm Point-To-Point Transmission Service customers.

34.4 Redispatch Charge

The Network Customer shall pay a Load Ratio Share of any redispatch costs allocated between the Network Customer and the Transmission Provider pursuant to Section 33. To the extent that the Transmission Provider incurs an obligation to the Network Customer for redispatch costs in accordance with Section 33, such amounts shall be credited against the Network Customer's bill for the applicable month.

34.5 Stranded Cost Recovery

The Transmission Provider may seek to recover stranded costs from the Network Customer in a manner consistent with applicable Federal law and regulations.

35 Operating Arrangements

35.1 Operation Under the Network Operating Agreement

The Network Customer shall plan, construct, operate and maintain its facilities in accordance with Good Utility Practice and in conformance with the Network Operating Agreement.

35.2 Network Operating Agreement

The terms and conditions under which the Network Customer shall operate its facilities and the technical and operational matters associated with the implementation of Part III of the Tariff shall be specified in the Network Operating Agreement. The Network Operating Agreement shall provide for the Parties to (i) Operate and maintain equipment necessary for integrating the Network Customer within the Transmission Provider's Transmission System (including, but not limited to, remote terminal units, metering, communications equipment and relaying equipment), (ii) transfer data between the Transmission Provider and the Network Customer (including, but not limited to, heat rates and operational characteristics of Network Resources, generation schedules for units outside the Transmission Provider's Transmission System, interchange schedules, unit outputs for redispatch required under Section 33, voltage schedules, loss factors and other real time data), (iii) use software programs required for data links and constraint dispatching, (iv) exchange data on forecasted loads and resources necessary for long-term planning, and (v) address any other technical and operational considerations required for implementation of Part III of the Tariff, including scheduling protocols. The Network Operating Agreement will recognize that the Network Customer shall either: (i) Operate as a Control Area under applicable guidelines of the North American Electric Reliability Council (NERC) and the applicable regional reliability council, (ii) satisfy its Control Area requirements, including all necessary Ancillary Services, by contracting with the Transmission Provider, or (iii) satisfy its Control Area requirements, including all necessary Ancillary Services, by contracting with another entity, consistent with Good Utility Practice, which satisfies NERC and the applicable regional reliability council requirements. The Transmission Provider shall not unreasonably refuse to accept contractual arrangements with another entity for Ancillary Services. The Network Operating Agreement is included in Attachment G.

35.3 Network Operating Committee

A Network Operating Committee (Committee) shall be established to coordinate operating criteria for the Parties' respective responsibilities under the Network Operating Agreement. Each Network Customer shall be entitled to have at least one representative on the Committee. The Committee shall meet from time to time as need requires, but no less than once each calendar year.

Schedule 1

Scheduling, System Control and Dispatch Service

This service is required to schedule the movement of power through, out of, within, or into a Control Area. This service can be provided only by the operator of the Control Area in which the transmission facilities used for transmission service are located. Scheduling, System Control and Dispatch Service is provided directly by the Transmission Provider if the Transmission Provider is the Control Area Operator or indirectly by the Transmission Provider making arrangements with the Control Area operator that performs this service for the Transmission Provider's Transmission System. The Transmission Customer must purchase this service from the Transmission Provider or the Control Area operator. The charges for Scheduling, System Control and Dispatch Service are to be based on the rates referred to below. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

The charges for Scheduling, System Control and Dispatch Service are set forth in the appropriate rate schedule attached to and made part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the charges for Scheduling, System Control and Dispatch Service upon written notice to the Transmission

Customer. Any change to the charges to the Transmission Customer for Scheduling, System Control and Dispatch Service shall be as set forth in a subsequent rate schedule promulgated pursuant to applicable Federal laws, regulations, and policies, and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Schedule 2

Reactive Supply and Voltage Control From Generation Sources Service

In order to maintain transmission voltages on the Transmission Provider's transmission facilities within acceptable limits, generation facilities under the control of the Control Area operator are operated to produce or absorb reactive power. Thus, Reactive Supply and Voltage Control from Generation Sources Service must be provided for each transaction on the Transmission Provider's transmission facilities. The amount of Reactive Supply and Voltage Control from Generation Sources Service that must be supplied with respect to the Transmission Customer's transaction will be determined based on the reactive power support necessary to maintain transmission voltages within limits that are generally accepted in the region and consistently adhered to by the Transmission Provider.

Reactive Supply and Voltage Control from Generation Sources Service can be provided directly by the Transmission Provider if the Transmission Provider is the Control Area operator or indirectly by the Transmission Provider making arrangements with the Control Area operator that performs this service for the Transmission Provider's Transmission System. The Transmission Customer must purchase this service from the Transmission Provider or the Control Area operator. The charges for such service will be based upon the rates referred to below. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by the Control Area Operator.

The charges for Reactive Supply and Voltage Control from Generation Sources Service are set forth in the appropriate rate schedule attached to and made part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the charges for Reactive Supply and Voltage Control from Generation Sources Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Reactive Supply and Voltage Control from Generation Sources Service shall be as set forth in a subsequent rate schedule promulgated pursuant to the above procedures and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Schedule 3

Regulation and Frequency Response Service

Regulation and Frequency Response Service is necessary to provide for the continuous balancing of resources, generation and interchange, with load and for maintaining scheduled interconnection frequency at sixty cycles per second (60 Hz). Regulation and Frequency Response Service is accomplished by committing on-line generation whose output is raised or lowered, predominantly through the use of automatic generating control equipment, as necessary to follow the moment-by-moment changes in load. The obligation to maintain this balance between resources and load lies with the Transmission Provider (or the Control Area operator that performs this function for the Transmission Provider). The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Regulation and Frequency Response Service obligation. The charges for Regulation and Frequency Response Service are referred to below. The amount of Regulation and Frequency Response Service may be set forth in the Service Agreement. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

The charges for Regulation and Frequency Response Service are set forth in the appropriate rate schedule attached to and made part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the charges for Regulation and Frequency Response Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Regulation and Frequency Response Service shall be as set forth in a subsequent rate schedule promulgated pursuant to the above procedures and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Schedule 4

Energy Imbalance Service

Energy Imbalance Service is provided when a difference occurs between the scheduled and the actual delivery of energy to a load located within a Control Area over a single hour. The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either obtain this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Energy Imbalance Service obligation. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

The Transmission Provider shall establish a deviation band of +/−1.5 percent (with a minimum of 2 MW) of the scheduled transaction to be applied hourly to any energy imbalance that occurs as a result of the Transmission Customer's scheduled transaction(s). Parties should attempt to eliminate energy imbalances within the limits of the deviation band within thirty (30) days or within such other reasonable period of time as is generally accepted in the region and consistently adhered to by the Transmission Provider. If an energy imbalance is not corrected within thirty (30) days or a reasonable period of time that is generally accepted in the region and consistently adhered to by the Transmission Provider, the Transmission Customer will compensate the Transmission Provider for such service. Energy imbalances outside the deviation band will be subject to charges to be specified by the Transmission Provider. Compensation

for Energy Imbalance Service will be as set forth below.

The compensation for Energy Imbalance Service is set forth in the appropriate rate schedule attached to and made part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the compensation for Energy Imbalance Service upon written notice to the Transmission Customer. Any change to the compensation to the Transmission Customer for Energy Imbalance Service shall be as set forth in a subsequent rate schedule promulgated pursuant to the above procedures and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Schedule 5

Operating Reserve—Spinning Reserve Service

Spinning Reserve Service is needed to serve load immediately in the event of a system contingency. Spinning Reserve Service may be provided by generating units that are on-line and loaded at less than maximum output. The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Spinning Reserve Service obligation. The charges for Spinning Reserve Service are referred to below. The amount of Spinning Reserve Service may be set forth in the Service Agreement. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

The charges for Operating Reserve—Spinning Reserve Service are set forth in the appropriate rate schedule attached to and made part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the charges for Operating Reserve—Spinning Reserve Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Operating Reserve—Spinning Reserve Service shall be as set forth in a subsequent rate schedule promulgated pursuant to the above procedures and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Schedule 6

Operating Reserve—Supplemental Reserve Service

Supplemental Reserve Service is needed to serve load in the event of a system contingency; however, it is not available immediately to serve load but rather within a short period of time. Supplemental Reserve Service may be provided by generating units that are on-line but unloaded, by quick-start generation or by interruptible load. The Transmission Provider must offer this service when the transmission service is used to serve load within its Control Area. The Transmission Customer must either purchase this service from the Transmission Provider or make alternative comparable arrangements to satisfy its Supplemental Reserve Service obligation. The charges for Supplemental Reserve Service are referred to below. The amount of Supplemental Reserve Service may be set forth in the Service Agreement. To the extent the Control Area operator performs this service for the Transmission Provider, charges to the Transmission Customer are to reflect only a pass-through of the costs charged to the Transmission Provider by that Control Area operator.

The charges for Operating Reserve—Supplemental Reserve Service are set forth in the appropriate rate schedule attached to and made part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the charges for Operating Reserve—Supplemental Reserve Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Operating Reserve—Supplemental Reserve Service shall be as set forth in a subsequent rate schedule promulgated pursuant to the above procedures and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Schedule 7

Long-Term Firm and Short-Term Firm Point-to-Point Transmission Service

The Transmission Customer shall compensate the Transmission Provider each month for Reserved Capacity pursuant to its rate schedule for Firm Point-to-Point Transmission Service attached to and made a part of the applicable Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the charges for Firm Point-to-Point Transmission Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Firm Point-to-Point Transmission Service shall be as set forth in a subsequent rate schedule promulgated pursuant to the above procedures and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Discounts: Three principal requirements apply to discounts for transmission service as follows: (1) Any offer of a discount made by the Transmission Provider must be announced to all Eligible Customers solely by posting on the OASIS, (2) any customer-initiated requests for discounts (including requests for use by one's wholesale merchant or an affiliate's use) must occur solely by posting on the OASIS, and (3) once a discount is negotiated, details must be immediately posted on the OASIS. For any discount agreed upon for service on a path, from point(s) of receipt to point(s) of delivery, the Transmission Provider must offer the same discounted transmission service rate for the same time period to all Eligible Customers on all unconstrained transmission paths that go to the same point(s) of delivery on the Transmission System.

Schedule 8

Non-Firm Point-To-Point Transmission Service

The Transmission Customer shall compensate the Transmission Provider for Non-Firm Point-to-Point Transmission Service pursuant to its rate schedule for Non-Firm Point-to-Point Transmission Service attached to and made a part of the applicable

Service Agreement. The rates or rate methodology used to calculate the charges for service under this schedule were promulgated and may be modified pursuant to applicable Federal laws, regulations, and policies.

The Transmission Provider may modify the charges for Firm Point-to-Point Transmission Service upon written notice to the Transmission Customer. Any change to the charges to the Transmission Customer for Firm Point-to-Point Transmission Service shall be as set forth in a subsequent rate schedule promulgated pursuant to the above procedures and attached to and made part of the applicable Service Agreement. The Transmission Provider shall charge the Transmission Customer in accordance with the rate then in effect.

Discounts: Three principal requirements apply to discounts for transmission service as follows: (1) Any offer of a discount made by the Transmission Provider must be announced to all Eligible Customers solely by posting on the OASIS, (2) any customer-initiated requests for discounts (including requests for use by one's wholesale merchant or an affiliate's use) must occur solely by posting on the OASIS, and (3) once a discount is negotiated, details must be immediately posted on the OASIS. For any discount agreed upon for service on a path, from point(s) of receipt to point(s) of delivery, the Transmission Provider must offer the same discounted transmission service rate for the same time period to all Eligible Customers on all unconstrained transmission paths that go to the same point(s) of delivery on the Transmission System.

Attachment A

Form Of Service Agreement For Firm Point-To-Point Transmission Service

Southwestern intends for future Service Agreements for Firm Point-to-Point Transmission Service to be constituted as follows:

Type 1—Long-Term Firm

Point-to-Point Transmission Service Agreements will be executed for *each* Point-to-Point arrangement, and will consist of the following components:

a. The initial document with signatures of the Parties (Part A), similar to the initial document form suggested in Attachment A of the Pro Forma Tariff published as Appendix B of FERC Order 888–A, with added provisions to include, but not be limited to:

i. Provisions reserving the right to change rates and contract provisions which may be affected by statutory and regulatory requirements imposed on the Transmission Provider, as well as changes in losses and other operational matters which may be affected by changing conditions for operation of the Transmission Provider's Transmission System.

ii. Requirements for conforming to the interchange standards of the North American Electric Reliability Council and the Southwest Power Pool.

iii. Limitations on the Transmission Provider's obligations to provide for deficiencies in Third-Party resources and to notify parties in regard to suspensions or reductions due to the actions of Third Parties.

b. The Specifications for *Long-Term* Firm Transmission Service (Part B), in a form similar to that of the specification document suggested in Attachment A of the Pro Forma Tariff published as Appendix B of FERC Order 888–A, with added provisions to include, but not be limited to:

i. Describing the service from information provided in the Transmission Customer's Completed Application.

ii. Listing of charges, including information on Ancillary Services.

c. The General Provisions Applicable to Transmission Service (Part C), including, but not limited to:

i. Special payment terms including provision for sending payments to a U.S. Treasury lockbox, payment by EFT, and other applicable procedures relating to billing and payment in addition to those provided in the Tariff.

ii. Standard provisions required by a Federal agency in its contracts, such as availability of funds and certain socioeconomic clauses.

iii. Facilities issues including environmental and safety provisions for entry and use, if any, of the Transmission Provider's property by representatives of the Transmission Customer, and provisions related to upgrade of facilities and mutual assistance of the Parties. *These provisions would not be included in any contract with a Transmission Customer to which they are not applicable.*

Type 2—Short-Term Firm

Point-to-Point Transmission Service Agreements will be executed as *enabling agreements* for a specified term under which the Transmission Customer can request *various* specific transactions in accordance with the Tariff during the term of the Agreement, and will consist of the following components:

a. The initial document as described above in 1. (Part A),

b. General Terms and Conditions for Short-Term Firm Transmission Service, (Part B), including, but not limited to:

i. Provision for the Transmission Customer to fill out an Application which lists certain information related to proposed point-to-point arrangements as ''various.''

ii Procedures for requesting service and submitting schedules for specific transactions under the enabling agreement.

iii Parameters for maximum and minimum periods for requesting Short-Term Firm capacity reservations modeled on Section 18.3 of the Tariff.

iv Listing of charges, including information on Ancillary Services.

c. General Provisions Applicable to Transmission Service (Part C), as described above under Contract Type 1.

Attachment B

Form Of Service Agreement For Non-Firm Point-To-Point Transmission Service

Non-Firm Point-to-Point Transmission Service Agreements will be executed as *enabling agreements* for a specified term under which the Transmission Customer can request a *variety* of transactions for Non-Firm Transmission Service in accordance with the Tariff during the term of the agreement, and will consist of the following components:

1. The initial document with signatures of the Parties (Part A), similar to the initial document form suggested in Attachment B of the Pro Forma Tariff published as Appendix B of FERC Order 888–A, with added provisions to include, but not be limited to:

a. Provisions reserving the right to change rates and contract provisions which may be affected by statutory and regulatory requirements imposed on the Transmission Provider, as well as changes in losses and other operational matters which may be affected by changing conditions for operation of the Transmission Provider's Transmission System.

b. Requirements for conforming to the interchange standards of the North American Electric Reliability Council and the Southwest Power Pool.

c. Limitations on the Transmission Provider's obligations to provide for deficiencies in Third-Party resources and to notify parties in regard to suspensions or reductions due to the actions of Third Parties.

2. The General Terms and Conditions for Non-Firm Transmission Service (Part B), including, but not limited to:

a. Provision for the Transmission Customer to fill out an Application

which lists information on proposed point-to-point arrangements as ''various.''

b. Procedures for requesting service and submitting schedules for individual transactions.

c. Listing of charges, including information on Ancillary Services.

3. The General Provisions Applicable to Transmission Service (Part C), including, but not limited to:

a. Special payment terms including provision for sending payments to a U.S. Treasury lockbox, payment by EFT, and other applicable procedures relating to billing and payment in addition to those provided in the Tariff.

b. Standard provisions required by a Federal agency in its contracts, such as availability of funds and socioeconomic clauses.

c. Facilities issues including environmental and safety provisions for entry and use, if any, of the Transmission Provider's property by representatives of the Transmission Customer, and provisions related to upgrade of facilities and mutual assistance of the Parties. *These provisions would not be included in any contract with a Transmission Customer to which they are not applicable.*

Attachment C

Methodology to Assess Available Transmission Capability

The Transmission Provider is a member of the Southwest Power Pool (SPP), and follows the SPP's approach in the determination of Available Transfer Capability (ATC) and Total Transfer Capability. The SPP does seasonal transfer studies to determine the inter-area transfer capabilities. The methodology uses standard incremental transfer capability techniques that recognize thermal, voltage, and stability limitations as well as contractual limitations. This methodology is based on NERC Criteria, Operating Policies, and Reference Documents related to interchange and transfer capability estimates.

The Transmission Provider will post on the OASIS the values calculated by the SPP. When ATC approaches zero for any interface, the Transmission Provider may do dedicated, off-line studies in accordance with SPP methodology to update the seasonal values of ATC calculated by the SPP.

Attachment D

Methodology for Completing a System Impact Study

The Transmission Provider may require System Impact Studies to determine the feasibility of providing Transmission Service under this Tariff. The System Impact Studies will follow the criteria and procedures as described below. In determining the level of capacity available for new Transmission Service requests, the Transmission Provider may exclude the capacity needed to meet current and reasonably forecasted load of Native Load Customers and Network Customers, existing Firm Point-to-Point Transmission Service customers, previously pending applications for Firm Point-to-Point Transmission Service, and the capacity needed to meet existing contractual obligations.

Point-To-Point Service

The Transmission Provider will do a System Impact Study for a Point-to-Point Transmission Service request by simulating the proposed transaction along with all other contracted and pending uses of the transmission system of equal or greater priority. Criteria will be the same as those used to determine the ATC limits posted on the OASIS.

Network Integration Service

The Transmission Provider will do a System Impact Study for a Network Integration Transmission Service request using the criteria and assessment practices as detailed in Parts 4 and 5 of the Transmission Provider's annual FERC Form 715 submittal.

Attachment E

Index of Point-To-Point Transmission Service Customers

Customer Date of Service Agreement

This Attachment E is intentionally left blank.

Attachment F

Form of Service Agreement For Network Integration Transmission Service

Note: Transmission Provider will not immediately offer Network Integration Transmission Service due to limits in its Transmission System and to concerns relating to its statutory and regulatory requirements to set rates to recover costs and to repay the Federal investment in the generation and transmission system from which it markets Federal power and associated energy as well as point-to-point transmission services. If and when Network Integration Service can be offered, the Transmission Provider will develop a suitable service agreement form which will be constituted as follows:

1. An initial document with signatures of the Parties (Part A), similar to the initial document form suggested in Attachment A of the Pro Forma Tariff published as Appendix B of FERC Order 888–A, with added provisions to include, but not be limited to:

a. Provisions reserving the right to change rates and contract provisions which may be affected by statutory and regulatory requirements imposed on the Transmission Provider, as well as changes in losses and other operational matters which may be affected by changing conditions for operation of the Transmission Provider's Transmission System.

b. Requirements for conforming to the interchange standards of the North American Electric Reliability Council and the Southwest Power Pool.

c. Limitations on the Transmission Provider's obligations to provide for deficiencies in Third-Party resources and to provide redispatching services.

d. Recognition that the Transmission Provider's obligation to construct new or upgraded facilities to provide capacity to meet the Network Customer's loads is specifically contingent on availability of funds from the U.S. Congress.

2. The Specifications for Network Transmission Service (Part B), in a form similar to that of the specification document suggested in Attachment A of the Pro Forma Tariff published as Appendix B of FERC Order 888–A, with added provisions to include, but not be limited to:

a. Describing the service from information provided in the Network Customer's Completed Application.

b. Reading in the separately negotiated Network Operating Agreement (See Attachment G).

c. Detailing the charges associated with the service, including applicable Ancillary Services and penalties for unauthorized use of the service.

d. Methods for computing Real Power Losses and for the Transmission Customer to provide for such losses to the Transmission Provider.

3. A separately negotiated and attached Network Operating Agreement.

4. Transmission Provider's economic basis for determining network service charges.

5. The General Provisions Applicable to Transmission Service (Part C), including, but not limited to:

a. Special payment terms including provision for sending payments to a U.S. Treasury lockbox, payment by EFT, and other applicable procedures relating to billing and payment in addition to those provided in the Tariff.

b. Standard provisions required by a Federal agency in its contracts, such as availability of funds, and socioeconomic clauses.

c. Facilities issues including environmental and safety provisions for

entry and use, if any, of the Transmission Provider's property by representatives of the Transmission Customer, and provisions related to upgrade of facilities and mutual assistance of the Parties.

Attachment G

Network Operating Agreement

To be provided by the Transmission Provider at such time as the Transmission Provider has negotiated or offered a Network Integration Transmission Service Agreement. The terms and conditions under which the Network Customer will be required to operate its facilities and the technical and operational matters associated with the implementation of Network Integration Transmission Service will be specified in a separate Network Operating Agreement and appended to the applicable Service Agreement.

The Network Operating Agreement may include, but not be limited to, provisions addressing the following:

Authorized Representatives of the Parties
Network Operating Committee
Load Following
System Protection
Redispatch to Manage Transmission Constraints
Maintenance of Facilities
Load Shedding
Operation Impacts
Service Conditions
Data, Information and Reports
Metering
Communications
System Regulation and Operating Reserves
Assignment
Notices
Accounting for Transmission Losses
Ancillary Services
Penalties for Unauthorized Use of Transmission Provider's System

Attachment H

Annual Transmission Revenue Requirement For Network Integration Transmission Service

1.0 The Annual Transmission Revenue Requirement for purposes of the Network Integration Transmission Service is proposed to be $_____.

In the event that the Transmission Provider is able to provide Network Integration Transmission Service, the amount provided above will be based on the annualized costs associated with operation and maintainance of the Transmission System and the Transmission Provider's obligation to repay the costs of its transmission facilities. Such amount may be revised annually in accordance with other standard procedures of the Transmission Provider.

The pro rata share of each applicant which may be granted Network Integration Transmission Service will be determined by an algorithm which has not yet been developed.

Attachment I

Index of Network Integration Transmission Service Customers

Customer Date of Service Agreement

This Attachment I is intentionally left blank.

Attachment J

Authorities and Obligations

Southwestern Power Administration (Southwestern) was established in 1943 pursuant to Section 5 of the Flood Control Act of 1944 (58 Stat. 887, 890; 16 U.S.C. 825s) and Pub. L. 95–456 (92 Stat. 1230; 16 U.S.C. 825s–3). Southwestern was organized as part of the Department of the Interior, but became part of the Department of Energy pursuant to Section 302 of the Department of Energy Organization Act (91 Stat. 578; 42 U.S.C. 7152) in 1977.

According to the Flood Control Act, Southwestern is to market hydroelectric power and energy generated at U.S. Army Corps of Engineers Dams in excess of project needs ''to encourage the most widespread use thereof at the lowest possible rates to consumers consistent with sound business principles.* * * Preference in the sale of such power and energy shall be given to public bodies and cooperatives.'' Further, ''only such transmission lines and related facilities as may be necessary in order to make the power and energy generated at such projects available in wholesale quantities for sale * * *'' may be constructed or acquired to fulfill this mission.

Southwestern markets power and associated energy from hydroelectric generation projects in the States of Arkansas, Missouri, Oklahoma, and Texas to cooperative, municipal, and military customers in those states as well as the States of Kansas and Louisiana. By statute, Southwestern's Transmission System was constructed to enable the integration of Southwestern's hydroelectric power resources to satisfy Southwestern's contractual obligations to its Federal Customers, which have allocations of Federal power. Southwestern sells transmission service using Federally owned or controlled facilities only to the extent that transmission capacity is available in excess of that necessary to reliably deliver Federal power. In order to fulfill its mission, Southwestern will reserve transmission capacity sufficient to deliver Federal power. Accordingly, the Tariff shall apply only to the marketing of such transmission capacity in the system of Southwestern as is excess to the requirements of Southwestern's primary mission.

Southwestern's Federal Customers are somewhat analogous to, and its nearest equivalent of, Native Load Customers as defined in the Tariff. Southwestern is, by the nature of its resources and the provisions of its power sales contracts, a partial requirements supplier only. Southwestern uses its transmission system to integrate its resources to reliably meet contract obligations rather than to meet loads. These distinctions mean, among other things, that Southwestern is not obliged to meet customer loads or to construct facilities to meet loads, and thus has no ''utility responsibility.'' to its Federal Customers. However, for the purposes of the Tariff, Southwestern will consider its Federal Customers as the equivalent of Native Load Customers.

Southwestern is not a jurisdictional public utility under Sections 205 and 206 of the Federal Power Act and is not specifically subject to the requirements of the Federal Energy Regulatory Commission's (FERC or Commission) Final Orders 888 and 888–A. Southwestern is a transmitting utility subject to Section 211 of the Federal Power Act as amended by the Energy Policy Act of 1992. Southwestern is also subject to the reciprocity provisions of FERC Orders 888 and 888–A. The Department of Energy has issued a Power Marketing Administration Open Access Transmission Policy that supports the intent of the FERC Final Rule in Order 888 on Open Access Transmission. This Open Access Transmission Tariff is intended to provide for transmission of non-Federal power on the unused capacity of transmission facilities under the jurisdiction or control of Southwestern in a manner consistent with the spirit and intent of FERC Orders 888 and 888–A.

Southwestern has prepared this Tariff to provide transmission service comparable to that required of jurisdictional public utilities by FERC Orders 888 and 888–A, and to implement the spirit and intent of those Orders consistent with the DOE Policy. An entity desiring Transmission Service from Southwestern must comply with the application procedures outlined therein. The review and approval requirements detailed therein will apply to all requesting parties. Southwestern

will perform the necessary studies or assessments for evaluating requests for Transmission Service as set forth in the Tariff. Any facility construction or interconnection necessary to provide transmission service will be subject to Southwestern's Requirements for Interconnection, which are available upon request, and will require that funds necessary for such construction be submitted in advance to Southwestern, subject to Southwestern's authority to receive such funds.

Based on a reasonable level of risk, Southwestern has marketed the maximum practical amount of power from each of its projects, leaving little flexibility for provision of additional power services. Changes in water conditions frequently affect the ability of hydroelectric projects to meet obligations on a short-term basis. The unique characteristics and limitations of the hydroelectric resource caused by changing water conditions may limit Southwestern's ability to provide certain generation-related services, including some Ancillary Services and any redispatching which may require the use of Federal hydro resources.

Southwestern is committed to providing comparable open-access transmission service to any Eligible Customer without discrimination, as has been its practice throughout its history. However, nothing in the Tariff shall alter, amend, or abridge the statutory and regulatory obligations of Southwestern to market Federal Power to Federal Customers and to repay the Federal investment in the projects and facilities from which Southwestern markets power and energy.

Southwestern will provide Firm and Non-Firm Point-to-Point Transmission Service and, if practicable, Network Integration Transmission Service, consistent with the Tariff. The specific terms and conditions for providing transmission service to an Eligible Customer will be set forth in a Service Agreement.

[FR Doc. 97–25333 Filed 9–24–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5898–6]

Public Meeting on Drinking Water Issues

Notice is hereby given that the Environmental Protection Agency (EPA) is holding a workshop for purposes of information exchange on issues related to developing a national estimate of waterborne disease occurrence. The purpose of the workshop will be to provide a brief review of the Safe Drinking Water Act mandate to develop a national estimate; review and discuss current approaches to developing the national estimate; review and discuss planned and ongoing epidemiological studies and the goals and methodologies of these studies; and discuss approaches for enhancing these studies as well as identifying additional studies that might be useful in improving the national estimate. Experts in epidemiology, biostatistics, public health and related fields will be invited to the workshop to offer their insight.

The meeting will take place on October 9, 1997, from 8:30 a.m. until 5:30 p.m. and October 10, 1997 from 9:00 a.m. until 12:30 p.m., at the Washington National Airport Hilton at 2399 Jefferson Davis Highway, Arlington, VA 22202. The agenda will include discussion of methods for assessing rates of waterborne disease and the economic impact of those diseases. Discussion is expected to focus on the extent to which planned and ongoing studies can be used in developing a national estimate and other potentially viable approaches to developing this national estimate.

EPA is inviting interested members of the public to participate in the meeting, which continues a series of public meetings that the Agency has been holding since last year on issues related to the development of regulations to control pathogens and disinfection byproducts in drinking water. As with all previous meetings in this series, EPA is maintaining an open door policy to allow members of the public to attend. To assist EPA in managing limitations on conference room seating, members of the public who are interested in attending are requested to contact Valerie Blank of EPA's Office of Ground Water and Drinking Water. Members of the public who are interested in additional information about this or other meetings in this series or who would like to be included on the mailing list to receive notice of further meetings in this series are also requested to contact Ms. Blank, who can be reached at 401 M Street, SW, 4607, Washington, DC 20460, (202) 260–8376, blank.valerie@epamail.epa.gov.

Dated: September 19, 1997.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–25504 Filed 9–24–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[OPPTS–00224; FRL–5746–4]

Notice of Public Meeting on Establishing a Program for Lead-Based Paint Hazard Evaluation and Reduction Products

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: EPA is announcing a public meeting on September 29, 1997, in Arlington, VA, to take suggestions from a cross-section of stakeholders on the development of a program to carry out the testing and registration of lead-based paint hazard evaluation and reduction products as required under Section 405(f) of the Toxic Substances Control Act (TSCA, 15 U.S.C. Section 2685(f).

DATES: The meeting will take place on Monday, September 29, 1997, beginning promptly at 6:00 p.m. and continuing until 8:00 p.m.

ADDRESSES: The meeting will take place at the Crystal Gateway Marriot Hotel, 1700 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Darlene Watford, National Program Chemicals Division, (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC. 20460, telephone: (202) 260–3989, fax: (202) 260–0001, e-mail: watford.darlene@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On October 28, 1992, the Residential Lead-Based Paint Hazard Reduction Act of 1992, Title X of the Housing and Community Development Act of 1992, became law. Title X amended TSCA by adding a new Title IV, the purpose of which is to reduce the hazards from lead in paint and coatings used in housing, public and commercial buildings, and other structures. Section 405(f) of TSCA stipulates that EPA establish testing criteria, testing protocols, and performance characteristics as necessary to ensure to the greatest extent possible that lead-based paint hazard evaluation and reduction products introduced into commerce are effective for the intended use described by the manufacturer.

Several states have already begun to pass lead laws and regulations which establish lead prevention programs, as well as the infrastructure necessary to support such programs. Many of these programs specify a set of performance standards that must be met by lead

hazard control products to be included on a state's list of registered products, and certified lead abatement contractors must use only products that have been registered in the state. Although most of these state programs are similar, there are some significant differences. As a result, some manufacturers of lead hazard control products fear that registration of their products will be very costly if they have to be tested and approved by each state using different criteria. A federal program could provide a minimal set of consistent requirements to evaluate lead hazard control products, and could be utilized by many, if not all, state and local agencies.

Under section 405(f), EPA plans to establish a national program that provides a mechanism to develop testing protocols, criteria, and performance characteristics for lead-based paint hazard evaluation and reduction products. EPA wishes to activate section 405(f) by obtaining feedback and information from interested parties concerning their suggestions on establishing the program.

II. Participants

Any and all stakeholders (e.g., individuals, or representatives of organizations, state and local governments, or academia) are invited to attend as members of the audience.

III. Draft Approach to Establishing Program

Section 405(f) stipulates that EPA shall establish ''appropriate testing criteria, testing protocols, and performance characteristics as are necessary to ensure to the greatest extent possible and consistent with the purposes and policy of this Title [TSCA Title IV], that lead-based paint hazard evaluation and reduction products introduced into commerce . . . are effective for the intended use described by the manufacturer.'' In general, a product is to be evaluated by subjecting it to a set of standard test methods according to a given protocol. The results of these tests will be compared to performance-based testing criteria established to measure the product's effectiveness in accurately and precisely evaluating lead levels or minimizing the user's exposure to lead-based paint hazards. If a product meets the testing criteria, it will be approved for use as described by the manufacturer and recognized as an EPA-approved product.

EPA is initiating the process of developing a Lead-Based Paint Hazard Evaluation and Reduction Program (LBPHERP) that will define the requirements of and create, an organization to administer the program. The program will also identify the specific classes of products that are currently used for lead-based paint hazard evaluation and reduction, and develop criteria and requirements for testing these products.

EPA plans to focus its efforts on hazard evaluation and reduction products that are used in renovation and remodeling activities. A priority will be placed on products that homeowners will use; however, products used by certified abatement professionals may be covered where applicable and practical. Lead-based paint hazard products that may require testing and registration under section 405(f) include: chemical spot test kits, electrochemical lead paint and/or dust analyzers, encapsulants, chemical paint removers, household cleaners; respirators; mechanical grinders or blasters with shrouds, and HEPA vacuums. At present, most of these products do not have a complete set of test methods, testing protocols, testing criteria, and defined performance characteristics to determine whether the product is effective for its intended use as a lead hazard evaluation or reduction product.

Various Federal agencies, quasi-governmental groups, and private agencies were contacted to solicit input and possible involvement in implementing section 405(f). In addition, test methods and protocols that have been developed are being evaluated to determine if they satisfy EPA testing requirements. Based on this preliminary investigation, it was determined that no single national organization or agency currently addresses the requirements of section 405(f) with respect to the wide variety of products that could potentially fall within the scope of this program. Also, the current state of development of test protocols and testing criteria for these products varies significantly across the classes of products identified.

The ultimate goal of the LBPHERP is to provide regulators, industry, and consumers with a nationally recognized means to reliably assess lead-based paint hazard evaluation and reduction products. Accomplishing this goal will require that products are tested against a set of accepted standards, and that only those products which meet the predetermined performance criteria be considered EPA-registered products. Pursuant to section 12(d) of the National Technology Transfer and Advancement Act of 1995, Pub. No. 104-113, Voluntary Consensus Boards will be used to develop standards for those products for which test methods or protocols do not yet exist. Once standard test methods and protocols and testing criteria are established, product registration can occur. The registration of a product is intended to confirm that the product conforms to specified standards, and provides the user with explicit or implicit information about the characteristics and performance of the product.

EPA has determined that certain key elements must be considered when establishing the LBPHERP. These elements focus on keeping government costs to a minimum; ensuring that guidelines support existing Title X rules and programs such as section 402, section 403, section 404, and section 1,018; requiring the use of accredited third-party laboratories for product testing; and making results easily accessible to the public. EPA is considering nonprofit or not-for-profit organizations that have expertise in the lead-based paint hazard field to administer the LBPHERP. This organization would be capable of gaining the confidence of interested government authorities, manufacturers, and the public so that they accept and adopt the organization's or group's recommendations and standards. This organization would also utilize independent testing laboratories as required by section 405(f) to test the lead hazard evaluation and reduction products.

Presently, there is no one organization that stands out as the obvious choice to administer the LBPHERP; however, there are groups who may be interested. There are numerous federal agencies, accreditation organizations, standards organizations, nationally recognized lead abatement organizations, national laboratories, contract research centers, and quasi-government organizations which are heavily involved in the lead-based paint hazard evaluation and reduction field, and might welcome the opportunity to become involved in the administration of the LBPHERP. Many configurations of these agencies and organizations could facilitate the LBPHERP.

EPA is considering the position that the LBPHERP should be able to eventually finance itself through fees charged to manufacturers to register their products and maintain this registration.

IV. Topics of Discussion

There are two main topics of discussion that EPA would like to address during this public meeting:

1. What type of organization could best facilitate the lead-based paint

hazard evaluation and reduction program and meet the scope of section 405(f)?

2. Which lead hazard reduction products are going to be required to be tested before they can be registered under this program?

There are several factors affecting the first question, such as the cost and size of the program; timeliness of implementation; cost to the government and industry; and acceptance by industry, state regulators, and consumers. The acceptance of a program will depend in part on the expertise of the staff administering the program and the recognition of the organization as an accredited certification/registration body.

Several issues associated with the second question will need to be discussed, such as testing methods, and protocols, development of testing criteria, voluntary consensus standards, cost of testing products, and reciprocity between states.

V. Public Docket

The official record for this notice has been established under docket control number ''OPPTS–00224.'' The record is available for inspection from 12 noon to 4:00 p.m., Monday through Friday, excluding legal holidays. The record is located at: TSCA Docket (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Room E–G99, 401 M St., SW., Washington, DC. 20460.

List of Subjects

Environmental protection.

Dated: September 18, 1997

William H. Saunders III,

Director, Office of Pollution Prevention and Toxics.

[FR Doc.97–25500 Filed 9–22–97; 3:06 p.m.]

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ENVIRONMENTAL PROTECTION AGENCY

[PF–767; FRL–5748–2]

Notice of Filing of Pesticide Petitions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: This notice announces the initial filing of pesticide petitions proposing the establishment of regulations for residues of certain pesticide chemicals in or on various food commodities.

DATES: Comments, identified by the docket control number PF–767, must be received on or before October 27, 1997.

ADDRESSES: By mail submit written comments to: Public Information and Records Integrity Branch, Information Resources and Services Division (7506C), Office of Pesticides Programs, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. In person bring comments to: Rm. 1132, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Comments and data may also be submitted electronically to: opp-docket@epamail.epa.gov. Follow the instructions under ''SUPPLEMENTARY INFORMATION.'' No confidential business information should be submitted through e-mail.

Information submitted as a comment concerning this document may be claimed confidential by marking any part or all of that information as ''Confidential Business Information'' (CBI). CBI should not be submitted through e-mail. Information marked as CBI will not be disclosed except in accordance with procedures set forth in 40 CFR part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice. All written comments will be available for public inspection in Rm. 1132 at the address given above, from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail: George LaRocca, Registration Division [PM-13], Office of Pesticide Programs, 401 M St., SW., Washington, DC 20460. Office location, telephone number and e-mail address: Rm. 204, Crystal Mall #2, 1921 Jefferson Davis Hwy., Arlington, VA, (703) 305–6100, e-mail: larocca.george@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: EPA has received pesticide petitions as follows proposing the establishment and/or amendment of regulations for residues of certain pesticide chemicals in or on various food commodities under section 408 of the Federal Food, Drug, and Comestic Act (FFDCA), 21 U.S.C. 346a. EPA has determined that these petitions contain data or information regarding the elements set forth in section 408(d)(2); however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

The official record for this notice of filing, as well as the public version, has been established for this notice of filing under docket control number [PF–767] (including comments and data submitted electronically as described below). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as CBI, is available for inspection from 8:30 a.m. to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located at the address in ''ADDRESSES'' at the beginning of this document.

Electronic comments can be sent directly to EPA at:

opp-docket@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comment and data will also be accepted on disks in Wordperfect 5.1 file format or ASCII file format. All comments and data in electronic form must be identified by the docket controlnumber [PF–767] and appropriate petition number. Electronic comments on this notice may be filed online at many Federal Depository Libraries.

List of Subjects

Environmental protection, Agricultural commodities, Food additives, Feed additives, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: September 19, 1997.

James Jones,

Acting Director, Registration Division, Office of Pesticide Programs.

Summaries of Petitions

Petitioner summaries of the pesticide petitions are printed below as required by section 408(d)(3) of the FFDCA. The summaries of the petitions were prepared by the petitioners and represent the views of the petitioners. EPA is publishing the petition summaries verbatim without editing them in any way. The petition summary announces the availability of a description of the analytical methods available to EPA for the detection and measurement of the pesticide chemical residues or an explanation of why no such method is needed.

1. AgrEvo USA Company

PP 2F4055, 6F3436, 4F2993, 6F3309

EPA has received a request from AgrEvo USA Company (acting as registered US agent for Hoechst Schering AgrEvo, S. A., Little Falls Centre, 2711 Centerville Road,

Wilmington, DE 19808, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by removing the time limitation for tolerances established for residues of the insecticides and pyrethroid Deltamethrin and Tralomethrin in or on the following raw agricultural commodities: Deltamethrin - cottonseed at 0.04 parts per million (ppm) and cottonseed oil at 0.2 ppm; and Tralomethrin - broccoli at 0.50 ppm, cottonseed at 0.02 ppm, lettuce, head at 1.00 ppm, lettuce, leaf at 3.00 ppm, soybeans at 0.05 ppm, sunflower seed at 0.05 ppm and cottonseed oil at 0.20 ppm. The IUPAC name for deltamethrin is [(1*R*, 3*R*)-3(2,2-dibromovinyl)-2,2-dimethylcyclopropanecarboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester] and for tralomethrin is [(1*R*, 3*S*)3[(1′ RS)(1′,2′,2′,2′,-tetrabromo-ethyl)]-2,2-dimethylcyclopropane-carboxylic acid (*S*)-alpha-cyano-3-phenoxybenzyl ester]. The tolerances were originally requested in Pesticide Petition Numbers 2F4055, 6F3436, 4F2993, 6F3309. Based on the fact that tralomethrin is rapidly metabolized in plants and animals to deltamethrin, and the toxicological profile of the two compounds is similar, it is appropriate to consider combined exposure assessments for tralomethrin and deltamethrin. EPA has determined that the request contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the permanent tolerance. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. Deltamethrin metabolism studies in tomatoes, corn, apples, and cotton demonstrate the same metabolic pathway. Furthermore, plant metabolism studies have been conducted following application of tralomethrin in cotton, corn, cabbage, and tomatoes. These studies have demonstrated that the metabolism of tralomethrin involves debromination to deltamethrin and its isomers. Thus, a similar metabolic pathway has been shown to occur in a variety of crops following either direct application of deltamethrin (cotton, corn, apples, and tomatoes) or in-plant formation of deltamethrin via debromination of applied tralomethrin (tomatoes, cotton, corn, and cabbage). As a result of this substantial information base, it is concluded that the residues of toxicological concern in/on growing crops following application of tralomethrin or deltamethrin are tralomethrin, cis-deltamethrin, and its isomers, trans-deltamethrin and alpha-R-deltamethrin.

2. *Analytical method*. Analytical methods for determining residues of tralomethrin and deltamethrin in the commodities for which registrations have been approved, have been previously submitted to, and reviewed by, the Agency. These methods, based on gas nyhromatography (GLC) equipped with an electron capture detector (ECD) and a DB-1 (or equivalent) capillary column, are used for the determination of tralomethrin, cis-deltamethrin, trans-deltamethrin, and alpha-R-deltamethrin in various raw agricultural, animal derived, and processed commodities. These methods were independently validated and are appropriate for the determination of residues of tralomethrin and deltamethrin in various food and feed commodities after application of these ingredients to target growing crops, and after use in food/feed handling establishments.

3. *Magnitude of residues*. Residues of tralomethrin, deltamethrin, and its metabolites are not expected to exceed the established tolerance levels as a result of the use of these active ingredients on target crops.

B. Toxicological Profile

1. *Acute toxicity*. The acute oral LD_{50} values for deltamethrin in the rat are 66.7 mg/kg for males, 86 mg/kg for females and for tralomethrin 99 mg/kg for males, 157 mg/kg for females when administered in sesame oil. The oral LD_{50} for deltamethrin when administered in aqueous methyl cellulose was greater than 5,000 mg/kg for both sexes. The dermal LD_{50} in rabbits was greater than 2,000 mg/kg for both materials. Inhalation 4–hour LC_{50} values in the rat are 2.2 mg/L for deltamethrin and greater than 0.286 mg/L for tralomethrin.

2. *Genotoxicity*. No indication of genotoxicity was noted in a battery of *in vivo* and *in vitro* studies conducted with either deltamethrin or tralomethrin.

3. *Reproductive and developmental toxicity*— a. *Deltamethrin* A rat developmental toxicity study conducted with deltamethrin indicated a maternal no-observed-effect levels (NOEL) of 3.3 mg/kg/day based on clinical observations, decreased weight gain and mortality. The developmental NOEL was 11 mg/kg/day [highest dose tested] (HDT). In a rabbit developmental toxicity study with deltamethrin, the maternal NOEL was considered to be 10 mg/kg/day based on decreased defecation at 25 and 100 mg/kg/day, and mortality at 100 mg/kg/day. The developmental NOEL was considered to be 25 mg/kg/day based on retarded ossification of the pubic and tail bones at 100 mg/kg (HDT). A three-generation rat reproduction study and a more recent, two-generation rat reproduction study with deltamethrin indicated the NOEL for both parents and offspring was 80 ppm (4–12 mg/kg/day for adults and 18–44 mg/kg/day for offspring) based on clinical signs of toxicity, reduced weight gain and mortality at 320 ppm (HDT).

b. *Tralomethrin*. In a rat developmental toxicity study with tralomethrin the NOEL for maternal and developmental toxicity was judged to be greater than or equal to 18 mg/kg/day (HDT). No evidence of developmental toxicity was observed in either of two rabbit developmental toxicity studies conducted with tralomethrin. In one study, the maternal NOEL was 12.5 mg/kg/day based on mortality while the developmental NOEL was judged to be greater than or equal to 25 mg/kg/day (HDT). In the second study, the maternal NOEL was 8 mg/kg/day based on body weight effects while the developmental NOEL was 32 mg/kg/day (HDT). In a two-generation reproduction study with tralomethrin in rats, the parental NOEL was 0.75 mg/kg/day based on body weight deficits while the NOEL for offspring was 3.0 mg/kg/day, also based on body weight deficits.

4. *Subchronic toxicity*— a. *Deltamethrin*. A 90–day rat oral toxicity study was conducted with deltamethrin which was administered by gavage. The NOEL was judged to be 1.0 mg/kg/day based on reduced body weight gain and slight hypersensitivity. In a more recent 90–day rat dietary study with deltamethrin, the NOEL was judged to be 300 ppm (~23.9 mg/kg/day for males, 30.5 mg/kg/day for females) based on uncoordinated movement, unsteady gait, tremors, increased sensitivity to sound, shakes and spasmodic convulsions. The difference in the NOEL between the two studies is attributed to the different routes of exposure (gavage in oil vs. administered in diet). A 12-week study was conducted with deltamethrin in mice. The NOEL was 300 ppm (~61.5 mg/kg/day in males and 77.0 mg/kg/day in females) based on chronic contractions, convulsions, poor condition, decreased weight gain and mortality. Two 13–week dog studies were conducted with deltamethrin. In the first study, beagle dogs were administered deltamethrin by capsule using PEG 200 as a vehicle. The NOEL for this study was 1 mg/kg/day based on tremors, unsteadiness, jerking movements, salivation, vomiting, liquid

feces and/or dilatation of the pupils. In the second study, deltamethrin was administered by capsule without a vehicle to beagle dogs. The NOEL for this study was 10 mg/kg/day based on unsteady gait, tremors, head shaking, vomiting and salivation. The difference in toxicity between the two studies is attributed to the enhanced absorption resulting from the use of PEG 200 as a vehicle in the first study. A 21–day dermal toxicity study was conducted with deltamethrin in rats. The NOEL for systemic toxicity was determined to be 1,000 mg/kg/day. In a subchronic inhalation study, rats were exposed to aerosolized deltamethrin for 6 hours per day, 5 days per week, for a total of 14 days over 3 weeks. Based on slightly decreased body weights and neurological effects at higher dose levels, it was concluded that 3 µg/l was the NOEL for systemic effects in this study.

b. *Tralomethrin*. Tralomethrin was administrated by gavage in corn oil to rats for 13 weeks. Based on mortality, decreased activity and motor control, soft stools, labored breathing and significantly lower absolute and relative mean liver weights, the NOEL was considered to be 1 mg/kg/day. Tralomethrin was administered by capsule to beagle dogs for 13 weeks. The NOEL for this study was 1.0 mg/kg/day based on refusal of milk supplement, tremors, exaggerated patellar response, unsteadiness and uncoordinated movement. A 21-day dermal toxicity study was conducted with tralomethrin on rats. No systemic effects were observed, therefore, the systemic NOEL for this study was 1,000 mg/kg/day.

5. *Chronic toxicity*— a. *Deltamethrin*. Deltamethrin was administered in the diet to beagle dogs for 2 years. No treatment-related effects were observed and the NOEL was judged to be 40 ppm (~1.1 mg/kg/day). In a more recent study, deltamethrin was administered by capsule (without a vehicle) to beagle dogs for 1–year. The NOEL in this study was considered to be 1 mg/kg/day based on clinical signs, decreased food consumption and changes in several hematology and blood chemistry parameters. Two rat chronic toxicity/ oncogenicity studies were conducted with deltamethrin. In the first study, the test substance was administered via the diet to rats for 2 years. The NOEL for this study was 20 ppm (~1 mg/kg/day) based on slightly decreased weight gain. In a more recent study, deltamethrin was administered to rats in the diet for 2 years. The NOEL for this study was considered to be 25 ppm (~1.1 and 1.5 mg/kg/day for males and females, respectively), based on neurological signs, weight gain effects and increased incidence and severity of eosinophilic hepatocytes and/or balloon cells. No evidence of carcinogenicity was noted in either study. Two mouse oncogenicity studies were conducted with deltamethrin. In the first study, deltamethrin was administered in the diet for 2 years. No adverse effects were observed and the NOEL was judged to be 100 ppm (~12 and 15 mg/kg/day, respectively, for males and females). In a more recent study, deltamethrin was administered in the diet to mice for 97 weeks. The NOEL was considered to be 1,000 ppm (~15.7 and 19.6 mg/kg/day) based on a higher incidence of poor physical condition and a slight transient weight reduction. There was no evidence of oncogenicity in either study.

b. *Tralomethrin*. Tralomethrin was administered to beagle dogs by capsule for 1–year at initial dosages of 0, 0.75, 3.0 and 10.0 mg/kg/day. Due to trembling, ataxia, prostration and convulsions, the high dosage was lowered to 8 mg/kg/day at study week 4 and lowered again to 6 mg/kg/day on study week 14. On the fourteenth week of study, the 0.75 mg/kg/day dosage was raised to 1.0 mg/kg/day. Based on body weight changes, convulsions, tremors, ataxia and salivation, the NOEL for this study was considered to be 1 mg/kg/ day. Tralomethrin was administered by gavage to rats for 24 months. The NOEL for this study was 0.75 mg/kg/day based on salivation, uncoordinated movement, inability to support weight on limbs and decreased body weight parameters. No evidence of carcino-genicity was observed. A 2–year mouse oncogenicity study was conducted with tralomethrin administered by gavage. The NOEL was judged to be 0.75 mg/kg/day based on higher incidences of dermatitis and mortality, salivation, uncoordinated involuntary movements and aggressiveness. No evidence of oncogenicity was observed.

6. *Animal metabolism*— a. *Deltamethrin*. The absorption of deltamethrin appears to be highly dependent upon the route and vehicle of administration. Once absorbed, deltamethrin is rapidly and extensively metabolized and excreted, primarily within the first 48 hours.

b. *Tralomethrin*. Tralomethrin is rapidly metabolized to deltamethrin after debromination. The metabolic pattern of the debrominated tralomethrin is exactly the same as that of the metabolic pattern of deltamethrin.

7. *Neurotoxicity*. Acute delayed neurotoxicity studies in hens were conducted for both deltamethrin and tralomethrin. In both cases, the study results were negative indicating that neither material causes delayed neurotoxicity.

8. *Endocrine effects*. No special studies have been conducted to investigate the potential of deltamethrin or tralomethrin to induce estrogenic or other endocrine effects. However, the standard battery of required toxicity studies has been completed. These studies include an evaluation of the potential effects on reproduction and development, and an evaluation of the pathology of the endocrine organs following repeated or long-term exposure. These studies are generally considered to be sufficient to detect any endocrine effects, yet no such effects were detected. Thus, the potential for deltamethrin or tralomethrin to produce any significant endocrine effects is considered to be minimal.

C. Aggregate Exposure

Based on the fact that tralomethrin is rapidly metabolized in plants and animals to deltamethrin, and the toxicological profile of the two compounds is similar, it is appropriate to consider combined exposure assessments for tralomethrin and deltamethrin. Deltamethrin and tralomethrin are broad spectrum insecticides used to control pests of crops, ornamental plants and turf, and domestic indoor and outdoor (including dog collars), commercial, and industrial food use areas. Thus, aggregate non-occupational exposure would include exposures resulting from non-food uses in addition to consumption of potential residues in food and water. Exposure via drinking water is expected to be negligible since deltamethrin binds tightly to soil and rapidly degrades in water.

1. *Dietary exposure*— a. *Food*. Food tolerances have been established (with expiration dates of November 15, 1997), for residues of tralomethrin and/or deltamethrin and its metabolites in or on a variety of raw agricultural commodities. These tolerances, in support of registrations, currently exist for residues of tralomethrin on broccoli, cottonseed, head lettuce, leaf lettuce, soybeans, sunflower seed, and cottonseed oil. Also, such tolerances, in support of registrations, currently exist for deltamethrin on cottonseed and cottonseed oil. Additionally, tolerances which are not time-limited have been established for tralomethrin to support its use in food/feed handling establishments, and for deltamethrin on tomatoes and concentrated tomato products to support the importation of tomato commodities treated with deltamethrin. Further, a food/feed

handling establishment use, and associated tolerances, is pending for deltamethrin. Potential acute exposures from food commodities were estimated using a Tier 3 acute dietary risk assessment (Monte Carlo Analysis) following EPA guidance. Potential chronic exposures from food commodities under the established food and feed additive tolerances for deltamethrin and tralomethrin, plus the pending tolerances for deltamethrin associated with use in food/feed handling areas, were estimated using NOVIGEN's DEEM (Dietary Exposure Evaluation Model). This chronic risk assessment was conducted using anticipated residues based on field trial or monitoring data, percent crop treated, and percent food handling establishments treated.

b. *Drinking water.* Tralomethrin and deltamethrin are immobile in soil and, therefore, will not leach into groundwater. Additionally, due to the insolubility and lipophilic nature of deltamethrin and tralomethrin, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore not contributing to potential dietary exposure from drinking water. A screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in ground water at depths of 1 and 2 meters are essentially zero (much less than 0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using Standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible.

2. *Non-dietary exposure.* As noted above, deltamethrin and tralomethrin are broad spectrum insecticides registered for use on a variety of food and non-food agricultural commodities. Additionally, registrations are held for non-agricultural applications including turf and lawn care treatments, broadcast carpet treatments (professional use only), indoor fogger, spot, crack and crevice treatments, insect baits, lawn and garden sprays and indoor and outdoor residential, industrial and institutional sites including those for Food/Feed Handling Establishments.

To evaluate non-dietary exposure, the ''flea infestation control'' senario was chosen to represent a plausible but worst case non-dietary (indoor and outdoor) non-occupational exposure. This scenario provides a situation where deltamethrin and/or tralomethrin is commonly used and they can be used concurrently for a multitude of uses, e.g., spot and/or broadcast treatment of infested indoor surfaces such as carpets and rugs, treatment of pets and treatment of the lawn. This hypothetical situation provides a very conservative, upper bound estimate of potential non-dietary exposures. Consequently, if health risks are acceptable under these conditions, the potential risks associated with other more likely scenarios would also be acceptable.

Because tralomethrin is rapidly metabolized to deltamethrin, and the toxicology profiles of deltamethrin and tralomethrin are virtually identical, a non-dietary and aggregate (non-dietary + chronic dietary) exposure/risk assessment has been conducted for the combination of both active ingredients. The total exposure to both materials was expressed as ''deltamethrin equivalents'' and these were compared to the toxicology endpoints identified for deltamethrin.

C. Cumulative Effects

When considering a tolerance, the Agency must consider ''available information'' concerning the cumulative effects of a particular pesticides residues and ''other substances that have a common mechanism of toxicity''. AgrEvo USA Company, acting as registered US agent for Hoechst Schering AgrEvo SA, believes that ''available information'' in this context includes not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments.

Further, AgrEvo does not have, at this time, available data to determine whether tralomethrin and/or deltamethrin have a common mechanism of toxicity with other substances. For the purposes of this tolerance action, therefore, no assumption has been made that tralomethrin and/or deltamethrin have a common mechanism of toxicity with other substances.

AgrEvo USA Company, acting as registered US agent for Hoechst Schering AgrEvo SA, will submit information for EPA to consider concerning potential cumulative effects of deltamethrin and/or tralomethrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997,) and other EPA publications pursuant to the Food Quality Protection Act (FQPA).

D. Safety Determination

1. *U.S. population.* The toxicity and residue data base for deltamethrin and tralomethrin are considered to be valid, reliable and essentially complete according to existing regulatory requirements. No evidence of oncogenicity has been observed for either compound. For acute exposures, the toxicology endpoint from the deltamethrin rat development toxicity study, 3.3 mg/kg/day, is used. For chronic exposures to deltamethrin and tralomethrin, the Reference Dose (RfD) of 0.01 mg/kg bodyweight/day established for deltamethrin based on the NOEL from the 2–year rat feeding study and a 100-fold safety factor to account for interspecies extrapolation and intraspecies variation is used.

For the overall U.S. population, acute dietary exposure at the 99.9th percentile results in a Margin of Exposure (MOE) of 5,382; the MOE for the 99th percentile is 16,661; and at the 95th percentile the MOE is 57,470. For the overall US population, chronic dietary exposure results in a utilization of 0.2 percent of the reference dose. Using an upper bound estimate of potential non-dietary exposures for a worst case scenario (flea treatment) results in an MOE of 160,000 for adults. Utilizing the scenario of chronic dietary exposure plus an upper bound estimate of potential non-dietary exposure from a worst case scenario (flea treatment), it is shown that for aggregate exposure to deltamethrin and tralomethrin there is an MOE of 83,000 for adults. There is generally no concern for MOE greater than 100. For chronic exposure, there is generally no concern for exposure below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

In conclusion, there is reasonable certainty that no harm will result to the U.S. population, in general, from dietary or aggregate exposure to either deltamethrin and/or tralomethrin.

2. *Infants and children.* Data from developmental toxicity studies in rats and rabbits, and multigeneration reproduction studies in rats are generally used to assess the potential for increased sensitivity of infants and children. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism

resulting from pesticide exposure during prenatal development. Reproduction studies provide information relating to reproductive and other effects on adults and offspring from pre-natal and post-natal exposure to the pesticide. None of these studies conducted with deltamethrin or tralomethrin indicated developmental or reproductive effects as a result of exposure to these materials.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre-and post-natal toxicity and the completeness of the database. Based on the current toxicological data requirements, the database relative to pre- and post-natal effects in children is complete. Although no indication of increased susceptibility to younger animals was noted in any of the above studies, or in the majority of studies with other pyrethroids, several recent publications have reported that deltamethrin is more toxic to neonate and weanling animals than to adults. However, a joint industry group currently investigating this issue was unable to reproduce these findings. Furthermore, the RfD (0.01 mg/kg/day) that has been established for deltamethrin is already more than 1,000-fold lower than the lowest NOEL from the developmental and reproduction studies. Therefore, the RfD of 0.01 mg/kg/day is appropriate for assessing chronic aggregate risk to infants and children and an additional uncertainty factor is not warranted. Also, the NOEL of 3.3 mg/kg/day from the rat developmental toxicity study is appropriate to use in acute dietary, short term non-dietary, and aggregate exposure assessments.

For the population subgroup described as non-nursing infants, less than 1 year old, the MOE for acute dietary exposure at the 99.9th percentile is 13,853; at the 99th percentile the MOE is 74,022; and at the 95th percentile the MOE is 663,629. For the population subgroup described as children 1–6 years old, the MOE for acute dietary exposure is 2,300 for the 99.9th percentile; at the 99th percentile the MOE is 10,409; and at the 95th percentile the MOE is 42,070. For non-nursing infants, chronic dietary exposure results in a utilization of 0.3 percent of the reference dose, and for children 1–6 years old 0.4 percent of the reference dose is utilized. Using an upper bound estimate of potential non-dietary exposures for a worst case scenario (flea treatment) results in an MOE of 6,100 for infants less than 1 year old, and an MOE of 6,600 for children 1–6 years old. Utilizing the scenario of chronic dietary exposure plus an upper bound estimate of potential non-dietary exposure from a worst case scenario (flea treatment) it is shown that for aggregate exposure to deltamethrin and tralomethrin, there is an MOE of 5,800 for infants less than 1–year old, and an MOE of 6,100 for children 1-6 years old. There is generally no concern for MOE s greater than 100. For chronic exposure, there is generally no concern for exposure below 100 percent of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

In summary, there is reasonable certainty that no harm will result to infants and children from aggregate exposure to either deltamethrin or tralomethrin.

E. International Tolerances

The proposed/established CODEX maximum residue levels (MRL) and for deltamethrin are as follows: cotton at 0.05 ppm and food/feed handling uses at 0.05 ppm. As far as can be determined at this time, no CODEX MRL's are established or proposed for tralomethrin.

F. Conclusions

The existing tolerances for deltamethrin and tralomethrin do not pose a significant risk to human health, including that of children, and are in compliance with the requirements of the FQPA of 1996. Therefore, the time limitations associated with these tolerances can be removed. (John Hebert)

2. Bayer Corporation

PP 4F3046, 9F3731, 3F4204, 4F4309, 4F4313, 2F4137, 4H5427, 9H5574, 3H5670, 4H5686, 4H5687

EPA has received a request regarding pesticide petitions (PP 4F3046, 9F3731, 3F4204, 4F4309, 4F4313, 2F4137, 4H5427, 9H5574, 3H5670, 4H5686, 4H5687) from Bayer Corporation, 8400 Hawthorn Road, P.O. Box 4913, Kansas City, MO 64210 to remove the time limitations on the established tolerances at 40 CFR § 180.436, § 185.1250 and § 186.1250 for the insecticide cyfluthrin, [cyano[4-fluoro-3-phenoxyphenyl]-methyl-3-[2,2-dicloroethenyl]-2,2-dimethyl- cyclopropanecarboxylate] in or on the raw agricultural commodities alfalfa, forage, at 5.0 ppm; alfalfa, hay, at 10.0 ppm; aspirated grain fractions at 300 ppm; carrots at 0.2 ppm; cattle, fat, at 1.0 ppm; cattle, meat, at 0.4 ppm; cattle, meat by-products (mbyp) at 0.4 ppm; corn, forage (sweet), at 15.0 ppm; corn, fodder (sweet), at 30 ppm; corn (sweet, K+CWHR), at 0.05 ppm; cottonseed at 1.0 ppm; cottonseed, oil, at 2.0 ppm; cottonseed, hulls, at 2.0 ppm; citrus, whole fruit, at 0.2 ppm; citrus oil, at 0.3 ppm; citrus dried pulp, at 0.3 ppm; eggs at 0.01 ppm; goats, fat, at 1.0 ppm; goats, meat, at 0.4 ppm; goats, meat by-products (mbyp) at 0.4 ppm; hogs, fat, at 1.0 ppm; hogs, meat, at 0.4 ppm; hogs, meat by-products (mbyp) at 0.4 ppm; horses, fat, at 1.0 ppm; horses, meat, at 0.4 ppm; horses, meat by-products (mbyp) at 0.4 ppm; milkfat, at 15.0 ppm (representing 0.5 ppm in whole milk); peppers, at 0.5 ppm; poultry, fat, at 0.01 ppm; poultry, meat, at 0.01 ppm; poultry, meat by-products (mbyp) at 0.01 ppm; radishes at 1.0 ppm; sheep, fat, at 1.0 ppm; sheep, meat, at 0.4 ppm; sheep, meat by-products (mbyp) at 0.4 ppm; sorghum, fodder, at 5.0 ppm; sorghum, forage, at 2.0 ppm; sorghum, grain at 4.0 ppm, sunflower, forage, at 1.0 ppm; sunflower, seed, at 0.02 ppm; sugarcane, at 0.05 ppm; sugarcane, molasses, at 0.2 ppm; tomatoes, at 0.2 ppm; tomato, concentrated products, at 0.5 ppm; and tomato, pomace (wet and dry) at 5.0 ppm. All data requested by EPA have been submitted. Therefore, a request for unconditional registration and removal of the time limitations on established tolerances is being made.

Consistent with section 408(d) of FFDCA, as recently amended by the Food Quality Protection Act, Bayer submitted a summary and authorization for the summary to be published in the **Federal Register** in a notice of receipt of the request. The summary represents the views of Bayer; EPA is in the process of evaluating the request. Consistent with section 408(d)(3), EPA is including the summary as a part of this notice of filing. EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data support granting the request.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of cyfluthrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radio labeled cyfluthrin in various crops all showing similar results. The residue of concern is cyfluthrin.

2. *Analytical method*. Adequate analytical methodology (gas/liquid chromatography with an electron capture detector) is available for enforcement purposes.

3. *Magnitude of residues*. Cyfluthrin is the active ingredient in the registered end-use product Baythroid 2 Emulsifiable Pyrethroid Insecticide, EPA Reg. No. 3125–351. Baythroid 2 is registered for use on alfalfa, carrots,

citrus, cotton, peppers, radishes, sorghum, sugarcane, sweet corn, sunflowers and tomatoes.

Tolerances to support these uses were proposed in pesticide petitions 4F3046, 9F3731, 3F4204, 4F4309, 4F4313, 2F4137, and 4F4313 and food/feed additive petitions 4H5427, 9H5574, 3H5670, 4H5686, and 4H5687. Residue data covering all the uses associated with these petitions have been previously submitted to EPA for review and have been found by EPA to support the establishment of the tolerances. Consequently, regulations establishing these tolerances were promulgated in response to these petitions. See [53 FR 30676] (cottonseed), [60 FR 28353] (carrots, radishes, peppers and tomatoes), [60 FR 28353] (sugarcane), [61 FR 10678] (alfalfa, sunflowers, and sweet corn), [61 FR 39883] (sorghum), and [62 FR 25518] (citrus).

B. Toxicological Profile

The database for cyfluthrin is current and complete. Toxicology data cited in support of these tolerances include:

1. *Acute toxicity*. There is a battery of acute toxicity studies for cyfluthrin supporting an overall toxicity Category II.

2. *Genotoxicty*. Mutagenicity tests were conducted, including several gene mutation assays (reverse mutation and recombination assays in bacteria and a Chinese hamster ovary (CHO)/HGPRT assay); a structural chromosome aberration assay (CHO/sister chromatid exchange assay); and an unscheduled DNA synthesis assay in rat hepatocytes. All tests were negative for genotoxicity.

3. *Reproductive and developmental toxicity*. An oral developmental toxicity study in rats with a maternal and fetal NOEL of 10 milligrams/kilogram of body weight/day (mg/kg bw/day) (highest dose tested).

An oral developmental toxicity study in rabbits with a maternal NOEL of 20 mg/kg bw/day and a maternal Lowest Effect Level (LEL) of 60 mg/kg bw/day, based on decreased body weight gain and decreased food consumption during the dosing period. A fetal NOEL of 20 mg/kg bw/day and a fetal LEL of 60 mg/kg bw/day were also observed in this study. The LEL was based on increased resorptions and increased postimplantation loss.

A three-generation reproduction study in rats with systemic toxicity NOELs of 7.5 and 2.5 mg/kg bw/day for parental animals and their offspring, respectively. At higher dose levels, the body weights of parental animals and their offspring were reduced.

4. *Subchronic toxicity*. A subchronic toxicity feeding study using rats demonstrated a NOEL of 22.5 mg/kg bw/day, the highest dose tested.

A 6–month toxicity feeding study in dogs established a NOEL of 5 mg/kg bw/day. The LEL was 15 mg/kg bw/day based on clinical signs and reduced thymus weights.

5. *Chronic toxicity*. A 12–month chronic feeding study in dogs established a NOEL of 4 mg/kg bw/day. The lowest effect level (LEL) for this study is established at 16 mg/kg bw/day, based on slight ataxia, increased vomiting, diarrhea and decreased body weight.

A 24–month chronic feeding/carcinogenicity study in rats demonstrated a NOEL of 2.5 mg/kg bw/day and LEL of 6.2 mg/kg bw/day, based on decreased body weights in males, decreased food consumption in males, and inflammatory foci in the kidneys in females.

A 24–month carcinogenicity study in mice was conducted. Under the conditions of the study there were no carcinogenic effects observed. A 24–month chronic feeding/carcinogenicity study in rats was conducted. There were no carcinogenic effects observed under the conditions of the study.

6. *Animal metabolism*. A metabolism study in rats showed that cyfluthrin is rapidly absorbed and excreted, mostly as conjugated metabolites in the urine, within 48 hours. An enterohepatic circulation was observed.

7. *Metabolite toxicology*. No toxicology data have been required for cyfluthrin metabolites. The residue of concern is cyfluthrin.

8. *Endocrine effects*. There is no evidence of endocrine effects in any of the studies conducted with cyfluthrin, thus, there is no indication at this time that cyfluthrin causes endocrine effects.

C. Aggregate Exposure

1. *Dietary exposure— Food*. Dietary exposure was estimated using Novigen's Dietary Exposure Evaluation Model (DEEMa) software; results from field trial and processing studies; consumption data from the USDA Continuing Surveys of Food Intake by Individuals (CSFIIs), conducted from 1989 through 1992; and information on the percentages of the crop treated with Cyfluthrin.

Cyfluthrin is registered for use in alfalfa, citrus, sweet corn, cotton, sorghum, sunflower, sugarcane, carrots, peppers, radishes and tomatoes. In addition, it has an import tolerance for hops. Various formulations are registered for use in food handling establishments and in combination with another active ingredient, for use in field corn, pop corn and sweet corn.

Chronic dietary exposure estimates for the overall U.S. population were 0.5% of the Reference dose (RfD) (0.008 mg/kg bw/day). For the most highly exposed population subgroup, children 1 to 6 years of age, the exposure was estimated to be 0.000062 mg/kg bw/day, or 0.8% of the RfD. Acute dietary exposures were estimated for the overall US population, females 13 years and older, children, ages 1–6 and 7–12 years, infants, non-nursing and nursing. The exposure was compared to the NOEL of 20 mg/kg bw/day to estimate the Margins of Exposures (MOEs).

For the overall U.S. population the 95th, 99th and 99.9th percentile of exposure the MOEs were calculated as 29,981; 9,519; and 3,658 respectively.

For women aged 13 years and older the 95th, 99th and 99.9th percentile of exposure the MOEs were calculcated as 45,996; 20,103 and 10,011 respectively.

Lastly, for the potentially highest exposed population subgroup, non-nursing infants, the 95th, 99th and 99.9th percentile of exposure to the MOEs were calculated at 16,107; 3,072; and 1,343, respectively.

2. *Drinking water*. Cyfluthrin is immobile in soil, therefore, will not leach into groundwater. Additionally, due the insolubility and lipophilic nature of cyfluthrin, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore not contributing to potential dietary exposure from drinking water.

A screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in ground water at 2 meters are essentially zero (much less than 0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using Standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 52 parts per trillion. Concentration in actual drinking water would be much lower. Based on these analyses, the contribution of water to the dietary risk estimate is negligible.

3. *Non-dietary exposure*. Non-occupational exposure to cyfluthrin may occur as a result of inhalation or contact from indoor residential, indoor commercial, and outdoor residential uses. Pursuant to the requirements of FIFRA as amended by the Food Quality Protection Act of 1996, non-dietary and aggregate risk analyses for cyfluthrin

were conducted. The analyses include evaluation of potential non-dietary acute application and post-application exposures. Non-occupational, non-dietary exposure was assessed based on the assumption that a flea infestation control scenario represents a ''worst case'' scenario. For the flea control infestation scenario indoor fogger, and professional residential turf same day treatments were included for cyfluthrin. Deterministic (point values) were used to present a worse case upper-bound estimate of non-dietary exposure. The non-dietary exposure estimates were expressed as systemic absorbed doses for a summation of inhalation, dermal, and incidental ingestion exposures. These worst-case non-dietary exposures were aggregated with chronic dietary exposures to evaluate potential health risks that might be associated with cyfluthrin products. The chronic dietary exposures were expressed as an oral absorbed dose to combine with the non-dietary systemic absorbed doses for comparison to a systemic absorbed dose (NOEL). Results for each potential exposed subpopulation (of adults, children 1–6 years, and infants <1 year) were compared to the systemic absorbed dose NOEL for cyfluthrin to provide estimates of MOE.

The large MOEs for cyfluthrin clearly demonstrate a substantial degree of safety. The total non-dietary MOEs are 3,800, 2,700, and 2,500 for adults, children (1–6 years), and infants (<1 year), respectively. The aggregate MOE for adults is approximately 3,800 and the MOEs for infants and children exceed 2,500.

The non-dietary methods used in the analyses can be characterized as highly conservative. This is due to the conservatism inherent in the calculation procedures and input assumptions. An example of this is the conservatism inherent in the jazzercise over representation of residential post-application exposures. It is important to acknowledge that these MOEs are likely to significantly underestimate actual MOEs due to a variety of conservative assumptions and biases inherent in the derivatization of exposure by this method. Therefore, it can be concluded that large MOEs associated with potential non-dietary and aggregate exposures to cyfluthrin will result in little or no health risks to exposed persons. The aggregate risk analysis demonstrates compliance with the health-based requirements of the Food Quality Protection Act of 1996 and supports the continued registration and use of residential, commercial, and agricultural products containing cyfluthrin.

D. Cumulative Effects

Further, Bayer does not have, at this time, available data to determine whether cyfluthrin has a common mechanism of toxicity with other substances. For the purposes of this tolerance action, therefore, no assumption has been made that cyfluthrin has a common mechanism of toxicity with other substances.

Bayer will submit information for EPA to consider concerning potential cumulative effects of cyfluthrin consistent with the schedule established by EPA in the **Federal Register** of August 4, 1997, (62 FR 42020) and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

1. *U.S. population*. Based on the exposure assessments described above and on the completeness and reliability of the toxicity data, it can be concluded that total aggregate exposure to cyfluthrin from all uses will utilize less than 1% percent of the RfD for chronic dietary exposures and that MOEs in excess of 1,000 exist for aggregate exposure to cyfluthrin for non-occupational exposure. EPA generally has no concerns for exposures below 100 percent of the RfD, because the RfD represents the level at or below which daily aggregate exposure over a lifetime will not pose appreciable risks to human health. Margins of exposure of 100 or more (300 for infants and children) also indicate an adequate degree of safety. Thus, it can be concluded that there is a reasonable certainty that no harm will result from aggregate exposure to cyfluthrin residues.

2. *Infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of cyfluthrin, the data from developmental studies in both rat and rabbit and a two-generation reproduction study in the rat can be considered. The developmental toxicity studies evaluate any potential adverse effects on the developing animal resulting from pesticide exposure of the mother during prenatal development. The reproduction study evaluates any effects from exposure to the pesticide on the reproductive capability of mating animals through two generations, as well as any observed systemic toxicity.

The toxicology data which support these tolerances include:

An oral developmental toxicity study in rats with a maternal and fetal NOEL of 10 mg/kg bw/day (HDT).

An oral developmental toxicity study in rabbits with a maternal NOEL of 20 mg/kg bw/day and a maternal LEL of 60 mg/kg bw/day, based on decreased body weight gain and decreased food consumption during the dosing period. A fetal NOEL of 20 mg/kg bw/day and a fetal LEL of 60 mg/kg bw/day were also observed in this study. The LEL was based on increased resorptions and increased postimplantation loss.

An oral developmental toxicity study performed with beta-cyfluthrin, the resolved isomer mixture of cyfluthrin, has been submitted to the Agency and is currently under review.

A developmental toxicity study in rats exposed via inhalation to liquid aerosols of cyfluthrin revealed developmental toxicity, but only in the presence of maternal toxicity. The developmental NOEL was 0.46 mg/m^3 on the basis of reduced placental and fetal weights, and delayed ossification. The NOEL for overt maternal toxicity was < 0.46 mg/m^3, the lowest dose tested (LDT).

A three-generation reproduction study in rats with systemic toxicity NOELs of 7.5 and 2.5 mg/kg bw/day for parental animals and their offspring, respectively. At higher dose levels, the body weights of parental animals and their offspring were reduced. Another multiple-generation reproduction study in rats has been submitted to the Agency and is currently under review.

The Agency used the rabbit developmental toxicity study with a maternal NOEL of 20 mg/kg bw/day to assess acute dietary exposure and determine a MOE for the overall U.S. population and certain subgroups. Since this toxicological endpoint pertains to developmental toxicity the population group of concern for this analysis was women aged 13 and above, the subgroup which most closely approximates women of child-bearing age. The MOE is calculated as the ratio of the NOEL to the exposure. The Agency calculated the MOE to be over 600. Generally, MOE's greater than 100 for data derived from animal studies are regarded as showing no appreciable risk.

FFDCA section 408 provides that EPA may apply an additional safety factor for infants and children in the case of threshold effects to account for pre- and post-natal effects and the completeness of the toxicity database.

The results of the three-generation study in rats provided evidence suggesting that, with respect to effects of cyfluthrin on body weight, pups were more sensitive than adult rats. Thus, the Agency determined that an additional 3–fold uncertainty factor (UF) should be used in risk assessments to ensure adequate protection of infants and children.

Generally, EPA considers MOEs of at least 100 to indicate an adequate degree of safety. With an additional 3× uncertainty factor, this would be 300 for infants and children. Using the exposure assessments described above and based on the described toxicity data aggregate exposure to infants and children indicate a MOE in excess of 2,500. Thus, it can be concluded that there is a reasonable certainty that no harm will result to infants and children from aggregate exposure to cyfluthrin residues.

3. *Conclusions.* The available data indicate that there is reasonable certainty of no harm from the aggregate exposure from all currently registered uses of cyfluthrin. Thus, consistent with the provisions of the FFDCA as amended August 3, 1996, the time limitations on established cyfluthrin tolerance should be removed.

F. International Tolerances

Codex maximum residue levels (MRLs) are established for residues of cyfluthrin on milk (0.01 mg/kg); cottonseed (0.05 mg/kg); peppers, sweet (0.2 mg/kg); and tomatoes (0.5 mg/kg). (Stephanie Willett)

3. DuPont Agricultural Products

PP–7F2013

EPA has received a request from DuPont Agricultural Products, P. O. Box 80038, Wilmington, DE 19880–0038 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by removing the time limitation for a tolerance established for residues of the insecticide and pyrethroid fenvalerate, including the *s,s*-enriched isomer esfenvalerate (Asana® XL Insecticide), ((*S*)-cyano-(3-phenoxyphenyl)methyl (*S*)-4-chloro-alpha-(1-methylethyl)benzeneacetate in or on the raw agricultural commodity cottonseed at 0.2 parts per million (ppm). The tolerance was originally requested in PP–7F2013. EPA has determined that the request contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism and chemical nature of residues of fenvalerate in plants is adequately understood. The fate of fenvalerate has been extensively studied using radioactive tracers in plant and animal metabolism/nature of the residue studies previously submitted to the Agency. These studies have demonstrated that the parent compound is the only residue of toxicological significance.

2. *Analytical method*. There is a practical analytical method utilizing electron-capture gas chromatography with nitrogen phosphorous detection available for enforcement with a limit of detection that allows monitoring food with residues at or above tolerance levels.

3. *Magnitude of residues*. Tolerances are based on the sum of all isomers of fenvalerate. Fenvalerate is a racemic mixture of four isomers (about 25% each). This product was registered as Pydrin® . However since 1992, an *S,S*-isomer enriched formulation, Asana® (esfenvalerate), has been the only fenvalerate formulation sold in the U.S. for agricultural use. Since the *S,S*-isomer is the insecticidally active isomer, the use rate for Asana® is four times lower than that for Pydrin® . A petition is pending (PP–4F4329), to convert tolerances (still to be expressed as the sum of all isomers) based on the use rates for Asana®. Bridging residue studies have shown Asana® residues to be 3–4 times lower than Pydrin® residues.

EPA has established a tolerance of 0.2 ppm for fenvalerate on cottonseed. Magnitude of residue and processing studies support this tolerance. This request is for the removal of the time limitation currently imposed on the tolerance of 0.2 ppm for fenvalerate on cottonseed.

B. Toxicological Profile

The following studies have been submitted to EPA:

1. *Acute toxicity*. A rat acute oral study on esfenvalerate technical has an LD_{50} of 87.2 milligram (mg)/kilogram (kg). A rabbit acute dermal study on esfenvalerate has an LD_{50} of >2,000 mg/kg. Acute inhalation on technical grade active ingredient (a.i.) waived due to negligible vapor pressure. A primary eye irritation test using esfenvalerate in the rabbit showed mild irritation (conjunctivitis) that cleared by day 7. A primary dermal irritation test using esfenvalerate in the rabbit which showed minimal irritation that reversed within 72 hours after treatment. A dermal sensitization test on esfenvalerate in guinea pigs which showed no sensitization.

2. *Genotoxicty*. Esfenvalerate was not mutagenic in reverse mutation assays in Salmonella and *E. Coli in vitro* assay in Chinese hamster lung cells. Esfenvalerate did not induce chromosome aberrations in an *in vitro* assay in Chinese hamster ovary cells. Esfenvalerate did not induce micronuclei in bone marrow of mice given up to 150 mg/kg intraperitoneally. Esfenvalerate did not induce unscheduled DNA synthesis in HeLa cells.

3. *Reproductive and developmental toxicity*. In a pilot developmental study in the rat with doses of 0, 1, 2, 3, 4, 5, and 20 mg/kg/day esfenvalerate maternal clinical signs of abnormal gait or mobility occurred at 4 mg/kg/day and above. In a developmental study in the rat with doses of 0, 2.5, 5, 10, and 20 mg/kg/day esfenvalerate by gavage maternal signs observed at 2.5 mg/kg/day were erratic jerking and extension of forelimbs, rapid side-to-side head movement, and excessive grooming. There was no maternal No-Observed-Effect-Level (NOEL) in the main study but a NOEL of 2 mg/kg/day was established on the pilot study. There were no fetal or developmental effects in either study at 20 mg/kg/day, the highest dose tested. Therefore, the fetal/developmental NOEL was ≧20 mg/kg/day.

In a pilot developmental study in the rabbit with doses of 0, 2, 3, 4, 4.5, 5, and 20 mg/kg/day esfenvalerate by gavage. The maternal NOEL was 2 mg/kg/day based on excessive grooming at 3 mg/kg/day and above. In a developmental study in the rabbit with doses of 0, 3, 10, and 20 mg/kg/day esfenvalerate by gavage there was no maternal NOEL in the main study, but a maternal NOEL of 2 mg/kg/day was established in the pilot study. There were no fetal or developmental effects in either study at the highest dose tested. Therefore, the fetal/developmental NOEL was ≧20 mg/kg/day.

A two-generation feeding study with esfenvalerate in the rat at dietary levels of 0, 75, 100, or 300 ppm. The high dietary concentration was lowered to 150 ppm for the second generation. Very mild body weight effects and sores at 75 ppm in both generations were considered secondary effects caused by scratching related to skin stimulation from dermal exposure. Therefore 75 ppm (4.2 mg/kg/day for first generation parental males, 5.6 mg/kg/day for first generation parental females, 6.0 mg/kg/day for second generation parental males, and 7.3 mg/kg/day for second generation parental females) was considered an No-Observed-Adverse-Effect-Level (NOAEL) for both adult rats and their offspring. Effects were observed in adults and pups of both generations at 100 ppm and above. Pups

were no more sensitive than adult animals.

4. *Subchronic toxicity*. A 90–day feeding study in rats was conducted at 0, 75, 100, 125, and 300 ppm esfenvalerate with a NOEL of 125 ppm (6.3 mg/kg/day). This study provided intermediate dose levels to supplement a 90–day feeding study in rats conducted at 0, 50, 150, 300 and 500 ppm esfenvalerate with a NOEL of 50 ppm (2.5 mg/kg/day) based on jerky leg movements at 150 ppm (7.5 mg/kg/day) and above.

A 90–day feeding study in mice was conducted at 0, 50, 150, and 500 ppm esfenvalerate and 2,000 ppm fenvalerate with a NOEL of 50 ppm esfenvalerate (10.5 mg/kg/day) based on lower glucose and triglycerides at 150 ppm. Neurologic symptoms were observed with 500 ppm esfenvalerate and 2,000 ppm fenvalerate.

A 3–month subchronic study in dogs is satisfied by a 1–year oral study in dogs, in which the NOEL was 200 ppm (5 mg/kg/day).

A 21–day dermal study in rabbits with fenvalerate was conducted at 100, 300, and 1,000 mg/kg/day with an NOAEL of 1,000 mg/kg/day.

5. *Chronic toxicity*. In a 1–year study in which dogs were fed 0, 25, 50, or 200 ppm esfenvalerate with no treatment related effects at any dietary level the NOEL was 200 ppm (5 mg/kg/day). An effect level for dietary administration of esfenvalerate for dogs of 300 ppm had been established earlier in the 2–week pilot study used to select dose levels for the chronic-dog study.

In a 20–month study with fenvalerate in mice fed 0, 10, 30, 100, and 300 ppm the NOEL was 30 ppm (~ 6 mg/kg/day) based on red blood cell effects and granulomatous changes at 100 ppm. Fenvalerate was not carcinogenic at any concentration.

In a 18–month study in mice fed 0, 35, 150, and 350 ppm esfenvalerate. Mice fed the 350 ppm dose were sacrificed within the first two months of the study, after excessive morbidity and mortality due to self-trauma induced by pharmacological effects related to skin stimulation. Therefore, data collected from the 350 ppm group were not used in the evaluation of the oncogenic potential of esfenvalerate. The NOEL was 35 ppm (4.29 and 5.75 mg/kg/day for males and females, respectively) based on lower body weight and body-weight gain at 150 ppm. Esfenvalerate did not produce carcinogenicity.

In a 2–year study with fenvalerate in rats fed 1, 5, 25, and 250 ppm a 1,000 ppm group was added to establish an effect level. The NOEL was 250 ppm (12.5 mg/kg/day). At 1,000 ppm, hind limb weakness, lower body weight, and higher organ-to-body weight ratios were observed. Fenvalerate was not carcinogenic at any concentration.

EPA has classified esfenvalerate in Group E—evidence of noncarcinogenicity for humans.

6. *Animal metabolism*. After oral dosing with fenvalerate, the majority of the administered radioactivity was eliminated in the initial 24 hours. The metabolic pathway involved cleavage of the ester linkage followed by hydroxylation, oxidation, and conjugation of the acid and alcohol moieties.

7. *Metabolite toxicology*. The parent molecule is the only moiety of toxicological significance appropriate for regulation in plant and animal commodities.

8. *Endocrine effects*. Estrogenic effects have not been observed in any studies conducted on fenvalerate or esfenvalerate. In subchronic or chronic studies there were no lesions in reproductive systems of males or females. In the recent reproduction study with esfenvalerate, full histopathological examination of the pituitary and the reproductive systems of males and females was conducted. There were no compound-related gross or histopathological effects. There were also no compound-related changes in any measures of reproductive performance including mating, fertility, or gestation indices or gestation length in either generation. There have been no effects on offspring in developmental toxicity studies.

C. Aggregate Exposure

1. *Dietary exposure*. For purposes of assessing dietary exposure, chronic and acute dietary assessments have been conducted using all existing and pending tolerances for esfenvalerate. The toxicological endpoints used in both dietary assessments are derived from maternal NOEL's of 2.0 mg/kg/day from rat and rabbit teratology studies. There were no fetal effects in these studies.

2. *Food*. A chronic dietary exposure assessment using anticipated residues and monitoring data and adjusting for percent crop treated, found the percentages of the Reference Dose (RfD) utilized by the most sensitive sub-population (children 1–6 years) to be 5.2%. Chronic exposure for the overall U.S. population was 2.1% of the RfD. This assessment included pending tolerances and all food tolerances for incidental residues from use in food handling establishments.

A Tier 3 acute dietary assessment indicated the most sensitive sub-population was children 1–6 years with Margin of Exposures (MOEs) of 352, 200, and 103 at the 95th, 99th, and 99.9th percentile of exposure, respectively. The MOEs for nursing infants are 410, 199, and 151 at the 95th, 99th, and 99.9th percentile of exposure, respectively. The MOEs for non-nursing infants are 661, 270, and 134 at the 95th, 99th, and 99.9th percentile of exposure, respectively. The MOEs for the general population are 742, 352, and 170 at the 95th, 99th, and 99.9th percentile of exposure, respectively. This analysis used field trial data to estimate exposure and market share information for the percent of crop treated. It used Monte Carlo modeling and appropriate processing factors for processed food and distribution analysis. Food handling establishment commodities are not relevant to this type of analysis and EPA methodology does not include them in Tier 3 exposure modeling.

3. *Drinking water*. Esfenvalerate is immobile in soil and, therefore, will not leach into groundwater. Additionally, due to the insolubility and lipophilic nature of esfenvalerate, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore not contributing to potential dietary exposure from drinking water.

A screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in ground water at depths of 1 and 2 meters are essentially zero (much less than 0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pound model since drinking water derived from surface water would be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible.

4. *Non-dietary exposure*. Esfenvalerate is registered for non-crop uses including spray treatments in and around commercial and residential areas, treatments for control of ectoparasites on pets, home care products including foggers, pressurized sprays, crack and crevice treatments, lawn and garden sprays, and pet and pet bedding sprays. For the non-agricultural

products, the very low amounts of active ingredient they contain, combined with the low vapor pressure (1.5×10^{-9} millimeters (mm) Mercury at 25°C) and low dermal penetration, would result in minimal inhalation and dermal exposure.

Individual non-dietary risk exposure analyses were conducted using a flea infestation scenario that included pet spray, carpet and room treatment, and lawn care, respectively. The pet spray product assessment indicated MOEs of 740,000, 2,600, and 2,500 for adults, children 1–6 years, and children < 1 year, respectively. The carpet and room treatment assessment indicated MOEs of 110,000, 4,500, and 4,200 for adults, children 1–6 years, and children < 1 year, respectively. The lawn care assessment indicated MOEs of 700,000, 26,000, and 24,000 for adults, children 1–6 years, and children < 1 year, respectively.

5. *Aggregate exposure— Dietary and non-dietary*. Based on the toxicity endpoints selected for esfenvalerate, absorbed doses were combined and compared to the relevant systemic NOEL for estimating MOEs.

The non-dietary risk analysis MOEs combined with the chronic dietary risk analysis MOEs indicated aggregate MOEs of 4,400, 860, and 1,000 for adults, children 1–6 years, and children < 1 year, respectively.

It is important to acknowledge that these MOEs are likely to significantly underestimate the actual MOEs due to a variety of conservative assumptions and biases inherent in the exposure assessment methods used for their derivation. Therefore, it can be concluded that the potential non-dietary and dietary aggregate exposures for esfenvalerate are associated with a substantial degree of safety. The aggregate risk analyses demonstrate compliance with the health-based requirements of the Food Quality Protection Act of 1996 (FQPA) (7 U.S.C. 136 note) and supports the continued registration and use of residential, agricultural, and commercial products containing this a.i.

D. Cumulative Effects

Section 408(b)(2)(D)(v) of the FFDCA requires that, when considering whether to establish, modify, or revoke a tolerance, the Agency consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity''. At this time, available methodologies do not exist to resolve the complex scientific issues concerning common mechanism of toxicity of pyrethroids in a meaningful way. DuPont intends to submit information for EPA to consider concerning potential cumulative effects of esfenvalerate consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997)(FRL–5734–6) and other EPA publications pursuant to the FQPA.

In consideration of potential cumulative effects of esfenvalerate and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by esfenvalerate would be cumulative with those of other chemical compounds. In addition, since esfenvalerate does not appear to produce a toxic metabolite produced by other substances; only the potential risks of esfenvalerate have been considered in this assessment of its aggregate exposure.

E. Safety Determination

Both the chronic and acute toxicological endpoints are derived from maternal NOEL's of 2.0 mg/kg/day in developmental studies in rats and rabbits. There were no fetal effects. In addition, no other studies conducted with fenvalerate or esfenvalerate indicate that immature animals are more sensitive than adults. Therefore, the safety factor used for protection of adults is fully appropriate for the protection of infants and children; no additional safety factor is necessary.

1. *U.S. population*. A chronic dietary exposure assessment using anticipated residues, monitoring information, and percent crop treated indicated the percentage of the RfD utilized by the general population to be 2.1%. There is generally no concern for exposures below 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health.

For acute exposure, a MOE of greater than 100 is considered an adequate MOE. A Tier 3 acute dietary exposure assessment found the general population to have MOE's of 742, 352, 170 at the 95th, 99th, and 99.9th percentile of exposure, respectively. These values were generated using actual field trial residues and market share data for percentage of crop treated. These results depict an accurate exposure pattern at an exaggerated daily dietary exposure rate.

The aggregate exposure to use of esfenvalerate as pet spray, carpet treatment, lawn care, and in the diet indicated an MOE of 4,400 for adults.

Therefore, there is a reasonable certainty that no harm will result from chronic dietary, acute dietary, non-dietary, or aggregate exposure to esfenvalerate residues.

2. *Infants and children*. A chronic dietary exposure assessment found the percentages of the RfD utilized by the most sensitive sub-population to be 5.2% for children 1–6 years. The acute dietary exposure assessment found the most sensitive sub-population to be children 1–6 years with MOEs of 352, 200, and 103 at the 95th, 99th, and 99.9th percentile of exposure, respectively. Nursing infants had MOEs of 410, 199, and 151 at the 95th, 99th, and 99.9th percentile of exposure, respectively. Non-nursing infants had MOEs of 661, 270, and 134 at the 95th, 99th, and 99.9th percentile of exposure, respectively. The aggregate exposure to use of esfenvalerate as pet spray, carpet treatment, lawn care, and in the diet indicated an MOE of 860 for children 1–6 years and an MOE of 1,000 for children < 1 year.

Thus, there is reasonable certainty that no harm to infants and children will result from chronic dietary, acute dietary, non-dietary, or aggregate exposure to esfenvalerate residues.

F. International Tolerances

Codex Maximum Residue Levels (MRL's) have been established for residues of fenvalerate on a number of crops that also have U.S. tolerances. Several of these MRL's are different than the proposed U.S. tolerances for esfenvalerate. Therefore, some harmonization of these maximum residue levels is desirable. (John Hebert)

4. FMC Corporation

PP 2F2623, 4F2986, 3F2824, 7F3498, and 4F3011

EPA has received a request regarding pesticide petitions (PP 2F2623, 4F2986, 3F2824, 7F3498, and 4F3011) from FMC Corporation, 1735 Market Street, Philadelphia, PA 19103. The request proposes to remove any time limitations on established tolerances for residues of the insecticide zeta-cypermethrin (*s*-Cyano(3-phenoxyphenyl)methyl (±) *cis, trans* 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw agricultural commodities cottonseed at 0.5 ppm, pecans 0.05 ppm, lettuce, head at 10.0 ppm, onions, bulb at 0.10 ppm and cabbage at 2.0 ppm (established at 40 CFR 180.418). These tolerances were established under (PP) 2F2623, 4F2986, 3F2824, 7F3498, and 4F3011. EPA has determined that the request contains data or information regarding the elements set forth in

section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the requests. Additional data may be needed before EPA rules on the requests.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of cypermethrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabelled cypermethrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances Gas Chromatography with Electron Capture Detection (GC/ECD).

3. *Magnitude of residues*. Crop field trial residue data from studies conducted at the maximum label rates for cotton, pecans, head lettuce, bulb onions, and cabbage show that the established cypermethrin tolerances on cottonseed of 0.5 ppm, pecans 0.05 ppm, lettuce, head at 10.0 ppm, onions, bulb at 0.10 ppm and cabbage at 2.0 ppm, will not be exceeded when the zeta-cypermethrin products labeled for these uses are used as directed.

B. Toxicological Profile

1. *Acute toxicity*. For the purposes of assessing acute dietary risk, FMC has used the NOEL of 0.5 mg/kg/day based on the NOEL of 1.0 mg/kg/day from the cypermethrin chronic toxicity study in dogs and a correction factor of two to account for the differences in the percentage of the biologically active isomer. The LOEL of this study of 5.0 mg/kg/day was based on gastrointestinal disturbances observed in the first week of the study. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicity*. The following genotoxicity tests were all negative: *in vivo* chromosomal aberration in rat bone marrow cells; *in vitro* cytogenic chromosome aberration; unscheduled DNA synthesis; CHO/HGPTT mutagen assay; weakly mutagenic: gene mutation (Ames).

3. *Reproductive and developmental toxicity*. No evidence of additional sensitivity to young rats was observed following pre- or postnatal exposure to zeta-cypermethrin.

a. A two-generation reproductive toxicity study with zeta-cypermethrin in rats demonstrated a NOEL of 7.0 mg/kg/day and a LOEL of 27.0 mg/kg/day for parental/systemic toxicity based on body weight, organ weight, and clinical signs. There were no adverse effects in reproductive performance. The NOEL for reproductive toxicity was considered to be > 45.0 mg/kg/day (the highest dose tested).

b. A developmental study in rats demonstrated a maternal NOEL of 12.5 mg/kg/day and a LOEL of 25 mg/kg/day based on decreased maternal body weight gain, food consumption and clinical signs. There were no signs of developmental toxicity at 35.0 mg/kg/day, the highest dose level tested.

c. A developmental study with cypermethrin in rabbits demonstrated a maternal NOEL of 100 mg/kg/day and a LOEL of 450 mg/kg/day based on decreased body weight gain. There were no signs of developmental toxicity at 700 mg/kg/day, the highest dose level tested.

4. *Subchronic toxicity—Short- and intermediate-term toxicity*. The systemic NOEL of 2.5 mg/kg/day based on the systemic NOEL of 5.0 mg/kg/day from the cypermethrin chronic toxicity study in dogs and a correction factor of two to account for the biologically active isomer would also be used for short- and intermediate-term MOE calculations (as well as acute, discussed in (1) above). This NOEL was based on neurotoxic clinical signs observed in the first week of treatment of the study.

5. *Chronic toxicity*—a. The RfD has been established at 0.0050 mg/kg/day. This RfD is based on a cypermethrin chronic toxicity study in dogs with a NOEL of 1.0 mg/kg/day, based on gastrointestinal disturbances observed at the LOEL of 5.0 mg/kg/day during the first week of the study; an uncertainty factor of 200 is used to account for the differences in the percentage of the biologically active isomer.

b. Cypermethrin is classified as a Group C chemical (possible human carcinogen with limited evidence of carcinogenicity in animals) based upon limited evidence for carcinogenicity in female mice; assignment of a Q* has not been recommended.

6. *Animal metabolism*. The metabolism of cypermethrin in animals is adequately understood. Cypermethrin has been shown to be rapidly absorbed, distributed, and excreted in rats when administered orally. Cypermethrin is metabolized by hydrolysis and oxidation.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of cypermethrin are not of toxicological concern and need not be included in the tolerance expression.

8. *Endocrine Disruption*. No special studies investigating potential estrogenic or other endocrine effects of cypermethrin have been conducted. However, no evidence of such effects were reported in the standard battery of required toxicology studies which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that cypermethrin has an adverse effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure*—a. *Food*. Tolerances have been established for the residues of the insecticide zeta-cypermethrin, in or on a variety of raw agricultural commodities. Tolerances, in support of registrations, currently exist for residues of zeta-cypermethrin on cottonseed; pecans; lettuce, head; onions, bulb; and cabbage and livestock commodities of cattle, goats, hogs, horses, and sheep. For the purposes of assessing the potential dietary exposure for these existing tolerances, FMC has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

b. *Acute exposure and risk*. Acute dietary exposure risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. For the purposes of assessing acute dietary risk for zeta-cypermethrin, FMC has used the NOEL of 0.5 mg/kg/day based on the NOEL of 1.0 mg/kg/day from the cypermethrin chronic toxicity study in dogs and a correction factor of two to account for the differences in the percentage of the biologically active isomer. The LOEL of this study of 5.0 mg/kg/day was based on gastrointestinal disturbances observed in the first week of the study.

This acute dietary endpoint is used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the margins of exposure (MOE) are significantly greater than the EPA standard of 100 for all subpopulations.

The 95th percentile of exposure for the overall U.S. population was estimated to be 0.000528 mg/kg/day (MOE of 947); 99th percentile 0.001746 mg/kg/day (MOE of 286); and 99.9th percentile 0.004069 mg/kg/day (MOE of 123).

The 95th percentile of exposure for all infants < 1 year old was estimated to be 0.000560 mg/kg/day (MOE of 892); 99th percentile 0.000885 mg/kg/day (MOE of 565); and 99.9th percentile 0.001260 mg/kg/day (MOE of 397).

The 95th percentile of exposure for nursing infants < 1 year old was estimated to be 0.000207 mg/kg/day (MOE of 2,417); 99th percentile 0.000569 mg/kg/day (MOE of 879); and 99.9th percentile 0.001442 mg/kg/day (MOE of 347).

The 95th percentile of exposure for non-nursing infants < 1 year old was estimated to be 0.000607 mg/kg/day (MOE of 824); 99th percentile 0.000925 mg/kg/day (MOE of 540); and 99.9th percentile 0.001190 mg/kg/day (MOE of 420).

The 95th percentile of exposure for children 1 to 6 years old and 7 to 12 years old (the most highly exposed population subgroup) was estimated to be, respectively, 0.000740 mg/kg/day (MOE of 676) and 0.000596 mg/kg/day (MOE of 839); 99th percentile 0.001856 mg/kg/day (MOE of 269) and 0.002047 mg/kg/day (MOE 244); and 99.9th percentile 0.005021 mg/kg/day (MOE of 100) and 0.004843 (MOE of 103). Therefore, FMC concludes that the acute dietary risk of zeta-cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

c. *Chronic exposure and risk*. The acceptable reference dose (RfD) of 0.0050 mg/kg/day for zeta-cypermethrin is based on a NOEL of 1.0 mg/kg/day from the cypermethrin chronic dog study and an uncertainty factor of 200 (used to account for the differences in the percentage of the biologically active isomer). The endpoint effect of concern were based on gastrointestinal disturbances observed in the first week of the study at the LOEL of 5.0 mg/kg/day. A chronic dietary exposure/risk assessment has been performed for zeta-cypermethrin using the above RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC).

The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000017 mg/kg body weight (bwt)/day and utilize 0.3 percent of the RfD for the overall U. S. population. The ARC for non-nursing infants (<1 year) and nursing infants (<1 year) are estimated to be 0.000011 mg/kg/day and 0.000002 mg/kg/day and utilizes 0.2 percent and 0 percent of the RfD, respectively. The ARC for children 1–6 years old and children 7–12 years old (subgroups most highly exposed) are estimated to be 0.000027 mg/kg bwt/day and 0.000022 mg/kg bwt/day and utilizes 0.5 percent and 0.4 percent of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 percent of the RfD. Therefore, FMC concludes that the chronic dietary risk of cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

2. *Drinking water*. Laboratory and field data have demonstrated that cypermethrin is immobile in soil and will not leach into groundwater. Other data show that cypermethrin is virtually insoluble in water and extremely lipophilic. As a result, FMC concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Further, a screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in groundwater at depths of 1 and 2 meters are essentially zero (<<0.001 parts per billion).

Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 parts per billion. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible. Therefore, FMC concludes that together these data indicate that residues are not expected to occur in drinking water.

3. *Non-dietary exposure*. Zeta-cypermethrin is registered for agricultural crop applications only, therefore non-dietary exposure assessments are not warranted.

D. Cumulative Effects

In consideration of potential cumulative effects of cypermethrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by cypermethrin would be cumulative with those of other chemical compounds; thus only the potential risks of cypermethrin have been considered in this assessment of its aggregate exposure. FMC intends to submit information for the EPA to consider concerning potential cumulative effects of cypermethrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997) and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

1. *U.S. population*. Based on a complete and reliable toxicology database, the acceptable reference dose (RfD) for zeta-cypermethrin is 0.0005 mg/kg/day, based on a NOEL of 1.0 mg/kg/day and a LOEL of 5.0 mg/kg/day from the cypermethrin chronic dog study and an uncertainty factor of 200. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into an analysis to estimate the Anticipated Residue Contribution (ARC) for 26 population subgroups.

The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000017 mg/kg body weight (bwt)/day and utilize 0.3 percent of the RfD for the overall U. S. population. The ARC for non-nursing infants (<1 year) and nursing infants (<1 year) are estimated to be 0.000011 mg/kg/day and 0.000002 mg/kg/day and utilizes 0.2 percent and 0 percent of the RfD, respectively. The ARC for children 1–6 years old and children 7–12 years old (subgroups most highly exposed) are estimated to be 0.000027 mg/kg bwt/day and 0.000022 mg/kg bwt/day and utilizes 0.5 percent and 0.4 percent of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100 percent of the RfD. Therefore, FMC concludes that the chronic dietary risk of zeta-cypermethrin, as estimated by the aggregate risk assessment, does not appear to be of concern.

For the overall U.S. population, the calculated margins of exposure (MOE) at the 95th percentile was estimated to be 947; 286 at the 99th percentile; and 123 at the 99.9th percentile.

For all infants < 1 year old, the calculated margins of exposure (MOE) at the 95th percentile was estimated to be 892; 565 at the 99th percentile; and 397 at the 99.9th percentile.

For nursing infants < 1 year old, the calculated margins of exposure (MOE) at

the 95th percentile was estimated to be 2,417; 879 at the 99th percentile; and 347 at the 99.9th percentile.

For non-nursing infants < 1 year old, the calculated margins of exposure (MOE) at the 95th percentile was estimated to be 824; 540 at the 99th percentile; and 420 at the 99.9th percentile. For the most highly exposed population subgroups, children 1–6 years old and children 7–12 years old, the calculated MOEs at the 95th percentile were estimated to be, respectively, 676 and 839; 269 and 244 at the 99th percentile; and 100 and 103 at the 99.9th percentile. Therefore, FMC concludes that there is reasonable certainty that no harm will result from acute exposure to zeta-cypermethrin.

2. *Infants and children*— a. *General.* In assessing the potential for additional sensitivity of infants and children to residues of zeta-cypermethrin, FMC considered data from developmental toxicity studies in the rat and rabbit, and a two-generation reproductive study in the rat. The data demonstrated no indication of increased sensitivity of rats to zeta-cypermethrin or rabbits to cypermethrin *in utero* and/or postnatal exposure to zeta-cypermethrin or cypermethrin. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA may apply an additional margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database.

b. *Developmental toxicity studies.* In the prenatal developmental toxicity studies in rats and rabbits, there was no evidence of developmental toxicity at the highest doses tested (35.0 mg/kg/day in rats and 700 mg/kg/day in rabbits). Decreased body weight gain was observed at the maternal LOEL in each study; the maternal NOEL was established at 12.5 mg/kg/day in rats and 100 mg/kg/day in rabbits.

c. *Reproductive toxicity study.* In the two-generation reproduction study in rats, offspring toxicity (body weight) and parental toxicity (body weight, organ weight, and clinical signs) was observed at 27.0 mg/kg/day and greater. The parental systemic NOEL was 7.0 mg/kg/day and the parental systemic LOEL was 27.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 45.0 mg/kg/day, highest dose tested.

d. *Pre- and post-natal sensitivity*— i. *Pre-natal.* There was no evidence of developmental toxicity in the studies at the highest doses tested in the rat (35.0 mg/kg/day) or in the rabbit (700 mg/kg/day). Therefore, there is no evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

ii. *Post-natal.* Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study.

F. Conclusion

Based on the above, FMC concludes that reliable data support use of the standard 100–fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants and children. As stated above, aggregate exposure assessments utilized significantly less than 1 percent of the RfD for either the entire U. S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to cypermethrin residues.

Subchronic toxicity— Short- and intermediate-term toxicity. The systemic NOEL of 2.5 mg/kg/day based on the systemic NOEL of 5.0 mg/kg/day from the cypermethrin chronic toxicity study in dogs and a correction factor of two to account for the biologically active isomer would also be used for short- and intermediate-term MOE calculations (as well as acute, discussed in (1) above). This NOEL was based on neurotoxic clinical signs observed in the first week of treatment of the study.

G. International Tolerances

There are no Codex, Canadian, or Mexican residue limits for residues of zeta-cypermethrin in or on cotton, pecans, lettuce, head, onions, bulb, or cabbage. (Stephanie Willett)

5. FMC Corporation

PP 2F2623, 4F2986, 3F2824, 7F3498, 4F3011, 4F4291

EPA has received a request regarding (PP 2F2623, 4F2986, 3F2824, 7F3498, 4F3011, 4F4291) from FMC Corporation, 1735 Market Street, Philadelphia, PA 19103. The request proposes to remove any time limitations on established tolerances for residues of the insecticide cypermethrin (±-alpha -Cyano(3-phenoxyphenyl)methyl (±) *cis, trans* 3-(2,2-dichloroethenyl)-2,2-dimethylcyclopropanecarboxylate) in or on the raw agricultural commodities cottonseed at 0.5 ppm, pecans 0.05 ppm, lettuce, head at 10.0 ppm, onions, bulb at 0.10 ppm, cabbage at 2.0 ppm, *Brassica*, head and stem at 2.0 ppm and *Brassica*, leafy at 14.0 ppm (established at 40 CFR 180.418). These tolerances were established under [PP] 2F2623, 4F2986, 3F2824, 7F3498, 4F3011, and 4F4291. EPA has determined that the request contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the requests. Additional data may be needed before EPA rules on the requests.

A. Residue Chemistry

1. *Plant metabolism.* The metabolism of cypermethrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabelled cypermethrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method.* There is a practical analytical method for detecting and measuring levels of cypermethrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances (Gas Chromatography with Electron Capture Detection - GC/ECD).

3. *Magnitude of residues.* Crop field trial residue data from studies conducted at the maximum label rates for cotton, pecans, head lettuce, bulb onions, cabbage, *Brassica*, head and stem, and *Brassica*, leafy show that the established cypermethrin tolerances on cottonseed of 0.5 ppm, pecans 0.05 ppm, lettuce, head at 10.0 ppm, onions, bulb at 0.10 ppm, cabbage at 2.0 ppm, *Brassica*, head and stem at 2.0 ppm and *Brassica*, leafy at 14.0 ppm will not be exceeded when the cypermethrin products labeled for these uses are used as directed.

B. Toxicological Profile

1. *Acute toxicity.* For the purposes of assessing acute dietary risk, FMC has used the NOEL of 1.0 mg/kg/day from the chronic toxicity study in dogs. The LOEL of this study of 5.0 mg/kg/day was based on gastrointestinal disturbances observed in the first week of the study. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicty.* The following genotoxicity tests were all negative:

gene mutation (Ames); chromosome aberration in Chinese hamster bone marrow cells; host mediated assay in mice; dominant lethal assay in mice.

3. *Reproductive and developmental toxicity*. No evidence of additional sensitivity to young rats or rabbits was observed following pre- or postnatal exposure to cypermethrin.

a. A three-reproductive toxicity study in rats demonstrated a NOEL of 2.5 mg/kg/day and a LOEL of 7.5 mg/kg/day for parental/systemic toxicity based on decreased body weight gain in both sexes. There were no adverse effects in reproductive performance. The NOEL for reproductive toxicity was considered to be 37.5 mg/kg/day, the highest dose level tested.

b. A developmental study in rats demonstrated a maternal NOEL of 17.5 mg/kg/day and a LOEL of 35 mg/kg/day based on decreased body weight gain. There were no signs of developmental toxicity at 70 mg/kg/day, the highest dose level tested.

c. A developmental study in rabbits demonstrated a maternal NOEL of 100 mg/kg/day and a LOEL of 450 mg/kg/day based on decreased body weight gain. There were no signs of developmental toxicity at 700 mg/kg/day, the highest dose level tested.

4. *Subchronic toxicity*. Short- and intermediate-term toxicity. The systemic NOEL of 5.0 mg/kg/day from the chronic toxicity study in dogs is also used for short- and intermediate-term MOE calculations (as well as acute, discussed in (1) above). This NOEL was based on neurotoxic clinical signs observed in the first week of treatment of the study.

5. *Chronic toxicity*— a. The RfD has been established at 0.010 mg/kg/day. This RfD is based on a chronic toxicity study in dogs with a NOEL of 1.0 mg/kg/day, based on gastrointestinal disturbances observed at the LOEL of 5.0 mg/kg/day during the first week of the study; an uncertainty factor of 100 is used.

b. Cypermethrin is classified as a Group C chemical (possible human carcinogen with limited evidence of carcinogenicity in animals) based upon limited evidence for carcinogenicity in female mice; assignment of a Q* has not been recommended.

6. *Animal metabolism*. The metabolism of cypermethrin in animals is adequately understood. Cypermethrin has been shown to be rapidly absorbed, distributed, and excreted in rats when administered orally. Cypermethrin is metabolized by hydrolysis and oxidation.

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of cypermethrin are not of toxicological concern and need not be included in the tolerance expression.

8. *Endocrine disruption* . No special studies investigating potential estrogenic or other endocrine effects of cypermethrin have been conducted. However, no evidence of such effects were reported in the standard battery of required toxicology studies which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that cypermethrin has an adverse effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure— Food* . Tolerances have been established for the residues of cypermethrin, in or on a variety of raw agricultural commodities. Tolerances, in support of registrations, currently exist for residues of cypermethrin on cottonseed; pecans; lettuce, head; onions, bulb; cabbage; *Brassica*, head and stem; *Brassica*, leafy and livestock commodities of cattle, goats, hogs, horses, and sheep. A pending tolerance for onions, green also exists. For the purposes of assessing the potential dietary exposure for these existing and pending tolerances, FMC has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

i. *Acute exposure and risk* . Acute dietary exposure risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a one day or single exposure. For the purposes of assessing acute dietary risk for cypermethrin, the maternal NOEL of 1.0 mg/kg/day from the chronic toxicity study in dogs was used. The LOEL of this study of 5.0 mg/kg/day was based on gastrointestinal disturbances observed in the first week of the study. This acute dietary endpoint was used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the MOEs are significantly greater than the EPA standard of 100 for all subpopulations. The 95th percentile of exposure for the overall U. S. population was estimated to be 0.00067 mg/kg/day (MOE of 1,493); 99th percentile 0.002109 mg/kg/day (MOE of 474); and 99.9th percentile 0.004543 mg/kg/day (MOE of 220). The 95th percentile of exposure for all infants < 1 year old was estimated to be 0.000562 mg/kg/day (MOE of 1,780); 99th percentile 0.000896 mg/kg/day (MOE of 1,116); and 99.9th percentile 0.001362 mg/kg/day (MOE of 734). The 95th percentile of exposure for nursing infants < 1 year old was estimated to be 0.000213 mg/kg/day (MOE of 4,706); 99th percentile 0.000587 mg/kg/day (MOE of 1,704); and 99.9th percentile 0.001660 mg/kg/day (MOE of 602). The 95th percentile of exposure for non-nursing infants < 1 year old was estimated to be 0.000613 mg/kg/day (MOE of 1,631); 99th percentile 0.000939 mg/kg/day (MOE of 1,065); and 99.9th percentile 0.001224 mg/kg/day (MOE of 817). The 95th percentile of exposure for children 1 to 6 years old (the most highly exposed population subgroup) was estimated to be 0.000819 mg/kg/day (MOE of 1,221); 99th percentile 0.002400 mg/kg/day (MOE of 417); and 99.9th percentile 0.005694 mg/kg/day (MOE of 176). Therefore, FMC concludes that the acute dietary risk of cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

ii. *Chronic exposure and risk*. The acceptable RfD is based on a NOEL of 1.0 mg/kg/day from the chronic dog study and an uncertainty factor of 100 is 0.010 mg/kg/day. The endpoint effect of concern were based on gastrointestinal disturbances observed in the first week of the study at the LOEL of 5.0 mg/kg/day. A chronic dietary exposure/risk assessment has been performed for cypermethrin using the above RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the anticipated residue contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000024 mg/kg bwt/day and utilize 0.2% of the RfD for the overall U. S. population. The ARC for non-nursing infants (< 1 year) and children 1–6 years old (subgroups most highly exposed) are estimated to be 0.000018 mg/kg bwt/day and 0.000042 mg/kg bwt/day and utilizes 0.2% and 0.4% of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100% of the RfD. Therefore, FMC concludes that the chronic dietary risk of cypermethrin, as estimated by the dietary risk assessment, does not appear to be of concern.

2. *Drinking water*. Laboratory and field data have demonstrated that cypermethrin is immobile in soil and

will not leach into groundwater. Other data show that cypermethrin is virtually insoluble in water and extremely lipophilic. As a result, FMC concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Further, a screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in groundwater at depths of 1 and 2 meters are essentially zero (much less than 0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible. Therefore, FMC concludes that together these data indicate that residues are not expected to occur in drinking water.

3. *Non-dietary exposure*. Analyses were conducted which included an evaluation of potential non-dietary (residential) applicator, post-application and chronic dietary aggregate exposures associated with cypermethrin products used for residential flea infestation control and agricultural/commercial applications. The aggregate analysis conservatively assumes that a person is concurrently exposed to the same active ingredient via the use of consumer or professional flea infestation control products and to chronic level residues in the diet.

In the case of potential non-dietary health risks, conservative point estimates of non-dietary exposures, expressed as total systemic absorbed dose for each product use category (indoor total release fogger and lawn care) and exposed population group (adults, children 1–6 years, and infants < 1 year) are compared to the systemic absorbed dose No-Observed-Effects-Level (NOEL) for cypermethrin to provide estimates of the MOEs. Based on the toxicity endpoints selected by EPA for cypermethrin, inhalation and incidental oral ingestion absorbed doses were combined and compared to the relevant systemic NOEL for estimating MOEs.

In the case of potential aggregate health risks, the above mentioned conservative point estimates of non-dietary exposure (expressed as systemic absorbed dose) are combined with estimates (arithmetic mean values) of chronic average dietary (oral) absorbed doses. These aggregate absorbed dose estimates are also provided for adults, children 1–6 years and infants < 1 year. The combined or aggregated absorbed dose estimates (summed across non-dietary and chronic dietary) are then compared with the systemic absorbed dose NOEL to provide estimates of aggregate MOEs.

The total non-dietary MOEs (combined across all product use categories) for the inhalation + incidental oral routes are 97,000 for adults, 2,100 for children 1–6 years old, and 1,900 for infants (< 1 year). The aggregate MOE (inhalation + incidental oral + chronic dietary, summed across all product use categories) was estimated to be 66,000 for adults, 2,000 for children 1–6 years old and 1,900 for infants (<1 year). It can be concluded that the potential non-dietary and aggregate (non-dietary + chronic dietary) exposures for cypermethrin are associated with substantial margins of safety.

D. Cumulative Effects

In consideration of potential cumulative effects of cypermethrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by cypermethrin would be cumulative with those of other chemical compounds; thus only the potential risks of cypermethrin have been considered in this assessment of its aggregate exposure. FMC intends to submit information for the EPA to consider concerning potential cumulative effects of cypermethrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997) and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

1. *U.S. population*. Based on a complete and reliable toxicology database, the acceptable RfD is 0.010 mg/kg/day, based on a LOEL of 5.0 mg/kg/day from the chronic dog study and an uncertainty factor of 100. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into an analysis to estimate the Anticipated Residue Contribution (ARC) for 26 population subgroups. The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.000024 mg/kg body weight (bwt)/day and utilize 0.2% of the RfD for the overall U. S. population. The ARC for non-nursing infants (<1 year) and children 1–6 years old (subgroups most highly exposed) are estimated to be 0.000018 mg/kg bwt/day and 0.000042 mg/kg bwt/day and utilizes 0.2% and 0.4% of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100% of the RfD. Therefore, FMC concludes that the chronic dietary risk of cypermethrin, as estimated by the aggregate risk assessment, does not appear to be of concern.

For the overall U.S. population, the calculated MOE at the 95th percentile was estimated to be 1,493; 474 at the 99th percentile; and 220 at the 99.9th percentile. For all infants < 1 year old, the calculated MOE at the 95th percentile was estimated to be 1,780; 1,116 at the 99th percentile; and 734 at the 99.9th percentile. For nursing infants < 1 year old, the calculated MOE at the 95th percentile was estimated to be 4,706; 1,704 at the 99th percentile; and 602 at the 99.9th percentile. For non-nursing infants < 1 year old, the calculated MOE at the 95th percentile was estimated to be 1,631; 1,065 at the 99th percentile; and 817 at the 99.9th percentile. For the most highly exposed population subgroup, children 1 – 6 years old, the calculated MOE at the 95th percentile was estimated to be 1,221 ; 417 at the 99th percentile; and 176 at the 99.9th percentile. Therefore, FMC concludes that there is reasonable certainty that no harm will result from acute exposure to cypermethrin.

2. *Infants and children*— a. *General*. In assessing the potential for additional sensitivity of infants and children to residues of cypermethrin, FMC considered data from developmental toxicity studies in the rat and rabbit, and a three-reproductive study in the rat. The data demonstrated no indication of increased sensitivity of rats or rabbits to in utero and/or postnatal exposure to cypermethrin. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

FFDCA section 408 provides that EPA may apply an additional margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database.

b. *Developmental toxicity studies*. In the prenatal developmental toxicity studies in rats and rabbits, there was no evidence of developmental toxicity at the highest doses tested (70 mg/kg/day in rats and 700 mg/kg/day in rabbits). Decreased body weight gain was observed at the maternal LOEL in each study; the maternal NOEL was established at 17.5 mg/kg/day in rats and 100 mg/kg/day in rabbits.

c. *Reproductive toxicity study*. In the three-reproduction study in rats, offspring toxicity (reduced mean litter weight gain) was observed only at the highest dietary level tested (37.5 mg/kg/day), while toxicity in the parental animals was observed at the lower treatment levels. The parental systemic NOEL was 2.5 mg/kg/day and the parental systemic LOEL was 7.5 mg/kg/day. There were no developmental (pup) or reproductive effects up to 37.5 mg/kg/day (highest dose tested).

d. *Pre- and post-natal sensitivity*—i. *Pre-natal*. There was no evidence of developmental toxicity in the studies at the highest doses tested in the rat (70 mg/kg/day) or in the rabbit (700 mg/kg/day). Therefore, there is no evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

ii. *Post-natal*. Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study.

e. *Conclusion* . Based on the above, FMC concludes that reliable data support use of the standard 100–fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants and children. As stated above, aggregate exposure assessments utilized significantly less than 1% of the RfD for either the entire U. S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to cypermethrin residues.

F. International Tolerances

There are no Codex, Canadian, or Mexican residue limits for residues of cypermethrin in or on cotton; pecans; lettuce, head; onions, bulb; cabbage; *Brassica*, head and stem, or *Brassica*, leafy. (Stephanie Willett)

6. FMC Corporation, Agricultural Products Group

PP 6F3453, 7F3546, 5F4484, and 0E3921

EPA has received a request to remove the time limitations on established tolerances from FMC Corporation, Agricultural Products Group, 1735 Market Street, Philadelphia, Pennsylvania 19103 and from the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903. The request proposes to remove the time limitations on established tolerances for residues of the insecticide bifenthrin ((2-methyl [1,1′-biphenyl]-3-yl) methyl-3-(2-chloro-3,3,3,-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate), in or on the raw agricultural commodities cottonseed at 0.5 parts per million (ppm); corn, grain (field, seed, and pop) at 0.05 ppm; hops, dried at 10.0 ppm; and strawberries at 3.0 ppm (established at 40 CFR 180.442). These tolerances were established under [PP] 6F3453, 7F3546, 5F4484, and 0E3921. EPA has determined that the request contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the requests. Additional data may be needed before EPA rules on the requests.

A. Residue Chemistry

1. *Plant metabolism*. The metabolism of bifenthrin in plants is adequately understood. Studies have been conducted to delineate the metabolism of radiolabeled bifenthrin in various crops all showing similar results. The residue of concern is the parent compound only.

2. *Analytical method*. There is a practical analytical method for detecting and measuring levels of bifenthrin in or on food with a limit of detection that allows monitoring of food with residues at or above the levels set in these tolerances (Gas Chromatography with Electron Capture Detection (GC/ECD) analytical method P-2132M.

3. *Magnitude of residues*. Crop field trial residue data from studies conducted at the maximum label rates for cotton; corn (field, seed, pop); strawberries, and hops show that the established bifenthrin tolerances on cottonseed of 0.5 ppm; corn, grain (field, seed, and pop) of 0.05 ppm; corn, fodder of 5.0 ppm; corn, forage of 2.0 ppm; strawberries of 3.0 ppm, and hops, dried of 10.0 ppm will not be exceeded when the bifenthrin products labeled for these uses are used as directed.

B. Toxicological Profile

1. *Acute toxicity*. For the purposes of assessing acute dietary risk, FMC has used the maternal NOEL of 1.0 mg/kg/day from the oral developmental toxicity study in rats. The maternal LEL of this study of 2.0 mg/kg/day was based on tremors from day 7-17 of dosing. This acute dietary endpoint is used to determine acute dietary risks to all population subgroups.

2. *Genotoxicty*. The following genotoxicity tests were all negative: gene mutation in Salmonella (Ames); chromosomal aberrations in Chinese hamster ovary and rat bone marrow cells; HGPRT locus mutation in mouse lymphoma cells; and unscheduled DNA synthesis in rat hepatocytes.

3. *Reproductive and developmental toxicity*— a. *Parental toxicity*. In the rat reproduction study, parental toxicity occurred as decreased body weight at 5.0 mg/kg/day with a NOEL of 3.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 5.0 mg/kg/day (highest dose tested).

b. *Post-natal sensitivity*. Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study.

4. *Subchronic toxicity*. Short- and intermediate-term toxicity. The maternal NOEL of 1.0 mg/ kg/day from the oral developmental toxicity study in rats is also used for short- and intermediate-term margins of exposure (MOE) calculations (as well as acute, discussed in (1) above). The maternal lowest effect level (LEL) of this study of 2.0 mg/kg/day was based on tremors from day 7–17 of dosing.

5. *Chronic toxicity*—a. The reference dose (RfD) has been established at 0.015 mg/kg/day. This RfD is based on a 1 year oral feeding study in dogs with a NOEL of 1.5 mg/kg/day, based on intermittent tremors observed at the Lowest Observed Effect Level (LOEL) of 3.0 mg/kg/day; an uncertainty factor of 100 is used.

b. Bifenthrin is classified as a Group C chemical (possible human carcinogen) based upon urinary bladder tumors in mice; assignment of a Q^* has not been recommended.

6. *Animal metabolism*. The metabolism of bifenthrin in animals is adequately understood. Metabolism studies in rats with single doses demonstrated that about 90% of the

parent compound and its hydroxylated metabolites are excreted.

7. *Metabolite toxicology.* The Agency has previously determined that the metabolites of bifenthrin are not of toxicological concern and need not be included in the tolerance expression.

8. *Endocrine disruption.* No special studies investigating potential estrogenic or other endocrine effects of bifenthrin have been conducted. However, no evidence of such effects were reported in the standard battery of required toxicology studies which have been completed and found acceptable. Based on these studies, there is no evidence to suggest that bifenthrin has an adverse effect on the endocrine system.

C. Aggregate Exposure

1. *Dietary exposure— Food.* Tolerances have been established for the residues of bifenthrin, in or on a variety of raw agricultural commodities. Tolerances, in support of registrations, currently exist for residues of bifenthrin on hops; strawberries; corn grain, forage, and fodder; cottonseed; and livestock commodities of cattle, goats, hogs, horses, sheep, and poultry. Additionally, time-limited tolerances associated with emergency exemptions were recently established for broccoli, cauliflower, raspberries, cucurbits, and canola. A pending tolerance for artichokes also exists. For the purposes of assessing the potential dietary exposure for these existing and pending tolerances as well as the existing time-limited tolerances under FIFRA section 18 emergency exemptions, FMC has utilized available information on anticipated residues, monitoring data and percent crop treated as follows:

i. *Acute exposure and risk.* Acute dietary exposure risk assessments are performed for a food-use pesticide if a toxicological study has indicated the possibility of an effect of concern occurring as a result of a 1 day or single exposure. For the purposes of assessing acute dietary risk for bifenthrin, the maternal NOEL of 1.0 mg/kg/day from the oral developmental toxicity study in rats was used. The maternal LEL of this study of 2.0 mg/kg/day was based on tremors from day 7–17 of dosing. This acute dietary endpoint was used to determine acute dietary risks to all population subgroups. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into a Tier 3 analysis, using Monte Carlo modeling for commodities that may be consumed in a single serving. These assessments show that the MOE are significantly greater than the EPA standard of 100 for all subpopulations. The 95th percentile of exposure for the overall U.S. population was estimated to be 0.000362 mg/kg/day (MOE of 2,762); 99th percentile 0.000732 mg/kg/day (MOE of 1,367); and 99.9th percentile 0.002282 mg/kg/day (MOE of 438). The 95th percentile of exposure for all infants < 1 year old was estimated to be 0.000652 mg/kg/day (MOE of 1,534); 99th percentile 0.001138 mg/kg/day (MOE of 879); and 99.9th percentile 0.001852 mg/kg/day (MOE of 540). The 95th percentile of exposure for nursing infants < 1 year old was estimated to be 0.000193 mg/kg/day (MOE of 5,180); 99th percentile 0.000456 mg/kg/day (MOE of 2,192); and 99.9th percentile 0.000475 mg/kg/day (MOE of 2,107). The 95th percentile of exposure for non-nursing infants < 1 year old was estimated to be 0.000766 mg/kg/day (MOE of 1,306); 99th percentile 0.001203 mg/kg/day (MOE of 832); and 99.9th percentile 0.001977 mg/kg/day (MOE of 506). The 95th percentile of exposure for children 1 to 6 years old (the most highly exposed population subgroup) was estimated to be 0.000632 mg/kg/day (MOE of 1,583); 99th percentile 0.001196 mg/kg/day (MOE of 836); and 99.9th percentile 0.005277 mg/kg/day (MOE of 190). Therefore, FMC concludes that the acute dietary risk of bifenthrin, as estimated by the dietary risk assessment, does not appear to be of concern.

ii. *Chronic exposure and risk.* The acceptable RfD is based on a NOEL of 1.5 mg/kg/day from the chronic dog study and an uncertainty factor of 100 is 0.015 mg/kg/day. The endpoint effect of concern were tremors in both sexes of dogs at the LEL of 3.0 mg/kg/day. A chronic dietary exposure/risk assessment has been performed for bifenthrin using the above RfD. Available information on anticipated residues, monitoring data, and percent crop treated was incorporated into the analysis to estimate the anticipated residue contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.00002 mg/kg body weight (bwt)/day and utilize 0.1% of the RfD for the overall U.S. population. The ARC for non-nursing infants (< 1 year) and children 1–6 years old (subgroups most highly exposed) are estimated to be 0.000042 mg/kg bwt/day and 0.000032 mg/kg bwt/day and utilizes 0.3% and 0.2% of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100% of the RfD. Therefore, FMC concludes that the chronic dietary risk of bifenthrin, as estimated by the dietary risk assessment, does not appear to be of concern.

2. *Drinking water.* Laboratory and field data have demonstrated that bifenthrin is immobile in soil and will not leach into groundwater. Other data show that bifenthrin is virtually insoluble in water and extremely lipophilic. As a result, FMC concludes that residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Further, a screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethroid in groundwater at depths of 1 and 2 meters are essentially zero (much less than 0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible. Therefore, FMC concludes that together these data indicate that residues are not expected to occur in drinking water.

3. *Non-dietary exposure.* Analyses were conducted which included an evaluation of potential non-dietary (residential) applicator, post-application and chronic dietary aggregate exposures associated with bifenthrin products used for residential flea infestation control and agricultural/commercial applications. The aggregate analysis conservatively assumes that a person is concurrently exposed to the same active ingredient via the use of consumer or professional flea infestation control products and to chronic level residues in the diet. In the case of potential non-dietary health risks, conservative point estimates of non-dietary exposures, expressed as total systemic absorbed dose (summed across inhalation and incidental ingestion routes) for each relevant product use category (i.e., lawn care) and receptor subpopulation (i.e., adults, children 1–6 years and infants < 1 year) are compared to the systemic

absorbed dose NOEL for bifenthrin to provide estimates of the MOEs. Based on the toxicity endpoints selected by EPA for bifenthrin, inhalation and incidental oral ingestion absorbed doses were combined and compared to the relevant systemic NOEL for estimating MOEs. In the case of potential aggregate health risks, the above-mentioned conservative point estimates of inhalation and incidental ingestion non-dietary exposure (expressed as systemic absorbed dose) are combined with estimates (arithmetic mean values) of chronic average dietary (oral) absorbed doses. These aggregate absorbed dose estimates are also provided for adults, children 1–6 years and infants < 1 year. The combined or aggregated absorbed dose estimates (summed across non-dietary and chronic dietary) are then compared with the systemic absorbed dose NOEL to provide estimates of aggregate MOEs. The non-dietary and aggregate (non-dietary + chronic dietary) MOEs for bifenthrin indicate a substantial degree of safety. The total non-dietary (inhalation + incidental ingestion) MOEs for post-application exposure for the lawn care product evaluated was estimated to be > 51,000 for adults, 1,900 for children 1–6 years old and 1,800 for infants < 1 year. The aggregate MOE (inhalation + incidental oral + chronic dietary, summed across all product use categories) was estimated to be 25,000 for adults, 1,800 for children 1–6 years old and 1,600 for infants (< 1 year). It can be concluded that the potential non-dietary and aggregate (non-dietary + chronic dietary) exposures for bifenthrin are associated with substantial margins of safety.

D. Cumulative Effects

In consideration of potential cumulative effects of bifenthrin and other substances that may have a common mechanism of toxicity, to our knowledge there are currently no available data or other reliable information indicating that any toxic effects produced by bifenthrin would be cumulative with those of other chemical compounds; thus only the potential risks of bifenthrin have been considered in this assessment of its aggregate exposure. FMC intends to submit information for the EPA to consider concerning potential cumulative effects of bifenthrin consistent with the schedule established by EPA in the **Federal Register** of August 4, 1997 (62 FR 42020) (FRL–5734–6), and other EPA publications pursuant to the FQPA.

E. Safety Determination

1. *U.S. population.* Based on a complete and reliable toxicology data base, the acceptable reference dose (RfD) is 0.015 mg/kg/day, based on a NOEL of 1.5 mg/kg/day from the chronic dog study and an uncertainty factor of 100. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into an analysis to estimate the Anticipated Residue Contribution (ARC) for 26 population subgroups. The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues. The ARC are estimated to be 0.00002 mg/kg body weight (bwt)/day and utilize 0.1% of the RfD for the overall U.S. population. The ARC for non-nursing infants (< 1 year) and children 1–6 years old (subgroups most highly exposed) are estimated to be 0.000042 mg/kg bwt/day and 0.000032 mg/kg bwt/day and utilizes 0.3% and 0.2% of the RfD, respectively. Generally speaking, the EPA has no cause for concern if the total dietary exposure from residues for uses for which there are published and proposed tolerances is less than 100% of the RfD. Therefore, FMC concludes that the chronic dietary risk of bifenthrin, as estimated by the aggregate risk assessment, does not appear to be of concern. For the overall U.S. population, the calculated MOE at the 95th percentile was estimated to be 2,762; 1,367 at the 99th percentile; and 438 at the 99.9th percentile. For all infants < 1 year old, the calculated MOE at the 95th percentile was estimated to be 1,534; 879 at the 99th percentile; and 540 at the 99.9th percentile. For nursing infants < 1 year old, the calculated MOE at the 95th percentile was estimated to be 5,180; 2,192 at the 99th percentile; and 2,107 at the 99.9th percentile. For non-nursing infants < 1 year old, the calculated MOE at the 95th percentile was estimated to be 1,306; 832 at the 99th percentile; and 506 at the 99.9th percentile. For the most highly exposed population subgroup, children 1–6 years old, the calculated MOE at the 95th percentile was estimated to be 1,583; 836 at the 99th percentile; and 190 at the 99.9th percentile. Therefore, FMC concludes that there is reasonable certainty that no harm will result from acute exposure to bifenthrin.

2. *Infants and children*— a. *General.* In assessing the potential for additional sensitivity of infants and children to residues of bifenthrin, FMC considered data from developmental toxicity studies in the rat and rabbit, and a two-generation reproductive study in the rat. The developmental toxicity studies are designed to evaluate adverse effects on the developing organism resulting from pesticide exposure during prenatal development to one or both parents. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity. FFDCA section 408 provides that EPA may apply an additional margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the data base.

b. *Developmental toxicity studies.* In the rabbit developmental study, there were no developmental effects observed in the fetuses exposed to bifenthrin. The maternal NOEL was 2.67 mg/kg/day based on head and forelimb twitching at the LOEL of 4 mg/kg/day. In the rat developmental study, the maternal NOEL was 1 mg/kg/day, based on tremors at the LOEL of 2 mg/kg/day. The developmental (pup) NOEL was also 1 mg/kg/day, based upon increased incidence of hydroureter at the LOEL 2 mg/kg/day. There were 5/23 (22%) litters affected (5/141 fetuses since each litter only had one affected fetus) in the 2 mg/kg/day group, compared with zero in the control, 1, and 0.5 mg/kg/day groups. According to recent historical data (1992-1994) for this strain of rat, incidence of distended ureter averaged 11% with a maximum incidence of 90%.

c. *Reproductive toxicity study.* In the rat reproduction study, parental toxicity occurred as decreased body weight at 5.0 mg/kg/day with a NOEL of 3.0 mg/kg/day. There were no developmental (pup) or reproductive effects up to 5.0 mg/kg/day (highest dose tested).

d. *Pre- and post-natal sensitivity*— i. *Pre-natal.* Since there was not a dose-related finding of hydroureter in the rat developmental study and in the presence of similar incidences in the recent historical control data, the marginal finding of hydroureter in rat fetuses at 2 mg/kg/day (in the presence of maternal toxicity) is not considered a significant developmental finding. Nor does it provide sufficient evidence of a special dietary risk (either acute or chronic) for infants and children which would require an additional safety factor.

ii. *Post-natal.* Based on the absence of pup toxicity up to dose levels which produced toxicity in the parental animals, there is no evidence of special post-natal sensitivity to infants and children in the rat reproduction study.

e. *Conclusion.* Based on the above, FMC concludes that reliable data support use of the standard 100–fold uncertainty factor, and that an additional uncertainty factor is not needed to protect the safety of infants

and children. As stated above, aggregate exposure assessments utilized significantly less than 1% of the RfD for either the entire U.S. population or any of the 26 population subgroups including infants and children. Therefore, it may be concluded that there is reasonable certainty that no harm will result to infants and children from aggregate exposure to bifenthrin residues.

F. International Tolerances

There are no Codex, Canadian, or Mexican residue limits for residues of bifenthrin in or on cotton; corn, field, seed, pop; strawberries; or hops. (Adam Heyward)

7. McLaughlin Gormley King Company

PP 7F4915

EPA has received a pesticide petition (PP 7F4915) from McLaughlin Gormley King Company, 8810 Tenth Avenue North, Minneapolis, MN 55427, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR part 180 by establishing a tolerance for residues of (*RS*)-2-Methyl-4-oxo-3-(2-propynyl) cyclopent-2-enyl (1*RS*)-cis, trans-chrysanthemate (common name, prallethrin; trade name ETOC®), a Type I synthetic pyrethroid in or on food commodities at 1 ppm. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Analytical method*. An adequate analytical method is available to detect residues of ETOC® in or on food commodities. Prallethrin can be extracted from samples and analyzed by gas chromatography, with final electron capture detection. The method has been confirmed through an independent laboratory validation.

2. *Magnitude of residues*. Studies were conducted to determine residues resulting from the application of ETOC® by ULV spray and contact spray in a simulated feed or food processing situation, and in a simulated warehouse situation. No residues were detected following contact sprays in either situation, with the exception of a trace amount in a peanut sample after the tenth treatment at 4X the normal application rate. No residues were detected in covered commodities after ULV spraying of ETOC®, but residues were detected in uncovered commodities and samples with permeable wrapping.

B. Toxicological Profile

1. *Acute toxicity*. An oral dosage rat study reported Category II toxicity with the LD_{50} being 640 mg/kg for males and 460 mg/kg for females. An acute dermal study with rats reported Category IV toxicity. An acute inhalation study with rats reported Category II toxicity with an LC_{50} of 0.288 mg/liter for males and 0.333 mg/liter for females. Rabbits were tested for eye and skin irritation. Eye irritation was minimal (Category III) and there was no skin irritation (Category IV). ETOC® is not a skin sensitizer, based on a Guinea Pig dermal sensitization study. Rats were dosed at 30, 100, and 300 mg/kg by oral gavage to test acute neurotoxicity. While there was some temporary motor activity reduction, there were no permanent treatment-related anomalies.

2. *Genotoxicity*. A bacterial reverse mutation test using *Salmonella typhimurium* and *Escherichia coli* indicated that ETOC® was not mutagenic. A gene mutation assay with Chinese hamster lung cells in both the presence and absence of S9 metabolic activation reported no mutagenicity. An *in vitro* chromosomal aberration test reported clastogenic potential against Chinese hamster ovary cells (CHO-K1) in the presence of S9 mix. An *in vivo* mouse bone marrow micronucleus test did not induce micronuclei formation in bone marrow cells of mice. An *in vivo/in vitro* unscheduled DNA synthesis test reported no induction of DNA damage in rat hepatocytes *in vivo*.

3. *Reproductive and developmental toxicity*. A range-finding study was conducted by administering 30, 60, 100, 300, 600, and 800/1,000 mg/kd/day by oral gavage to rabbits on days 7 through 19 of presumed gestation. Significantly decreased body weights occurred in those rabbits receiving 300 mg/kg/day and above, food consumption decreased at 100 mg/kg/day and above, and deaths occurred at 300 mg/kg/day and above. Doses as high as 100 mg/kg/day did not produce adverse effects in the offspring. ETOC® was then administered by oral gavage at doses of 10, 30, 100, and 200 mg/kg/day to rabbits on days 7 through 19 of presumed gestation. The maternal NOAEL was 100 mg/kg/day. The 200 mg/kg/day dosage caused reduced maternal body weight gains and reduced absolute and relative feed consumption values. The developmental NOAEL was reported as 200 mg/kg/day. ETOC® is not considered a developmental toxin. A teratology study was conducted by administering 10, 30, 100, and 300 mg/kg/day by oral gavage to rats on days 6–15 of presumed gestation. The developmental NOEL was >300 mg/kg/day and the developmental LOEL was not determined. Compound related maternal mortality was reported at 300 mg/kg/day. The maternal LOEL was 30 mg/kg/day, as determined by increased mortality at 300 mg/kg/day levels, clinical signs at the 30, 100, and 300 mg/kg/day dosages, and decreased body weight gain and food consumption. Rats were dosed with 12.5, 25.0, and 50 mg/kg/day by subcutaneous injection on days 7 through 17 of presumed gestation. No NOEL or LOEL was established, but the occurrence of lumbar rib variants was significantly higher in the offspring of the 50 mg/kg/day group than in the controls. Rabbits were dosed at 1, 3, and 10 mg/kg/day by subcutaneous injection on days 6 through 18 of presumed gestation. No effects were reported on either the dams or the offspring. ETOC® was incorporated into the feed at concentrations of 120, 600, 3,000, and 6,000 ppm to evaluate the reproductive effects on two generations of rats. The systemic toxicity and reproductive toxicity NOEL's were both established at 600 ppm, and the LOEL's were both 3,000 ppm, respectively. There were dosage-dependent effects on weight gains, body weights, feed consumption values, liver weights, and reduction of pup body weight at the 3,000 and 6,000 ppm dose levels. There were no adverse effects on viability or fertility in either generation up to the 6,000 ppm level.

4. *Subchronic toxicity*. A 21–day dermal toxicity rat study was conducted at 30, 150 and 750 mg/kg/day. The test article was considered a mild irritant. The dermal NOEL was 150 mg/kg/day and the systemic NOEL was 30 mg/kg/day. A 13–week oral mouse study was conducted at inclusion levels of 300, 3,000, 6,000, or 12,000 ppm. The NOEL was 3,000 ppm, and the LOEL was 6,000 ppm. A 3–month feeding study incorporating 100, 300, 1,000, and 3,000 ppm into the diet of rats reported a NOEL of 300 ppm, and a LOEL of 1,000 ppm. EPA later recommended raising the NOEL to 1,000 ppm and the LOEL to 3,000 ppm. A 3–month oral study on beagle dogs dosed at 3, 10, and 30 mg/kg/day, administered by capsule, reported a NOEL of 3 mg/kg/day and a LOEL of 10 mg/kg/day. A 4–week inhalation study exposed rats to 1.01, 4.39, and 19.6 mg/m3 of 92.0% ETOC®, with median aerodynamic particle diameter of 3.77 to 4.89 m. The NOEL was 1.01 mg/m^3 and the LOEL was 4.39 mg/m^3.

5. *Chronic toxicity*. A 52–week oral toxicity study was conducted on beagle dogs administered dosage levels of 2. 5, 5.0, 10.0 or 20.0 mg/kg/day. The NOEL was reported at 2.5 mg/kg/day; EPA's RfD/Peer Review Committee later recommended 5 mg/kg/day in a DER dated June 6, 1995. The LOEL was 5.0 mg/kg/day based upon reduced weight gain, clinical signs, elevated cholesterol levels and deposition of lipofuscin in renal and bladder epithelium. A 106–week combined oral toxicity and oncogenicity study was performed on rats using dietary concentrations of 80, 400, and 2,000 ppm. It was determined that there was no carcinogenic potential in rats. The NOEL was 80 ppm, and the LOEL was 400 ppm. There were no ophthalmologic, biochemical changes, or gross pathological treatment-related effects except for increased liver and thyroid weights in the 400 ppm and above level. An 80 week dietary oncogenicity study on rats with dose levels of 120, 600, 3,000 and 6,000 ppm showed that the principal effect of ETOC® was increased liver weights in those rats given the 3,000 to 6,000 ppm diet. There was no indication of any treatment related effect on the incidence of neoplastic findings.

6. *Animal metabolism*. Solutions of (4S), (1R)-*trans*- and (4S), (1R)- *cis*-S-4068SF (ETOC®) labeled with ^{14}C were given to rats by single oral dose or subcutaneous administration at 2 mg/kg. Both isomers were rapidly absorbed, widely distributed to various tissues, and then readily metabolized and excreted. Neither isomer was retained or accumulated in any tissues. There was no marked difference in metabolic fate between sexes and administration routes. The absorption and disposition of ^{14}C-S-4068SF *cis* and *trans* isomers in rats was determined after oral administration of the compounds at 2 and 100 mg/kg and at 2mg/kg after 14 daily doses of the non-labeled compounds at the same dose level. The results indicated that the dose was rapidly eliminated at all dose levels. A greater proportion was excreted in the urine of rats receiving the *trans*-compound compared to the *cis*-compound, indicating a greater ester cleavage of the *trans*-isomer. Concentrations of compound in tissues were not significantly affected by repeat doses of unlabelled compound and concentrations at the higher dose level were in proportion to the increase in dose. The greatest concentrations were detected in the organs responsible for excretion and metabolism (liver and kidneys). Concentrations in these tissues were greater in females.

7. *Endocrine effects*. The standard battery of required toxicity studies is generally considered to be sufficient to detect any endocrine effects, and is complete for ETOC®. No developmental or reproductive effects were noted. The potential for ETOC® to produce any significant endocrine effects is considered minimal

8. *Metabolite toxicology*. There is no evidence that prallethrin contains metabolites of toxicological concern.

C. Aggregate Exposure

1. *Dietary exposure*. A chronic dietary exposure analysis was conducted for exposure to potential prallethrin residues in all food commodities that can be exposed to prallethrin by indoor ULV fogging treatment, crack and crevice, and hard surface applications in food-handling establishments. Residue amounts from MGK field trials in a simulated warehouse situation were used in the analysis. Chronic dietary exposure to prallethrin has been conservatively estimated to be less than 1% of the RfD for all population groups.

2. *Drinking water*. ETOC® is presently registered only for indoor, non-food uses. No agricultural uses are planned for ETOC®, so residues in drinking water are not likely to be present.

3. *Non-dietary exposure*. Acute and short-term non-dietary exposure assessments were conducted to determine the non-dietary exposure risk of prallethrin from both registered and pending, occupational and residential uses. These assessments considered oral, dermal, and inhalation exposure to prallethrin during application and post-application of total release aerosols, crack and crevice sprays, broadcast carpet/hard surface sprays, pet dipping, and indoor ULV fogging concentrate/contact spray. Incidental ingestion of ETOC® residues by children's hand-to-mouth behavior was included in the assessment. All of the MOE's for the occupational setting were greater than 5,200, the residential MOE's were greater than 4,900, and the aggregate residential assessment was greater than 1,400. These MOE values allow a reasonable certainty that no harm will occur from exposure to residues of prallethrin.

D. Cumulative Effects

The EPA guidelines for product safety testing address noticeable toxic effects rather than the underlying mode of toxicity. There is very little information or data available to determine whether or not the toxic mode of action of prallethrin is sufficiently similar to other Type I pyrethroids to be cumulative.

E. Safety Determination

1. *U.S. population*. Based on the conservative aggregate exposure estimates noted above and the complete and reliable toxicology database for prallethrin, it is safe to conclude that the aggregate exposure of the whole U.S. population to prallethrin will be 0.2% or less of the RfD of 0.05 mg/kg bw/day. Children from 1 to 6 years old may be exposed to a slightly higher amount of prallethrin; 0.3% of the RfD.

Generally speaking, EPA has no concerns about exposures which are less than 100% of the RfD because the RfD represents the level at or below which daily aggregate dietary exposure over a lifetime will not pose appreciable risks to human health. It is therefore concluded that there is a reasonable certainty that no harm will result from aggregate exposure to prallethrin residues.

2. *Infants and children*. Developmental toxicity studies of prallethrin orally administered to rats and rabbits did not demonstrate any pre-natal sensitivies for developing fetuses. The maternal NOEL for rats was 10 mg/kg/day, and the maternal NOEL for rabbits was 100 mg/kg/day.

A two-generation reproduction study of rats administered prallethrin in their feed did not reveal any treatment-related reproductive or developmental effects in either generation. The NOEL for adult rats was found to be 120 ppm while the LEL was 600 ppm. The NOEL for fetotoxicity was found to be 600 ppm and the LEL was 3,000 ppm.

Since no special sensitivities to offspring were noted in these studies, there is no need for an additional fold safety factor to be applied to risk assessments.

F. International Tolerances

There are no international maximum residue limits established for prallethrin; therefore, incompatibility is not an issue. (Adam Heyward)

8. Valent U. S. A. Corporation

PP 2F4144, 3F4186, 4F4327

EPA has received a request from Valent U. S. A. Corporation, 1333 North California Blvd., Walnut Creek, CA 94596–8025 pursuant to section 408(d) of the Federal Food, Drug, and Cosmetic Act, 21 U.S.C. 346a(d), to amend 40 CFR 180.466 to remove the time limitations on tolerances for residues of the pyrethroid insecticide chemical fenpropathrin, *alpha*-cyano-3-phenoxybenzyl 2,2,3,3-tetramethylcyclo-propanecarboxylate, in or on the raw agricultural commodities cottonseed at 1.0 parts per million

(ppm), peanut nutmeat at 0.01 ppm, peanut vine hay at 20 ppm, strawberry at 2.0 ppm, tomato at 0.6 ppm, meat and meat by-products of cattle, goats, hogs, horses and sheep at 0.1 ppm, fat of cattle, goats, hogs, horses and sheep at 1.0 ppm, milk fat (reflecting 0.08 ppm in whole milk) at 2.0 ppm, and poultry meat, fat, meat by-products and eggs at 0.05 ppm, and in the processed products cottonseed oil at 3.0 ppm and cottonseed soapstock at 2.0 ppm. The tolerances were first established in response to pesticide petitions PP 2F4144, 3F4186, and 4F4327 and were only made time limited because of concerns associated with toxicity to aquatic arthropods. EPA has determined that the request contains data or information consistent with the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the request. Additional data may be needed before EPA rules on the request.

A. Residue Chemistry

Summary. An extensive plant and animal metabolism data base demonstrates that the appropriate definition of aged fenpropathrin residue is parent. Ruminant and poultry feeding studies have shown that feed to residue ratios are very low in most commodities, with higher (but still relatively low) ratios in fat and milk fat. This section will describe residue data supporting the establishment of tolerances for residues of fenpropathrin in or on the raw agricultural commodities cottonseed at 1.0 parts per million (ppm), peanut nutmeat at 0.01 ppm, peanut vine hay at 20 ppm, strawberry at 2.0 ppm, tomato at 0.6 ppm, meat and meat by-products of cattle, goats, hogs, horses and sheep at 0.1 ppm, fat of cattle, goats, hogs, horses and sheep at 1.0 ppm, milk fat (reflecting 0.08 ppm in whole milk) at 2.0 ppm, and poultry meat, fat, meat by-products and eggs at 0.05 ppm, and in the processed products cottonseed oil at 3.0 ppm and cottonseed soapstock at 2.0 ppm. The approved analytical method is capillary gas-liquid chromatography with flame ionization detection.

1. *Plant metabolism*. The plant metabolism of fenpropathrin has been studied in five different crop plant species: cotton, apple, tomato, cabbage, and bean. Radiocarbon labeling has been in the cyclopropyl ring of the acid, in the aryl rings of the alcohol, and in the nitrile of fenpropathrin, a cyanohydrin ester. The permutations of radiocarbon label position and plant species yield a total of 17 separate, reviewed studies. Each of the studies involved foliar treatment of the plants under either greenhouse or field conditions and, while the actual treatment conditions and times to harvest varied from study to study, the results of the many studies are remarkably consistent. The total toxic residue is best defined as parent, fenpropathrin.

Fenpropathrin remains associated with the site of application and only traces are found in seeds (e.g., bean or cotton) or in other parts of the plant not directly exposed to the application. Much of the parent residue can be removed from the plant material with a mild hexane/acetone or hexane rinse, demonstrating that the residue is located on or near the outside surface of the plant material. The primary metabolic pathway for fenpropathrin in plants is similar to that in mammals. There are no qualitatively unique plant metabolites; the primary aglycones are identical in both plants and animals.

2. *Analytical method*. Adequate analytical methodology is available to detect and quantify fenpropathrin (and its metabolites) at residue levels in numerous matrices. The methods use solvent extraction and partition and/or column chromatography clean-up steps, followed by separation and quantitation using capillary column gas-liquid chromatography with flame ionization detection. The extraction efficiency has been validated using radiocarbon samples from the plant and animal metabolism studies. The enforcement methods have been validated at independent laboratories, and by EPA. The limit of quantitation for fenpropathrin in raw agricultural commodity samples is 0.01 ppm.

3. *Magnitude of residues— Cotton*. The time limited section 408 tolerance for fenpropathrin in/on cottonseed is 1.0 ppm. The use pattern allows a maximum single application rate of 0.3 lb ai/acre, a total maximum seasonal use of 0.8 lb ai/acre, and a 21-day phi. The field residue experiments were performed in six years at thirty-three sites in nine states. There were 38 separate treatments yielding 101 separate, treated samples for analysis. The existing time limited tolerance of 1.0 ppm is based on all of the field residue data, including treatments at exaggerated rates. For the subset of the field residue samples that most closely match the present, labeled use pattern, 0.3 lb ai/acre, 5 applications, and a 21-day phi, the average residue was 0.069 ppm ($n = 14$, $\sigma_{n-1} = 0.091$). The highest average residue (HAR) found in these crop field trials for fenpropathrin in/on cottonseed was 0.28 ppm.

There are existing time limited section 408 tolerances for fenpropathrin in the processed products cottonseed oil (3.0 ppm) and cottonseed soapstock (2.0 ppm). Three processing studies yielding hulls, extracted meal, crude cottonseed oil, refined cottonseed oil, and cottonseed soapstock were performed. These studies demonstrated that fenpropathrin residues were reduced in extracted meal but did concentrate in refined cottonseed oil (average concentration factor = 2.77) and soapstock. Tolerances for the processed products cottonseed oil and cottonseed soapstock were needed because the concentration factors were greater than unity. Soapstocks are no longer considered significant feed commodities. The HAR times the average concentration factor for cottonseed oil (0.28 ppm x 2.77 = 0.78 ppm) is less than the tolerance of 1.0 ppm. Under present residue chemistry guidelines, tolerances for cottonseed oil and soapstock would no longer be required.

The calculated mean residue value for cottonseed of 0.07 ppm was used in both the chronic and acute dietary exposure and risk assessments since cottonseed is a blended commodity. Processing factors used in the assessments were refined cottonseed oil (2.77), cottonseed meal (0.48), and cottonseed hulls (0.90).

Peanut. The time limited section 408 tolerances for fenpropathrin in/on peanut nutmeat is 0.01 ppm and in/on peanut vine hay is 20.0 ppm. The use pattern allows a maximum single application rate of 0.3 lb ai/acre, a total maximum seasonal use of 0.8 lb ai/acre, and a 14-day interval before digging the peanuts or feeding the vines or hay. The field residue experiments were performed in two years at seven sites in five states. There were 9 separate treatments yielding 22 separate, treated samples for analysis for nutmeats, green vines, and dried vine hay. Data from the subset of the field residue samples that most closely match the present, labeled use pattern, 0.3 lb ai/acre, 2 or more applications, and a 14-day phi were used to support the tolerances.

Peanut nutmeats. No finite residues were detected (< 0.01 ppm) in 17 of 18 samples. In a single sample a finite residue of .01 ppm was detected.

Peanut vine hay. Field dried vines, peanuts removed, were sampled at 14-days plus 2- to 9-days field drying time following the last application. The average residue found in/on peanut vine hay was 8.31 ppm ($n = 16$, $\sigma_{n-1} = 4.64$ ppm). The HAR for peanut vine hay was 16 ppm. A peanut processing study using a very highly exaggerated field

application rate showed positive concentration in peanut oil and other processed products. However, Agency guidance has indicated that no additional tolerances are needed.

Except for a single sample of peanut nutmeat (0.01 ppm) all appropriate field trial data were non-detects. Therefore, 0.005, or half the limit of detection (LOD), was used for the chronic dietary risk assessment, and 0.01 ppm (full LOD) was used for the acute assessment. Calculated mean residue values were used for peanut commodities in both the chronic and acute assessments because peanuts is a blended commodity. The processing factor for deodorized bleached refined oil (1.33) was used in the risk assessments since this is the grade of peanut oil available for human consumption. For feed, the processing value for expeller presscake (1.33) was used for peanut meal.

Strawberry. The time limited section 408 tolerance for fenpropathrin in/on strawberries is 2.0 ppm. The use pattern allows a maximum single application rate of 0.4 lb ai/acre, a minimum 30-day interval between treatments, a total maximum seasonal use of 0.8 lb ai/acre, and a 2-day phi. The field residue experiments were performed in three years at twelve sites in six states. There were 47 separate treatments yielding 128 separate, treated samples for analysis. For the subset of the field residue samples that most closely match the present, labeled use pattern, 0.4 lb ai/acre, 1 or 2 applications with a (approximately) 30-day interval between treatments, and a 2-day phi, the average residue was 0.65 ppm ($n = 34$, $\sigma_{n-1} = 0.44$). The HAR found in these crop field trials in/on strawberries was 1.45 ppm.

For chronic dietary exposure and risk assessment, the mean residue value (0.65 ppm) was used. For acute assessment, the complete distribution of the appropriate field trial data was used.

Tomato. The time limited section 408 tolerance for fenpropathrin in/on tomato is 0.6 ppm. The use pattern allows a maximum single application rate of 0.2 lb ai/acre, a total maximum seasonal use of 0.8 lb ai/acre, and a 3-day phi. The field residue experiments were performed in four years ateighteen sites in eight states. There were 27 separate treatments yielding 118 separate, treated samples for analysis. For the subset of the field residue samples that most closely match the present, labeled use pattern, 0.2 lb ai/acre, 4 (or more) applications, and a 3-day phi, the average residue was 0.166 ppm ($n = 54$, $\sigma_{n-1} = 0.132$). The highest average residue (HAR) found in these crop field trials for fenpropathrin in/on tomatoes was 0.55 ppm.

A tomato processing study using an exaggerated field application rate showed positive concentration in wet and dried tomato pomace. However, Agency guidance has indicated that no additional tolerances are needed.

The mean residue value of 0.17 ppm was used for all tomatoes in the chronic dietary assessment, and for the blended commodities in the acute assessment (paste, puree, juice, and catsup). In the acute assessments, a complete distribution of the appropriate field trial data was used for whole and dried tomatoes. Appropriate concentration factors were used for processed commodities: tomato juice (0.05), canned tomatoes (0.08), tomato paste (0.3).

Secondary residues. Residues in animal feed may transfer to animal products, meat, milk, and eggs, used in human food. The existing time limited tolerances are meat and meat by-products of cattle, goats, hogs, horses and sheep at 0.1 ppm, fat of cattle, goats, hogs, horses and sheep at 1.0 ppm, milk fat (reflecting 0.08 ppm in whole milk) at 2.0 ppm, and poultry meat, fat, meat by-products and eggs at 0.05 ppm. The feed items that are associated with the existing registered uses for beef and dairy cattle are peanut hay, cottonseed, cotton gin by-products (feeding restriction), cottonseed hulls, cottonseed meal and peanut meal in descending order of the magnitude of the anticipated residues. For poultry and swine only cottonseed and peanut meals are significant feed items. Tissue to feed residue ratios vary from a high of 0.0139 in fat to 0.001625 in milk, to a low of 0.00004 in liver in cattle. In poultry, tissue to feed ratios vary from a high of 0.0069 in fat to a low of 0.0002 in muscle. Both chronic and acute dietary assessments show very low residue contribution from secondary residues in animal products to all population subgroups.

B. Toxicological profile

Summary. The existing registrations and tolerances of fenpropathrin are supported at EPA by a complete toxicology data base. Toxicity endpoints of concern have been identified by the Agency's Health Effects Division, Hazard Identification Assessment Review Committee. The identified endpoints are an Acute Dietary of 6.0 mg/kg/day (systemic) and a Chronic Dietary of 2.5 mg/kg/day (RfD = 0.025 mg/kg/day, UF = 100). No endpoints of concern were identified by the Committee for occupational or residential, dermal or inhalation exposures of any duration.

1. *Acute toxicity*. The following acute toxicity studies using fenpropathrin technical as the test material have been reviewed and accepted by EPA to support registration.

Acute oral, rat. The rat oral LD_{50} values were determined to be 54.0 and 48.5 milligrams per kilogram body weight (mg/kg) for male and female rats, respectively. Toxicity Category I.

Acute dermal, rat. The rat dermal LD_{50} values were determined to be 1600 and 870 mg/kg for male and female rats, respectively. Toxicity Category II.

Acute inhalation, rat. A high dosage inhalation study is technically not possible because of the low vapor pressure and thick, viscous nature of fenpropathrin technical. The study has been waived by the Agency. Toxicity Category IV.

Primary eye irritation, rabbit. No corneal involvement; mild iris and conjunctival irritation. Toxicity Category III.

Primary dermal irritation, rabbit. No irritation. Toxicity Category IV.

Dermal sensitization, guinea pig. Not a sensitizer.

Acute oral and acute dermal toxicity studies have also been submitted on the mouse and rabbit. In the acute oral and dermal studies, clinical signs of toxicity included tremors, hyperexcitability, muscular fibrillation, ataxia of the hind limbs, urinary incontinence, diarrhea, and salivation. The intoxicated animals from the oral studies showed no major changes in tissues or organs at necropsy. Where there were sexual differences in toxicity, females were consistently slightly more sensitive than males. Surviving animals recovered in two days in the case of rats and mice and within 4 days in the case of rabbits. In surviving animals, all clinical signs were completely reversible.

2. *Genotoxicty*. Fenpropathrin does not present a genetic hazard. The Agency has reviewed, accepted, and classed as negative the following genotoxicity tests: A gene mutation assay (Ames), a chromosomal aberration study in rodents, an in vitro cytogenics assay, a sister chromatide exchange on CHO-K1 cells, and DNA damage/repair in *Bacillus subtilis*.

3. *Reproductive and developmental toxicity*. There is no evidence from reproduction or developmental toxicity studies that the developing fetus, young growing and developing animals, or adult reproducing animals are any more sensitive to fenpropathrin effects than mature adult animals. In addition, reproductive parameters were

unaffected at dosages higher than those that caused overt adult toxicity.

Three-generation reproduction study, rats. Dietary concentrations of 0, 40, 120, and 360 ppm were fed continuously to rats for three generations to assess the effect of fenpropathrin on reproductive function. (Parent) Systemic no effect level (NOEL) of 40 ppm (M/F 3.0/3.4 mg/kg/day). Systemic lowest effect level (LEL) of 120 (M/F 8.9/10.1 mg/kg/day)—body tremors with spasmodic muscle twitches, increased sensitivity, and maternal lethality. Reproductive NOEL 120 ppm (M/F 8.9/10.1 mg/kg/day). Reproductive LEL 360 ppm (M/F 26.9/32.0 mg/kg/day)—Decreased mean F_2 loss. (Pups) Developmental NOEL 40 ppm (M/F 3.0/3.4 mg/kg/day). Developmental LEL 120 ppm (M/F 8.9/10.1 mg/kg/day)—body tremors, increased mortality.

Developmental toxicity, rabbits. Female rabbits were treated by gavage on days 7 through 19 of pregnancy with 0, 4, 12, and 36 mg/kg/day in corn oil to assess the maternal and developmental toxicity of fenpropathrin. Maternal NOEL 4 mg/kg/day, maternal LEL 12 mg/kg/day (grooming, anorexia, flicking of the forepaws). Developmental NOEL > 36 mg/kg/day, there were no compound-related effects on development. Clinical signs included grooming, anorexia, flicking of the forepaws and hindfeet, shaky movements, trembling, stamping of the hindfeet, and lethargy.

Developmental toxicity, rats. Female rats were treated by gavage on days 6 through 15 of pregnancy with 0, 0.4, 1.5, 2.0, 3.0, 6.0 and 10 mg/kg/day in corn oil to assess the maternal and developmental toxicity of fenpropathrin. Maternal NOEL 6 mg/kg/day, maternal LEL of 10 mg/kg/day (death, moribundity, ataxia, sensitivity to external stimuli, spastic jumping, tremors, prostration, convulsion, hunched posture, squinted eyes, chromodacryorrhea, and lacrimation). Developmental NOEL > 10 mg/day. No developmental effects were observed at a dose that was lethally neurotoxic to 7 of 30 dams.

4. *Subchronic toxicity- Subchronic feeding, rat 3-month*. Fenpropathrin was fed to rats at dietary concentrations of 0. 3, 30, 100, 300 and 600 ppm. The NOEL was determined to be 300 ppm (15 mg/kg/day). The LEL was 600 ppm (30 mg/kg/day)—body weight reduction (F), body tremors, reduced kaolin-cephalin clotting time (F), increased alkaline phosphatase and potassium (M), increased brain (F) and kidney (M) weights.

Subchronic feeding, dog 3-month. Groups of six male and six female beagle dogs were fed diets containing 250, 500. and 750 ppm fenpropathrin for 13 weeks. The NOEL was not determined and is less than 250 ppm (7.25 mg/kg/day). At this dosage there were signs of GI tract disturbance (note dog chronic, below). At higher feeding levels the following effects were observed: 500 ppm (15 mg/kg/day) produced tremors and body weight loss in females, 750 ppm (22.25 mg/kg/day) produced tremors, ataxia and blood changes (reduced RBC, HCT, HGB).

Dermal, rabbit 21-day. Ten rabbits of each sex at each dose, half with intact skin and half with abraded skin, were treated dermally with 500, 1200 and 3000 mg/kg/day. The experimental animals were treated 5 days per week for three weeks. There was localized dermal irritation but there were no systemic effects. The systemic NOEL was determined to be greater than 3000 mg/kg/day.

5. *Chronic toxicity*. A complete chronic data base supported by appropriate subchronic studies for fenpropathrin is available to the Agency. A chronic RfD has been identified, and a safety factor of 100 is appropriate. Fenpropathrin shows no evidence of oncogenicity at maximum tolerated dosages. Clinical signs of chronic toxicity were observed as body tremors, at high dosages with little other effects noted.

Oral toxicity study, dogs 12-month. Groups of male and female beagle dogs were fed diets containing 0, 100, 250. and 750 ppm fenpropathrin for 52 weeks. Systemic NOEL of 100 ppm (2.5 milligram (mg)/kilogram (kg)/day) and a systemic LEL of 250 ppm (6.25 mg/kg/day).

Chronic/carcinogenicity feeding, rat 24-month. Groups of male and female Charles River CD rats were fed diets containing 0, 50, 150, 450, and 600 ppm fenpropathrin for 104 weeks. Systemic NOEL's of 450 ppm in males, 150 ppm in females (17.06 mg/kg/day and 7.23 mg/kg/day, respectively). Systemic LEL of 600 ppm [(HDT): 22.80 mg/kg/day] in males (increased mortality, body tremors, increased pituitary, kidney, and adrenal weights), and systemic LEL of 450 ppm (19.45 mg/kg/day) in females (increased mortality and body tremors). There were no oncogenic effects observed at any dose level.

Chronic/carcinogenicity feeding study, mouse 24-month. Groups of male and female Charles River (UK) CD-1 mice were fed diets containing 0, 40, 150, and 600 ppm fenpropathrin for 104 weeks. Systemic NOEL greater than 600 ppm HDT (males and females; 56.0 and 65.2 mg/kg/day, respectively). There were no indications of toxicity or carcinogenicity other than marginally increased hyperactivity in females dosed at 600 ppm.

Carcinogenicity. Fenpropathrin has been classified in EPA Weight-of-the Evidence Category ''Group E—Evidence of Non-Carcinogenicity for Humans'' for carcinogenicity by the EPA/RFD/PR committee reviewed 1/29/93 and EPA verified 3/18/93. Studies in two species with adequate dosing show no evidence of oncogenicity.

6. *Animal metabolism*. Acceptable rat metabolism studies have been performed using single high (25 mg/kg), and single and multiple low (2.5 mg/kg) doses using both sexes. Elimination was similar in both sexes. The urine: feces ratio of elimination was 1:2 following the high or low single dose, and 1:1 following the 15 daily doses. The half life was 11-16 hours in the urine, and 7-9 hours in the feces. After 7 days, greater than 99% of the administered dose was excreted. A small percentage of radiolabel was found in the tissues (primarily in the fat). The major biotransformations included cleavage of the ester, oxidation at the methyl group of the acid moiety, and hydroxylation at the 4'-position of the alcohol moiety. Ester cleavage products, 2,2,3,3-tetramethylcyclopropanecarboxylic acid and (after oxidation) 3-phenoxybenzoic acid, were excreted either directly or conjugated as sulfates or glucuronides. Parent was detected in the feces, but not in the urine. Eight urinary metabolites and 4 fecal metabolites were identified.

There are no qualitatively unique plant metabolites . The primary aglycones are identical in both plants and animals; the only difference is in the nature of the conjugating moieties employed.

7. *Metabolite toxicology*. The metabolism and potential toxicity of the small amounts of terminal plant metabolites have been tested on mammals. Glucoside conjugates of 3-phenoxy-benzyl alcohol and 3-phenoxybenzoic acid, administered orally to rats, were absorbed as the corresponding aglycones following cleavage of the glycoside linkage in the gut. The free or reconjugated aglycones were rapidly and completely eliminated by normal metabolic pathways. The glucose conjugates of 3-phenoxybenzyl alcohol and 3-phenoxy-benzoic acid are less toxic to mice than the corresponding aglycones.

8. *Endocrine disruption*. No special studies to investigate the potential for estrogenic or other endocrine effects of fenpropathrin have been performed. However, as summarized above, a large

and detailed toxicology data base exists for the compound including studies acceptable to the Agency in all required categories. These studies include evaluations of reproduction and reproductive toxicity and detailed pathology and histology of endocrine organs following repeated or long term exposure. These studies are considered capable of revealing endocrine effects and no such effects were observed.

C. Aggregate Exposure

1. *Dietary exposure*. Toxicity endpoints of concern have been identified by the Agency's Health Effects Division, Hazard Identification Assessment Review Committee (July 17 and 24, 1997). The identified endpoints are a Chronic Dietary of 2.5 mg/kg/day (RfD = 0.025 mg/kg/day, UF = 100) and an Acute Dietary of 6.0 mg/kg/day (systemic). Thus, both chronic and acute exposure and risk analyses are necessary.

2. *Food*. Chronic and acute dietary exposure analyses were performed for fenpropathrin using anticipated residues and accounting for proportion of the crop treated. The crops included in the analyses are cottonseed, currants, peanuts, strawberries, tomatoes, and the secondary residues in meat, milk, and eggs. These exposure/risk analyses have been submitted to the Agency along with a detailed description of the methodology and assumptions used.

Chronic dietary exposure was calculated for the U.S. population and 26 population subgroups. The results from several representative subgroups are listed below. In all cases, chronic dietary exposure was at or below 0.2 % of the reference dose and strawberries was the commodity contributing the most exposure.

Population subgroup	Exposure (mg/kg bw/day)	Percent of RfD
Total U.S. Population	0.000020	008
Females (13+/Nursing)	0.000036	0.14
Non-Hispanic other than B/W	0.000053	0.21
Children (1-6 Years)	0.000035	0.14
All Infants (<1 Year Old)	0.000002	0.008
Non-Nursing Infants (<1 Year Old)	0.000003	0.012

Acute dietary exposure was calculated for the U.S. population and five children subgroups. The calculated exposures and margins of exposure (MOE) for the higher exposed proportions of the subgroups are listed below. It should be noted that the population sizes are small at the lower probability exposures (e.g. 99th and 99.9th percentiles) oftentimes leading to unrealistically high calculated exposures. In all cases, margins of exposure exceed one-hundred.

Calculated Acute Dietary Exposures to Fenpropathrin Residues in Food

Population Subgroup	99th Percentile		99.9th Percentile	
	Exposure (mg/kg bw/day)	MOE	Exposure (mg/kg bw/day)	MOE
U.S. Population	.000682	8,804	.002800	2,143
Children 1-6	.000916	6,547	.007465	804
Children 7-12	.000619	9,687	.003012	1,992
All Infants	.001084	5,533	.001510	3,974
Nursing Infants (<1)	.000297	20,230	.000416	14,412
Non-Nursing Infants (<1)	.001237	4,851	.001572	3,816

3. *Drinking water*. Since fenpropathrin is applied outdoors to growing agricultural crops, the potential exists for fenpropathrin or its metabolites to reach ground or surface water that may be used for drinking water. Fenpropathrin is extremely insoluble in water (14 ppb), with a high octanol/water partitioning coefficient (K_{ow} 1.19 x 10^5) and a relatively short soil half-life for parent and environmental metabolites. The Agency has determined that it is unlikely that fenpropathrin or its metabolites can leach to potable groundwater. The residence time of fenpropathrin in surface water is short because of its very low water solubility and high affinity to bind to soil. In pond studies, fenpropathrin half-lives in the water column were less than 1.5 days.

To quantify the potential small exposure from drinking water, screening evaluations of leaching potential of a typical pyrethroid, cypermethrin, were conducted using EPA's Pesticide Root Zone Model (PRIZM3). Based on this assessment, the potential concentrations of the pyrethroid in groundwater at depths of 1 to 2 meters are essentially zero (<< 0.001 parts per billion). Potential surface water concentrations for the pyrethroid were estimated using PRIZM3 coupled with EPA's Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi farm pond scenarios. The maximum concentration predicted in the simulated pond water was 0.052 ppb. Using standard assumptions about body weight and water consumption, the chronic exposure from this drinking water would be 1.5 x 10^{-6} and 5.2 x 10^{-6} mg/kg bw/day for adults and children, respectively; less than 0.02 percent of the RfD for children. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical small stagnant farm pond modeled, since drinking water from surface sources receives treatment prior to consumption. Based on these analyses, the contribution of water to any the dietary risk analyses is negligible.

4. *Non-dietary exposure*. Fenpropathrin, as the product TAME

2.4 EC Spray, is registered for professional non-food use both indoors and outdoors on ornamentals and non-bearing nursery fruit trees. Fenpropathrin has no animal health, homeowner, turf, termite, or industrial uses. Quantitative information concerning human exposure from this ornamental use is not available, but exposure to the general public from this use of fenpropathrin is expected to be minimal. It is important to note that no endpoints of concern were identified by the Health Effects Division, Hazard Identification Assessment Review Committee for occupational or residential, dermal or inhalation exposures of any duration. Thus, no risk assessment is needed.

D. Cumulative Effects

Section 408(b)(2)(D)(v) requires that the Agency must consider ''available information'' concerning the cumulative effects of a particular pesticide's residues and ''other substances that have a common mechanism of toxicity.'' ''Available information'' in this context include not only toxicity, chemistry, and exposure data, but also scientific policies and methodologies for understanding common mechanisms of toxicity and conducting cumulative risk assessments. For most pesticides, although the Agency has some information in its files that may turn out to be helpful in eventually determining whether a pesticide shares a common mechanism of toxicity with any other substances, EPA does not at this time have the methodologies to resolve the complex scientific issues concerning common mechanism of toxicity in a meaningful way.

There are numerous other pesticidal compounds, pyrethroids and natural pyrethrins, that are structurally related to fenpropathrin and may have similar effects on animals. In consideration of potential cumulative effects of fenpropathrin and other substances that may have a common mechanism of toxicity, there are currently no available data or other reliable information indicating that any toxic effects produced by fenpropathrin would be cumulative with those of other chemical compounds. Thus, only the potential risks of fenpropathrin have been considered in this assessment of aggregate exposure and effects.

Valent will submit information for EPA to consider concerning potential cumulative effects of fenpropathrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997) and other EPA publications pursuant to the Food Quality Protection Act.

E. Safety Determination

The Food Quality Protection Act introduces a new standard of safety, a reasonable certainty of no harm. To make this determination, at this time the Agency should consider only the incremental risk of fenpropathrin in its exposure assessment. Since the potential chronic and acute exposures to fenpropathrin are small (<< 100% of RfD, MOE >> 100) the provisions of the FQPA of 1996 will not be violated.

1. *U.S. population— Chronic*. Using the dietary exposure assessment procedures described above for fenpropathrin, chronic dietary exposure is minimal with all population subgroups at or below 0.2 percent of the RfD. Addition of the small potential chronic exposure from drinking water (calculated above) increases the occupancy of the RfD by only 0.006 percent. Generally, the Agency has no cause for concern if total residue contribution is less than 100 percent of the RfD.

Acute. The potential acute exposure from food to the U.S. population (shown above) provides an MOE greatly exceeding 100. In a conservative policy, the Agency has no cause for concern if total acute exposure calculated for the 99.9th percentile yields a MOE of 100 or larger.

2. *Infants and children— Safety factor for infants and children*. In assessing the potential for additional sensitivity of infants and children to residues of fenpropathrin, FFDCA section 408 provides that EPA shall apply an additional margin of safety, up to ten-fold, for added protection for infants and children in the case of threshold effects unless EPA determines that a different margin of safety will be safe for infants and children.

The toxicological data base for evaluating pre- and post-natal toxicity for fenpropathrin is complete with respect to current data requirements. There are no special pre- or post-natal toxicity concerns for infants and children, based on the results of the rat and rabbit developmental toxicity studies or the three-generation reproductive toxicity study in rats. EPA HED Hazard ID Committee has concluded that reliable data support use of the standard 100-fold uncertainty factor and that an additional uncertainty factor is not needed to be further protective of infants and children.

Chronic risk. Using the conservative exposure assumptions described above, the percentage of the RfD that will be utilized by dietary (food only) exposure to residues of fenpropathrin ranges from 0.14 % for children (1–6 years old) and 0.012% for non-nursing infants (< 1 year old). Addition of the small potential chronic exposure from drinking water (calculated above) increases the occupancy of the RfD by only 0.02 percent. Generally, the Agency has no cause for concern if total residue contribution is less than 100 percent of the RfD.

Acute. The potential acute exposure from food to populations of infants and children (shown above) provide MOE values greatly exceeding 100 In a conservative policy, the Agency has no cause for concern if total acute exposure calculated for the 99.9th percentile yields a MOE of 100 or larger.

Aggregate acute or chronic dietary exposure to various sub-populations of children and adults demonstrate acceptable risk. Chronic exposures to fenpropathrin occupy considerably less than 100% of the RfD, and all acute MOE values exceed 100. Chronic and acute dietary risk to children from fenpropathrin should not be of concern. Further, fenpropathrin has no other uses, such as indoor pest control, homeowner or turf, that could lead to unique, enhanced exposures to vulnerable sub-groups of the population. It can be concluded that there is a reasonable certainty that no harm will result to any sub-group of the U.S. population, including infants and children, from aggregate chronic or acute exposure to fenpropathrin residues.

F. International Tolerances

Codex Maximum Residue Limits

186	Fenpropathrin
Main uses	8 Insecticide/acaracide
JMPR	83
ADI	0.03 mg/kg body weight (1993)

Codex Maximum Residue Limits—Continued

Residue	Fenpropathrin (fat soluble)

Commodity		MRL (mg/kg)	Step	JMPR	CCPR
Code	Name				
MM 0812	Cattle meat	0.5 (fat)	6	93	
ML 0812	Cattle milk	0.1 F	6st	93	
MO 0812	Cattle, Edible offal of	0.05	CXL		(1995)
SO 0691	Cotton seed	1	CXL		(1995)
OC 0691	Cotton seed oil, Crude	3	CXL		(1995)
VO 0440	Egg plant	0.2	6	93	
PE 0112	Eggs	0.01 (*)	CXL		(1995)
VC 0425	Gherkin	0.2	CXL		(1995)
FB 0269	Grapes	5	6	93	
VO 0445	Peppers, Sweet	1	CXL		(1995)
FP 0009	Pome fruits	5	CXL		(1995)
PM 0110	Poultry meat	0.02 (fat)	CXL		(1995)
PO 0111	Poultry, Edible offal of	0.01 (*)	CXL		(1995)
VO 0448	Tomato	1	CXL		(1995)

There are small differences between the section 408 tolerances and the Codex MRL values for secondary residues in animal products. These minor differences are mainly caused by differences in the methods used to calculate animal feed dietary exposure. The only substantial difference between the US tolerance and the Codex MRL value is for tomatoes. The JMPR reviewer required that the MRL exceed the highest field residue, and rounded to unity. The EPA reviewer agreed with Valent that one set of field residue samples was possibly compromised by the presence of a high rate processing treatment nearby. High outliers were ignored, and the tolerance was set at 0.6 ppm. (Adam Heyward)

9. Zeneca Ag Products

PP 7G3518, 7F3521, 4F4406

EPA has received a request from Zeneca Ag Products, P. O. Box 15458, Wilmington, DE, 19850–5458 proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR part 180 by removing the time limitation for tolerances established for residues of the insecticide and pyrethriod Tefluthrin in or on the raw agricultural commodities corn, grain, field and pop; corn, forage and fodder, field, pop and sweet; and corn, fresh (including sweet K and corn with huskremoved (CWHR)) at 0.06 ppm. The International Union of Pure and Applied Chemist (IUPAC) name for tefluthrin is (2,3,5,6-tetrafluro-4-methylphenyl)methyl-(1 alpha, 3 alpha)-(Z)-(+/−)-3(2-chloro-3,3,3-trifluoro-1-propenyl)-2,2-dimethylcyclopropanecarboxylate) and its metabolite (Z)-3-(2-chloro-3,3,3-trifluroro-1-propenyl)-2,2-dimethylcyclopropanecarboxylic acid. The tolerances were originally requested in Pesticide Petition Numbers 7G3518, 7F3521, and 4F4406. EPA has determined that the petition contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting of the petition. Additional data may be needed before EPA rules on the petition.

A. Residue Chemistry

1. *Plant metabolism*. The nature of tefluthrin residues in plants and animals for corn use is adequately understood. The residue of concern is tefluthrin and its metabolite. There is no reasonable expectation of secondary residues in animal tissues and milk from the use as delineated in 40 CFR 180.6(a)(3).

2. *Analytical method*. An adequate analytical method, gas liquid chromatography with an electron capture detector, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration, and is published in the Pesticide Analytical Manual Vol. II (PAM II).

3. *Magnitude of residues*. Tefluthrin (also know as FORCE® Insecticide) is an effective granular soil insecticide registered for use against a number of soil corn pest; the most economically significant being soil dwelling pest, such as corn rootworm, wireworm, cutworm, and white grubs. Residue data covering all the uses associated with the permanent tolerances requested by this petition have been previously submitted to EPA for review and have been found by EPA to support the requested tolerances. See February 1, 1989 (54 FR 5080); and May 3, 1996 (61 FR 19852) (FRL–5358–5).

B. Toxicological Profile

1. *Acute toxicity*. Acute toxicity studies with the technical grade of the active ingredient tefluthrin: Oral LD_{50} in the rat is 22 mg/kg) for (males) and 35 mg/kg for (females); dermal LD_{50} in the rat is 316 mg/kg in (males) and 177 mg/kg in (females); acute inhalation LC_{50} in the rat is 0.04 milligram/liter (mg/l) and 0.05 mg/l in female and male rats, respectively; primary eye irritation in the rabbit study showed slight irritation; primary dermal irritation in the rabbit study showed none to slight irritation, and the dermal sensitization in the guinea pig study showed no skin sensitization.

2. *Genotoxicty*. The following genotoxicity test were all negative: A gene mutation assay (Ames), dominant lethal (mouse *in vivo*), mouse micronucleus (*in vivo*), acute cytogenetic study in the rat, unscheduled DNA synthesis and a mouse lymphoma cells test.

3. *Reproductive and developmental toxicity*. In a rat developmental study,

delayed ossification was noted in the highest dose group (5 mg/kg/day), along with significant maternal toxicity (decreased body weight (bwt)). The developmental no observed effect level (NOEL) for this study was established at 3 mg/kg/day. However, the effects observed were most likely a secondary effect resulting from maternal stress.

In a developmental toxicity study in rabbits given gavage doses of 0, 3, 6, and 12 mg/kg/day, the maternal NOEL is 3 mg/kg/day and the developmental NOEL is > 12 mg/kg/day. No developmental effects were observed under the conditions of the study.

In a rat multi-generation reproduction study, conducted at 0, 15, 50, and 250 ppm with tefluthrin in the diet, a reproductive NOEL was established at 50 ppm (3.4 mg/kg/day) based on reduced pup weight and litter size observed at 250 ppm (12.5 mg/kg/day). Parental toxicity (in the form of abnormal, sprayed, or high-stepping gait) was also observed at 250 ppm. Thus, the effects observed in offspring at 250 ppm is considered to be secondary to maternal toxicity.

4. *Subchronic toxicity*. A 90–day feeding study in which rats were fed doses of 0, 50, 150, and 350 ppm with a NOEL of 50 ppm and a lowest observed effect level (LOEL) of 150 ppm based on mild dose changes in hemoglobin, cholesterol, and liver weight.

A 90–day feeding study in which dogs were fed doses of 0, 0.1, 0.5, and 1.5 mg/kg with a NOEL of 0.5 mg/kg and a LOEL of 1.5 mg/kg based on increased triglycerides and AST.

A 21–day dermal study in which rats were exposed dermally to doses of 1, 5, and 50 mg/kg/day, 6 hours/day with a toxicological NOEL of 1mg/kg.

5. *Chronic toxicity*. A 12–month feeding study in dogs was conducted with a NOEL of 0.5 mg/kg/day. The LOEL for this study is established at 2 mg/kg/day based upon ataxia.

A 24–month rat and mouse chronic feeding/oncogenicity studies were conducted with systemic NOEL's of 1.1mg/kg/day and 3.4 mg/kg/day with no oncogenic effects observed at dose levels up to and including 18.2 mg/kg/day and 54.4 mg/kg/day, the highest dose levels tested for rats and mice, respectively.

6. *Animal metabolism*. A metabolism study in the rat demonstrated that distribution patterns and excretion rates in multiple oral dosing periods are similar to single-dose studies. The metabolism of tefluthrin in livestock has been studied in the goat and chicken. The nature of tefluthrin residue in animals for corn use is adequately understood. The residue of concern is tefluthrin and its metabolite. There is no reasonable expectation of secondary residues in animal tissues and milk from the use as delineated in 40 CFR 180.6(a)(3).

7. *Metabolite toxicology*. The nature of tefluthrin residue in plants and animals for corn use is adequately understood. The residue of concern is tefluthrin and its metabolite. There is no reasonable expectation of secondary residues in animal tissues and milk from the use as delineated in 40 CFR 180.6(a)(3). An adequate analytical method, gas liquid chromatography with an electron capture detector, is available for enforcement purposes. The enforcement methodology has been submitted to the Food and Drug Administration, and is published in the Pesticide Analytical Manual Vol. II (PAM II).

8. *Endocrine disruption*. EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) ''may have an effect produced by a naturally occurring estrogen, or such other endocrine effect... .'' The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry and research scientists, in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from passage of the Food Quality Protection Act (FQPA) (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active ingredient and end use products for endocrine disrupter effects.

C. Aggregate Exposure

The primary source of human exposure to tefluthrin will be from ingestion of raw and processed food commodities which have been treated with tefluthrin. These commodities include corn, grain, field and pop; corn, forage and fodder, field, pop and sweet; and corn, fresh (including sweet K and CWHR) as listed in 40 CFR 180.440. There is no reasonable expectation of secondary residues in animal tissues, milk, or eggs from use as delineated in 40 CFR 180.6(a)(3).

1. *Dietary exposure*. For purposes of assessing the potential dietary exposure under these tolerances, aggregate exposure is estimated based on the Theoretical Maximum Residue Contribution (TMRC) from the existing tolerances for tefluthrin in food crops. The TMRC is obtained by multiplying the tolerance level residues by the consumption data which estimates the amount of those food products eaten by various population subgroups. The following assumptions were used in conducting this exposure assessment: 100 percent of the crops were treated, and the raw agricultural commodities (RAC) residues would be at the level of the tolerance. This results in an overestimate of human exposure and a conservative assessment of risk.

2. *Food*. The acute dietary risk assessment used tolerance level residues and assumed that 100 percent of all crops were treated. Thus, this acute dietary exposure estimate is considered ''worst-case'' and severely overestimates potential exposure. The acute dietary Margin of Exposure (MOE) for the most highly exposed population subgroup was children ages one to six. The MOE's were 2,436 at the 95th percentile, 1,342 at the 99th percentile, and 738 at the 99.9th percentile. EPA concludes that there is a reasonable certainty of no harm for MOE of 100 or greater. Therefore, the acute dietary risk assessment for tefluthrin clearly indicates a reasonable certainty of no harm.

For the chronic dietary assessment Zeneca used the standard EPA conservative exposure assumptions (i.e. tolerance level residues and 100 percent market share), and based on the completeness and reliability of the toxicity data Zeneca has concluded that the aggregate exposure to this chemical will utilize less than one percent (0.40 percent) of the reference dose (RfD) for the U. S. population. The most highly exposed population subgroup was children ages one to six with a total dietary exposure of 0.000049 mg/kg bwt/day (1.0 percent of the RfD). Since EPA generally has no concern for exposures below 100 percent of the RfD, there is a reasonable certainty that no harm will result from aggregate exposure to residues.

3. *Drinking water*. Tefluthrin is immobile in soil and, therefore, will not leach into ground water. Additionally, due to the insolubility and lipophilic nature of tefluthrin, any residues in surface water will rapidly and tightly bind to soil particles and remain with sediment, therefore not contributing to potential dietary exposure from drinking water.

A screening evaluation of leaching potential of a typical synthetic pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, potential concentrations of a pyrethroid in ground water at depths of 1 to 2 meters are essentially zero (<0.001 ppb). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis

Modeling Systems (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible.

4. *Non-dietary exposure*. The potential for non-occupational exposure to the general population is expected to be essentially zero. Tefluthrin is not registered for aquatic and/or domestic outdoor or indoor uses. The major use (corn) is applied only once per year at planting as a granular formulation. The other use is limited to commercial seed treatment of field corn, popcorn, seedcorn, and sweet corn seed. There is a commercial use in liquid slurry seed treaters and seed coating equipment, which is not for use on agricultural establishments in hopper-box, planter-box, slurry-box, or other seed treatment applications. The other minor use is for the treatment of fire ants for containerized and balled nursery stock under the USDA/APHIS Imported Fire Ant Quarantine Program (Department of Agriculture-Animal and Plant Health Inspection Service-7 CFR part 301).

D. Cumulative Effects

Zeneca will submit information for EPA to consider concerning potential cumulative effects of tefluthrin consistent with the schedule established by EPA on August 4, 1997 (62 FR 42020) (FRL–5734–6) and other EPA publications pursuant to the FQPA. At this time, Zeneca cannot make a determination, based on available and reliable information, that tefluthrin and other substances that may have a common mechanism of toxicity would have cumulative effects. Therefore, for purposes of this request it is appropriate only to consider the potential risks of tefluthrin in an aggregate exposure assessment.

E. Safety Determination

1. *U.S. population*. EPA recently reviewed all of the toxicity end points for the synthetic pyrethroids. Based on this review EPA concluded that the chronic RfD is 0.005 mg/kg/day. This RfD is based on a 1–year dog feeding study with a NOEL of 0.5 mg/kg/day for ataxia, and a 100–fold uncertainty factor. In addition, EPA derived an acute NOEL of 0.5 mg/kg/day for use in acute dietary risk assessment. This NOEL is based on the 1–year dog feeding study in which increased incidence of tremors in both sexes of dogs was observed on the first day of dosing.

Using these RfD's and EPA's standard default assumptions (i.e. tolerance level residues and 100 percent market share), Zeneca assessed the potential acute and chronic dietary risk to the general U.S. population and 22 subpopulations. These analyses are considered ''worst-case'', and the results concluded that for the U.S. population, uses were 0.000021 mg/kg/day (0.4 of the RfD). The acute MOE's at the 95th, 99th, and 99.9th percentile were 5.195, 2,449, and 1,091 respectively. The most highly exposed population subgroup (children ages one to six), utilizes 1.0 percent of the chronic RfD, and the acute dietary MOE's at the 95th, 99th, and 99.9th percentiles were 2,436, 1,342, and 738, respectively. These assessments indicate a reasonable certainty that no harm will result from aggregate exposure to residues.

2. *Infants and children*. Section 408 of the FFDCA provides that EPA shall apply an additional 10–fold margin of safety for infants and children in the case of threshold effects to account for pre– and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the NOEL in the animal study appropriate to the particular risk assessment. This 100–fold uncertainty (safety) factor/margin of exposure is designed to account for combined inter- and intra-species variability. EPA believes that reliable data support using the standard 100–fold margin/factor, not the additional 10–fold margin/factor, when EPA has a complete database under existing guidelines and when the severity of the effect in infants and children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard margin/factor.

In assessing the potential for additional sensitivity of infants and children to residues of tefluthrin, EPA considered the data from oral developmental toxicity studies in the rat and rabbit, as well as data from a multi-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects in the developing organism resulting from pesticide exposure during prenatal development in the mothers. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

3. *Pre-natal effects*. In a rat developmental study delayed ossification was noted in the highest dose group (5 mg/kg/day), along with significant maternal toxicity (decreased bwt). The developmental NOEL for this study was established at 3 mg/kg/day. However, the effects observed were most likely a secondary effect resulting from maternal stress.

In a developmental toxicity study in rabbits given gavage doses of 0, 3, 6, and 12 mg/kg/day the maternal NOEL is 3 mg/kg/day, and the developmental NOEL is > 12 mg/kg/day. No developmental effects were observed under the conditions of the study.

4. *Post-natal effects*. In a rat multi-generation reproduction study conducted at 0, 15, 50, and 250 ppm with tefluthrin in the diet, a reproductive NOEL was established at 50 ppm (3.4 mg/kg/day), based on reduced pup weight and litter size observed at 250 ppm (12.5 mg/kg/day). Parental toxicity (in the form of abnormal, sprayed, or high-stepping gait) was also observed at 250 ppm. Thus, the effects observed in offspring at 250 ppm is considered to be secondary to maternal toxicity.

In EPA's review of the toxicity endpoints for tefluthrin they concluded that the data on developmental and reproductive toxicity tests do not indicate any increased pre- or post-natal sensitivity. Therefore, EPA concluded that reliable data support use of a 100–fold safety factor, and additional 10–fold safety factor is not needed. This aggregate assessment of tefluthrin clearly demonstrates that there is no harm for all population groups.

F. International Tolerances

There are no Codex Maximum Residue Levels (MRL's) established for tefluthrin. (John Hebert)

10. Zeneca Ag Products

PPs 7F3560, 7H5543, 7F3488, 1F3952, 1H5607, 1F3992, 2F4109, 2F4100, 2F4114, 1F3985, and 6F4769

EPA has received a request from Zeneca Ag Products, 1800 Concord Pike, P.O. Box 15458, Wilmington, Delaware 19850–5458, proposing pursuant to section 408(d) of the Federal Food, Drug and Cosmetic Act (FFDCA), 21 U.S.C. 346a(d), to amend 40 CFR 180.438 by removing the time limitation for tolerances established for residues of lambda-cyhalothrin and its epimer in or on the following crops and commodities: broccoli at 0.4 ppm;

cabbage at 0.4 ppm; cattle, fat at 3.0 ppm; cattle, meat at 0.2 ppm; cattle, meat and meat by-products (mbyp) at 0.2 ppm; corn, grain (field and pop) at 0.05 ppm; corn, fodder at 1.0 ppm; corn, forage at 6.0 ppm; corn, sweet (k+kwhr) at 0.05 ppm; cottonseed at 0.05 ppm; dry bulb onion at 0.1 ppm; eggs at 0.01 ppm; garlic at 0.1 ppm; goats, fat at 3.0 ppm; goats, meat at 0.2 ppm; goats, mbyp at 0.2 ppm, hogs, fat at 3.0 ppm; hogs, meat at 0.2 ppm; hogs, mbyp at 0.2 ppm; horses, fat at 3.0 ppm; horses, meat at 0.2 ppm; horses, mbyp at 0.2 ppm; lettuce, head at 2.0 ppm; milk, fat (reflecting 0.2 ppm in whole milk) at 5.0 ppm; peanuts at 0.05 ppm; peanuts, hulls at 0.05 ppm; poultry, fat at 0.01 ppm; poultry, meat at 0.01 ppm; poultry, mbyp at 0.01 ppm; rice, grain at 1.0 ppm; rice, hulls at 5.0 ppm; rice, straw at 1.8 ppm; sheep, fat at 3.0 ppm; sheep, meat at 0.2 ppm; sheep, mbyp at 0.2 ppm; soybeans at 0.01 ppm; sorghum, grain at 0.02 ppm; sorghum, grain dust at 1.5 ppm; sunflower, seeds at 0.2 ppm; sunflower, forage at 0.2 ppm; tomatoes at 0.1 ppm; wheat, grain at 0.05 ppm; wheat, forage at 2.0 ppm; wheat, hay at 2.0 ppm; wheat, straw at 2.0 ppm; wheat, grain dust at 2.0 ppm; corn, grain flour at 0.15 ppm; sunflower, oil at 0.30 ppm; sunflower, hulls at 0.50 ppm; tomato pomace (dry or wet) at 6.0 ppm; and wheat, bran at 0.2 ppm. The IUPAC name for lambda-cyhalothrin is a 1:1 mixture of (*S*)-alpha-cyano-3-phenoxybenzyl-(*Z*)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-alpha-cyano-3-phenoxybenzyl-(*Z*)-(1S,3S)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and the epimer of lambda-cyhalothrin is a 1:1 mixture of (*S*)-alpha-cyano-3-phenoxybenzyl-(*Z*)-(1S,3S)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate and (*R*)-alpha-cyano-3-phenoxybenzyl-(*Z*)-(1R,3R)-3-(2-chloro-3,3,3-trifluoroprop-1-enyl)-2,2-dimethylcyclopropanecarboxylate. These tolerances were originally requested in Pesticide Petition Numbers 7F3560, 7H5543, 7F3488, 1F3952, 1H5607, 1F3992, 2F4109, 2F4100, 2F4114, 1F3985, and 6F4769. EPA has determined that the petitions contains data or information regarding the elements set forth in section 408(d)(2) of the FFDCA; however, EPA has not fully evaluated the sufficiency of the submitted data at this time or whether the data supports granting the request. Additional data may be needed before EPA rules on the request.

A. Residue Chemistry

1. *Plant metabolism*.The metabolism of lambda-cyhalothrin has been studied in cotton, soybean, cabbage and wheat plants. The studies show that the metabolism generally follows that of other pyrethroid insecticides. The ester linkage is cleaved to form cyclopropanecarboxylic acids and the corresponding phenoxybenzyl alcohol. Overall the studies show that unchanged lambda-cyhalothrin is the principal constituent of the residue on edible portions of these crops.

2. *Analytical method*. An adequate analytical method (gas liquid chromatography with an electron capture detector) is available for enforcement purposes.

3. *Magnitude of residues*. Field residue trials, meeting EPA study requirements, have been conducted for each crop in this petition. These data have previously been reviewed and classified by the Agency as supportive of these tolerances.

B. Toxicological Profile

The following toxicity studies have been conducted to support this request.

1. *Acute toxicity*. Acute toxicity studies with the technical grade of the active ingredient lambda-cyahothrin: oral LD_{50} in the rat of 79 millgrams/kilogram (mg/kg) (males) and 56 mg/kg (females), dermal LD_{50} in the rat of 632 mg/kg (males) and 696 mg/kg females, primary eye irritation study showed mild irritation and primary dermal irritation study showed no irritation.

2. *Genotoxicty*. The following genotoxicity tests were all negative: a gene mutation assay (Ames), a mouse micronucleus assay, an *in-vitro* cytogenetics assay, and a gene mutation study in mouse lymphoma cells.

3. *Reproductive and developmental toxicity*. A three-generation reproduction study in rats fed diets containing 0, 10, 30, and 100 ppm with no developmental toxicity observed at 100 ppm, the highest dose tested. The maternal NOEL and LOEL for the study are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based upon decreased parental body weight gain. The reproductive NOEL and LOEL are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based on decreased pup weight gain during weaning.

A developmental toxicity study was conducted in rats given gavage doses of 0, 5, 10, and 15 mg/kg/day with no developmental toxicity observed under the conditions of the study. The developmental NOEL is greater than 15 mg/kg/day, the highest dose tested. The maternal NOEL and LOEL are established at 10 and 15 mg/kg/day, respectively, based on reduced body weight gain.

A developmental toxicity study was conducted in rabbits given gavage doses of 0, 3, 10, and 30 mg/kg/day with no developmental toxicity observed under the conditions of the study. The maternal NOEL and LOEL are established at 10 and 30 mg/kg/day, respectively based on decreased body weight gain. The developmental NOEL is greater than 30 mg/kg/day, the highest dose tested.

4. *Subchronic toxicity*. A 90–day feeding study in rats fed doses of 0, 10, 50 and 250 ppm with a NOEL of 50 ppm and a LOEL of 250 ppm based on body weight gain reduction.

A study where lambda-cyhalothrin in olive oil was applied to the skin of rats for 21 successive days at dose rates of 1, 10, or 100 (reduced to 50 after 2–3 applications) mg/kg/day. A NOEL of 10 mg/kg/day is based on clinical signs of slight general toxicity at 50 mg/kg/day.

5. *Chronic toxicity*. A 12–month feeding study was conducted in dogs fed dose (by capsule) levels of 0, 0.1, 0.5, 3.5 mg/kg/day with a NOEL of 0.1 mg/kg/day. The LOEL for this study is established at 0.5 mg/kg/day based upon clinical signs of neurotoxicity.

A 24–month chronic feeding/carcinogenicity study was conducted with rats fed diets containing 0, 10, 50, and 250 ppm. The NOEL was established at 50 ppm and LOEL at 250 ppm based on reduced body weight gain. There were no carcinogenic effects observed under the conditions of the study.

A carcinogenicity study was conducted in mice fed dose levels of 0, 20, 100, or 500 ppm (0, 3, 15, or 75 mg/kg/day) in the diet for 2 years. A systemic NOEL was established at 100 ppm and systemic LOEL at 500 ppm based on decreased body weight gain in males throughout the study at 500 ppm. The Agency has classified lambda-cyhalothrin as a Group D carcinogen (not classifiable due to an equivocal finding in this study). It is Zeneca's position that no treatment-related carcinogenic effects were observed under the conditions of the study.

6. *Animal metabolism*. Metabolism studies in rats demonstrated that distribution patterns and excretion rates in multiple oral dose studies are similar to single-dose studies. Accumulation of unchanged compound in fat upon chronic administration shows slow elimination. Otherwise, lambda-cyhalothrin was rapidly metabolized and excreted. The metabolism of

lambda-cyhalothrin in livestock has been studied in the goat, chicken, and cow. Unchanged lambda-cyhalothrin is the major residue component of toxicological concern in meat and milk.

Human metabolism of lambda-cyhalothrin was assessed by administering 5 mg lambda-cyhalothrin orally to six male volunteers (average dose was 0.06 mg/kg) and dermally at 20 mg/800 cm^2 to five volunteers. No adverse effects were noted in the individuals given an oral dose, and only mild signs of parasthesia were noted in individuals receiving a dermal dose. Absorption by these two routes of exposure were determined by analysis of urinary metabolites. An average amount of 59% of the oral dose was absorbed. Dermal absorption was extremely low, and estimated to be 0.12% (range 0.04–0.19%).

7. *Metabolite toxicology*. The Agency has previously determined that the metabolites of lambda-cyhalothrin are not of toxicological concern and need not be included in the tolerance expression. Given this determination, it is concluded that there is no need to discuss metabolite toxicity.

8. *Endocrine disruption*. EPA is required to develop a screening program to determine whether certain substances (including all pesticides and inerts) ''may have an effect in humans that is similar to an effect produced by a naturally occurring estrogen, or such other endocrine effect***.'' The Agency is currently working with interested stakeholders, including other government agencies, public interest groups, industry and research scientists in developing a screening and testing program and a priority setting scheme to implement this program. Congress has allowed 3 years from the passage of FQPA (August 3, 1999) to implement this program. At that time, EPA may require further testing of this active ingredient and end use products for endocrine disrupter effects.

C. Aggregate Exposure

Zeneca has conducted an aggregate exposure assessment for lambda-cyhalothrin. This assessment included exposures resulting from agricultural crop use and non-dietary residential use.

1. *Dietary exposure*. For the purposes of assessing the potential chronic dietary exposure for all existing and pending tolerances for lambda-cyhalothrin, Zeneca has utilized available information on anticipated residues (FDA monitoring data, average field trial residues and processing data) and percent crop treated. For the acute dietary assessment, a Monte Carlo modeling was used to estimate exposure.

2. *Food*. The Agency has stated that the acute dietary risk assessment for lambda-cyhalothrin should be based on a toxicological NOEL from a 1–year dog study. Zeneca disagrees with EPA's selection of a multiple-dose toxicological endpoint (0.5 mg/kg) for the acute dietary risk assessment, and have requested the Agency to base the acute dietary NOEL on single-dose effects. Acute risk, by EPA definition, results from 1–day consumption of food and water, and reflects toxicity which could be expressed following a single oral exposure to pesticide residues. Therefore, an appropriate NOEL must be based on effects noted after a single dose, even if the endpoint is selected from a repeat dose study, such as a 1–year dog. Nonetheless, sufficient margins of exposure are achieved at percentiles of exposure up to and including the 99.9th percentile based on the Agency's NOEL of 0.5 mg/kg.

Based on the Agency's selected acute toxicity endpoint of 0.5 mg/kg bw day, the acute dietary MOE for the most highly exposed population subgroup was children 1–6 years old. The MOEs were 658 at the 95th percentile, 248 at the 99th percentile, and 132 at the 99.9th percentile. EPA concludes that there is a reasonable certainty of no harm for a MOE of 100 or greater. Therefore, the acute dietary risk assessment for lambda-cyhalothrin clearly indicates a reasonable certainty of no harm. The assessment of chronic dietary exposure was estimated to be 5.0% of the chronic reference dose (RfD) for the overall U.S. population. The RfD for lambda-cyhalothrin, 0.001 mg/kg bw /day, is based on the NOEL of 0.1 mg/kg from the 1–year dog study and an Uncertainty Factor of 100. For the most exposed subgroup, children 1–6 years old, the exposure was estimated to be 0.000159 mg/kg bw/day, or 15.9% of the RfD. Since EPA generally has no concern for exposures below 100 percent of the RfD, there is a reasonable certainty that no harm will result from chronic dietary exposure to lambda-cyhalothrin residues.

3. *Drinking water*. Laboratory and field data have demonstrated that lambda-cyhalothrin and its degradates are immobile in soil and will not leach into ground water. Other data show that lambda-cyhalothrin is virtually insoluble in water and extremely lipophilic. As a result, residues reaching surface waters from field runoff will quickly adsorb to sediment particles and be partitioned from the water column. Together these data indicate that residues are not expected in drinking water.

A screening evaluation of leaching potential of a typical pyrethroid was conducted using EPA's Pesticide Root Zone Model (PRZM3). Based on this screening assessment, the potential concentrations of a pyrethorid in ground water at depths of 1 and 2 meters are essentially zero (< 0.001 parts per billion (ppb)). Surface water concentrations for pyrethroids were estimated using PRZM3 and Exposure Analysis Modeling System (EXAMS) using standard EPA cotton runoff and Mississippi pond scenarios. The maximum concentration predicted in the simulated pond was 0.052 ppb. Concentrations in actual drinking water would be much lower than the levels predicted in the hypothetical, small, stagnant farm pond model since drinking water derived from surface water would normally be treated before consumption. Based on these analyses, the contribution of water to the dietary risk estimate is negligible.

4. *Non-dietary exposure*. Other potential sources of exposure are from non-occupational sources such as structural pest control and ornamental plant and lawn use of lambda-cyhalothrin. In its review of toxicity endpoints for assessing risks for lambda-cyhalothrin, the Agency concluded that the most appropriate endpoint for non-dietary risk assessment is 10 mg/kg bw/day based on the NOEL from the 21–day dermal toxicity study. Exposure was estimated using available market use information and surrogate indoor exposure data. The resulting MOEs were 15,000 for the U.S. population, 7,000 for non-nursing infants and 7,200 for children 1–6 years old. The aggregate risk assessment of combined exposures from chronic dietary, drinking water and non-dietary residential sources has been conducted. The resulting MOEs are 14,000 for the U.S. Population, 6,500 for non-nursing infants and 6,500 for children 1–6 years old. EPA concludes that there is a reasonable certainty of no harm for MOE of 100 or greater. Therefore, the non-dietary and overall aggregate risk assessments for lambda-cyhalothrin clearly indicates a reasonable certainty of no harm.

D. Cumulative Effects

Zeneca Ag Products will submit information for EPA to consider concerning potential cumulative effects of lambda-cyhalothrin consistent with the schedule established by EPA at 62 FR 42020 (August 4, 1997)(FRL–5734–6) and other EPA publications pursuant to the FQPA. At this time, Zeneca cannot make a determination based on

available and reliable information that lambda-cyhalothrin and other substances that may have a common mechanism of toxicity would have cumulative effects. Therefore for purposes of this request it is appropriate only to consider the potential risks of lambda-cyhalothrin in an aggregate exposure assessment.

E. Safety Determination

The acceptable RfD based on a NOEL of 0.1 mg/kg bw/day from the chronic dog study and a safety factor of 100 is 0.001 mg/kg bw/day. A chronic dietary exposure/risk assessment has been performed for lambda-cyhalothrin using the above RfD. Available information on anticipated residues, monitoring data and percent crop treated was incorporated into the analysis to estimate the Anticipated Residue Contribution (ARC). The ARC is generally considered a more realistic estimate than an estimate based on tolerance level residues.

1. *U.S. population*. The ARC from established tolerances and the current and pending actions are estimated to be 0.00005 mg/kg bw/day and utilize 5.0 per cent of the RfD for the U.S. population. For the acute dietary assessment the MOEs at the 95th, 99th, and 99.9th percentiles are 2074, 742, and 237, respectively.

2. *Infants and children*. FFDCA section 408 provides that EPA shall apply an additional tenfold margin of safety for infants and children in the case of threshold effects to account for pre- and post-natal toxicity and the completeness of the database unless EPA determines that a different margin of safety will be safe for infants and children. EPA generally defines the level of appreciable risk as exposure that is greater than 1/100 of the NOEL in the animal study appropriate to the particular risk assessment. This hundredfold uncertainty (safety) factor/margin of exposure is designed to account for combined inter and intraspecies variability. EPA believes that reliable data support using the standard hundredfold margin/factor and not the additional tenfold margin/factor when EPA has a complete database under existing guidelines and when the severity of the effect in infants and children or the potency or unusual toxic properties of a compound do not raise concerns regarding the adequacy of the standard margin/factor.

In assessing the potential for additional sensitivity of infants and children to residues of lambda-cyhalothrin, EPA considered the data from oral developmental toxicity studies in the rat and rabbit, as well as data from a multi-generation reproduction study in the rat. The developmental toxicity studies are designed to evaluate adverse effects in the developing organism resulting from pesticide exposure during prenatal development in the mothers. Reproduction studies provide information relating to effects from exposure to the pesticide on the reproductive capability of mating animals and data on systemic toxicity.

i. *Pre-natal effects.* A developmental toxicity study in rats given gavage doses of 0, 5, 10, and 15 mg/kg/day with no developmental toxicity observed under the conditions of the study. The developmental NOEL is greater than 15 mg/kg/day, the highest dose tested. The maternal NOEL and LOEL are established at 10 and 15 mg/kg/day, respectively, based on reduced body weight gain.

A developmental toxicity study in rabbits given gavage doses of 0, 3, 10, and 30 mg/kg/day with no developmental toxicity observed under the conditions of the study. The maternal NOEL and LOEL are established at 10 and 30 mg/kg/day, respectively based on decreased body weight gain. The developmental NOEL is greater than 30 mg/kg/day, the highest dose tested.

ii. *Post-natal effects.* A three-generation reproduction study in rats fed diets containing 0, 10, 30, and 100 ppm with no developmental toxicity observed at 100 ppm, the highest dose tested. The maternal NOEL and LOEL for the study are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based upon decreased parental body weight gain. The reproductive NOEL and LOEL are established at 30 (1.5 mg/kg/day) and 100 ppm (5 mg/kg/day), respectively, based on decreased pup weight gain during weaning.

In EPA's review of the toxicity endpoints for lambda-cyhalothrin they concluded that the data on developmental and reproductive toxicity tests do not indicate any increased pre- or post-natal sensitivity. Therefore, EPA concluded that reliable data support use of a hundredfold safety factor and that an additional tenfold safety factor is not needed.

Based on this information the ARC for children 1-6 years old, and non-nursing infants (subgroups most highly exposed) utilizes 0.000159 mg/kg bw/day (15.9% of the RfD) and 0.000101 mg/kg bw/day (10.1% of the RfD), respectively. Generally speaking, the Agency has no cause for concern if anticipated residues contribution for all published and proposed tolerances is less than the RfD.

For the acute dietary assessment the MOEs at the 95th, 99th, and 99.9th percentiles are 658, 248, and 132, respectively for children 1–6 years old. For non-nursing infants the MOEs at the 95th, 99th and 99.9th percentiles are 710, 316, and 152, respectively.

F. International Tolerances

There are Codex maximum residue levels established for residues of cyhalothrin, as the sum of all isomers, in or on the following crops and commodities: pome fruits at 0.2 ppm; cabbage, head at 0.2 ppm; potatoes at 0.02 ppm; cotton seed at 0.02 ppm; cotton seed oil, crude at 0.02 ppm; and cotton seed oil, edible at 0.02 ppm. (Adam Heyward)

[FR Doc. 97–25499 Filed 9–22–97; 3:06 pm]
BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

September 19, 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 27, 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.

SUPPLEMENTARY INFORMATION:

Note: The Commission is submitting this information collection to the Office of Management and Budget under the emergency provisions of the Paperwork Reduction Act of 1995. OMB approval is requested by October 12, 1997.

OMB Approval Number: 3060–0004.

Title: Guidelines for Evaluating the Environmental Effects of Radiofrequency Radiation (Second Memorandum Opinion and Order, ET Docket No. 93–62).

Type of Review: Revision 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: 126,108.

Estimated Time Per Response: 1.77 hours (avg.). The estimated time per response varies with the number of transmitters considered, e.g., a site with a single transmitter might require one hour to determine compliance, while a site with many co-located transmitters may require considerably more time.

Cost to Respondents: The estimated cost to respondents to perform the environmental evaluations per service varies. For example, complex situations that require a consulting engineer @ $100 per hour may require additional time to perform an evaluation; portable devices authorized under Part 2 of the rules require a specific absorption rate of RF energy test with an average cost of approximately $5,000 per test; and other applicants will use OET Bulletin #65 to perform environmental evaluations, and will no financial burden associated with the evaluation.

Total Annual Burden: 223,376 hours.

Needs and Uses: This revised information collection is a result of responsibility placed on the FCC by the National Environmental Policy Act (NEPA) of 1969. NEPA requires that each federal agency evaluate the impact of ''major actions significantly effecting the quality of the human environment.'' It is the FCC's opinion that this is the most efficient and reasonable method of complying with NEPA with regard to the environmental issue of radio frequency radiation from FCC-regulated transmitters. The Commission will require applicants to perform an environmental evaluation with respect to radio frequency electromagnetic fields. Applicants are required to consider contributions from other transmitters within the vicinity of their facility in order to assess the cumulative exposure. Accordingly, to correctly determine compliance with the Commission's exposure limits, an applicant must locate, determine ownership, and gather technical information for all contributing transmitters. Applicants are generally required, as part of the authorization and licensing process, to indicate compliance with the Commission environmental rules. Supporting information may be requested and reviewed by the Commission's engineers, attorneys, and paraprofessional staff to determine whether the environmental evaluation is sufficiently complete and in accordance with the Commission's rules.

OMB Approval Number: 3060–0213.

Title: Section 73.3525, Agreements for removing application conflicts.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit and not-for-profit institutions.

Number of Respondents: 38.

Estimated Time Per Response: 8 hours.

Cost to Respondents: $60,800.

Total Annual Burden: 39 hours (1 hour per respondent, 8 hours per attorney which includes 1 hour consultation time with respondent). The 8 hours attorney time is reflected in the cost estimate not the total annual burden hours.)

Needs and Uses: Section 73.3525 requires applicants for a construction permit for a broadcast station to obtain approval from the FCC to withdraw, dismiss or amend its application when that application is in conflict with another application pending before the FCC. In the event that the proposed withdrawal of a conflicting application would unduly impede achievement of a fair, efficient and equitable distribution of radio service, the FCC must issue an order providing further opportunity to apply for the facilities specified in the application(s) withdrawn. Upon release of this order, Section 73.3525(b) requires that the party proposing withdrawal of its application give notice in a daily newspaper of general circulation published in the community in which the proposed station would have been located. This notice must be published twice a week for two consecutive weeks within the three-week period immediately following release of the FCC's order. Additionally, within 7 days of the last of publication of the notice, the applicant proposing to withdraw shall file with the FCC a statement giving the dates on which the notice was published, the text of the notice, and the name and location of the newspaper in which the notice appeared. The data in the request for approval is used by FCC staff to assure that the agreement is in compliance with its rules and regulations and Section 311 of the Communications Act of 1934, as amended. The newspaper publication gives interested parties an opportunity to apply for the facilities specified in the withdrawn application(s).

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–25360 Filed 9–24–97; 8:45 am]

BILLING CODE 6712–01–U

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

September 18, 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 27, 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., N.W., 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.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0625.

Title: Section 24.237, Amendment of the Commission's Rules to Establish New Personal Communications Services (Interference Protection).

Type of Review: Revision 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: 100.

Estimated Time Per Response: 2 hours.

Cost to Respondents: N/A.

Total Annual Burden: 200 hours.

Needs and Uses: Section 24.237 requires that the results of the coordination process between incumbent microwave users and PCS licensees be reported to the Commission only if the parties fail to agree. Additionally, the Commission requires that each broadband PCS licensee perform an engineering analysis to assure that the proposed facilities will not cause interference to existing OFS stations within the specified coordination distance of a magnitude greater than a specified criteria, unless there is prior agreement with the affected OFS licensee. This collection is being revised because the requirement in Section 24.204 was eliminated and removed from the Commission's rules.

OMB Approval Number: 3060–0727.

Title: Section 73.213, Grandfathered Short-Spaced FM Stations.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 15.

Estimated Time Per Response: 5 hours per showing (0.5 hours consultation time/4.5 hours contracting time).

Cost to Respondents: $8,493. We assume that the applicant would use a consulting engineer ($125/hour) to complete the interference showing. We estimate that copying of the application would be approximately $0.10/page and that each application would have an average of 25 pages. We also estimate that the postage for the mailing of an application would be $1.24/application.

Total Annual Burden: 200 hours.

Needs and Uses: On 8/4/97, the Commission adopted a Report and Order in MM Docket No. 96–120. The Commission adopted two of the proposals as set forth in the NPRM. The third proposal was adopted as proposed but a disclosure requirement was added that requires that a copy of any application for co-channel or first-adjacent channel stations proposing predicted interference caused in any area where interference is not currently predicted to be caused must be served upon the licensee(s) of the affected short-spaced station(s). These modified procedures will allow grandfathered stations greater flexibility in making transmitter site changes and other facility modifications. The data are used by Commission staff to determine if the public interest will be served and that existing levels of interference will not be increased to other licensed stations. Providing copies of application(s) to affected licensee(s) will enable potentially affected parties to examine the proposals and provide them an opportunity to file informal objections against such applications.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–25431 Filed 9–24–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

FEDERAL REGISTER NUMBER: 97–23579.

PREVIOUSLY ANNOUNCED DATE & TIME: Thursday, September 11, 1997, 10:00 a.m., meeting open to the public.

This meeting was not held. All agenda items were continued to the next open meeting of September 18, 1997.

FEDERAL REGISTER NUMBER: 97–24251.

PREVIOUSLY ANNOUNCED DATE & TIME: Tuesday, September 16, 1997, 10:00 a.m., meeting closed to the public.

This meeting was cancelled.

DATE & TIME: Tuesday, September 30, 1997, at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. § 437g.
Audits conducted pursuant to 2 U.S.C. § 437g, § 438(b), and Title 26, U.S.C.
Matters concerning participation in civil actions or proceedings or arbitration.
Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Wednesday, October 1, 1997, at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.
Advisory Opnion 1997–20: Friends of McCarthy by its treasurer, Rita Copeland.
Advisory Opnion 1997–21: Firebaugh for Congress Committee by its treasurer, Charles Rorex.
Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 97–25678 Filed 9–23–97; 3:06 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Notice of Agreement(s) Filed

The Commission hereby gives notice of the filing of the following agreement(s) under the Shipping Act of 1984.

Interested parties can review or obtain copies of agreements at the Washington, DC offices of the Commission, 800 North Capitol Street NW., Room 962. Interested parties may submit comments on an agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days of the date this notice appears in the **Federal Register**.

Agreement No.: 202–011456–023.

Title: South Europe American Conference.

Parties:

DSR-Senator Lines GmbH
Evergreen Marine Corporation (Taiwan) Ltd.
Italia di Navigazione, S.p.A.
A.P. Moller-Maersk Line
P&O Nedlloyd B.V.
P&O Nedlloyd Ltd.
Sea-Land Service, Inc.
Zim Israel Navigation Company, Ltd.

Synopsis: The parties have deleted all authority under the Agreement, effective October 1, 1997, except that relating to the performance of any conference service contracts entered into prior to October 1, 1997. This remaining authority will expire when such contracts are terminated, canceled, or expire, but not later than August 31, 1998.

Agreement No.: 224–200244–002.

Title: Manatee County Port Authority and Del Monte Fresh Produce N.A. Corporation Marine Terminal Agreement.

Parties: Manatee County Port Authority, Del Monte Fresh Produce N.A. Corporation.

Synopsis: The proposed Agreement extends the term of the Agreement to December 31, 2002; establishes a new facility on Parcel B; reduces and establishes new cargo wharfage rates; increases the minimum guaranteed wharfage rates; and eliminates the rate discount for increase annual vessel port calls in order to have the existing Port Manatee tariff rate on vessel dockage to apply.

By Order of the Federal Maritime Commission.

Dated: September 19, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–25392 Filed 9–24–97; 8:45 am]

BILLING CODE 6730–01–M

FEDERAL MARITIME COMMISSION

Ocean Freight Forwarder License Applicants

Notice is hereby given that the following applicants have filed with the Federal Maritime Commission applications for licenses as ocean freight forwarders pursuant to section 19 of the Shipping Act of 1984 (46 U.S.C. app. 1718 and 46 CFR 510).

Persons knowing of any reason why any of the following applicants should not receive a license are requested to contact the Office of Freight Forwarders, Federal Maritime Commission, Washington, D.C. 20573.

Seaport Services, Inc., 960 Fell Street, Suite 601, Baltimore, MD 21231, Officer: Vernon R. Martin, President.

ProTrans Logistics & Agency, Inc., 3000 Marna Avenue, Long Beach, CA 90808, Officers: Charles H. Kerr, President, Jo Ellen Kerr, Vice President.

Dated: September 19, 1997.

Joseph C. Polking,

Secretary.

[FR Doc. 97–25401 Filed 9–24–97; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF COMMERCE

International Trade Administration

University of Georgia; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 96–104R. *Applicant*: University of Georgia, Athens, GA 30602. *Instrument*: Environmental Process Control Laboratory. *Manufacturer*: Minworth Systems Ltd., United Kingdom. *Intended Use*: See notice at 62 FR 41360, August 1, 1997.

Comments: None received. *Decision*: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons*: The foreign instrument provides a comprehensive mobile laboratory for monitoring the transport and the biochemical transformation of carbon-, nitrogen- and phosphorus-bearing materials and associated behavior of microbiological organisms in water. A domestic manufacturer of similar equipment advised on June 11, 1997 that: (1) These capabilities are pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–25398 Filed 9–24–97; 8:45 am]

BILLING CODE 3510–DS–P

FEDERAL RESERVE SYSTEM

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Board of Governors of the Federal Reserve System
ACTION: Notice

Background:

On June 15, 1984, the Office of Management and Budget (OMB) delegated to the Board of Governors of the Federal Reserve System (Board) its approval authority under the Paperwork Reduction Act, as per 5 CFR 1320.16, to approve of and assign OMB control numbers to collection of information requests and requirements conducted or sponsored by the Board under conditions set forth in 5 CFR 1320 Appendix A.1. The Federal Reserve may not conduct or sponsor, and the respondent is not required to respond to, an information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid OMB control number. Board-approved collections of information will be incorporated into the official OMB inventory of currently approved collections of information. A copy of the OMB 83-I and supporting statement and the approved collection of information instrument will be placed into OMB's public docket files. The following information collection, which is being handled under this delegated authority, has received initial Board approval and is hereby published for comment. At the end of the comment period, the proposed information collection, along with an analysis of comments and recommendations received, will be submitted to the Board for final approval under OMB delegated authority. Comments are invited on the following:

a. Whether the proposed collection of information is necessary for the proper performance of the Federal Reserve's functions; including whether the information has practical utility;

b. The accuracy of the Federal Reserve's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used;

c. Ways to enhance the quality, utility, and clarity of the information to be collected; and

d. Ways to minimize the burden of information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Comments must be submitted on or before November 24, 1997.

ADDRESSES: Comments, which should refer to the OMB control number or agency form number, should be addressed to William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, DC 20551, or delivered to the Board's mail room between 8:45 a.m. and 5:15 p.m., and to the security control room outside of those hours. Both the mail room and the security control room are accessible from the courtyard entrance on 20th Street between Constitution Avenue and C Street, N.W. Comments received may be inspected in room M-P-500 between 9:00 a.m. and 5:00 p.m., except as provided in section 261.8 of the Board's Rules Regarding Availability of Information, 12 CFR 261.8(a).

A copy of the comments may also be submitted to the OMB desk officer for the Board: Alexander T. Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the Paperwork Reduction Act Submission (OMB 83-I), supporting statement, and other documents that will be placed into OMB's public docket files once approved may be requested from the agency clearance officer, whose name appears below.Mary M. McLaughlin, Chief, Financial Reports Section (202-452-3829), Division of Research and Statistics, Board of Governors of the Federal Reserve System, Washington, DC 20551. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins (202-452-3544), Board of Governors of the Federal Reserve System, Washington, DC 20551.

Proposal to approve under OMB delegated authority the extension for three years, without revision, of the following report:

1. Report title: Recordkeeping Requirements Associated with Real Estate Appraisal Standards for Federally Related Transactions Pursuant to Regulations H and Y
Agency form number: none
OMB control number: 7100-0250
Frequency: on occasion
Reporters: state member banks and bank holding company (BHC) subsidiaries
Annual reporting hours: 61,220 (27,940 for state member banks and 33,280 for BHC subsidiaries
Estimated average hours per response: .25
Number of respondents: 2,040 (1,016 state member banks and 1,024 BHC subsidiaries)
Small businesses are affected.

General description of report: This recordkeeping is mandatory (U.S.C. Sections 3310, 3331-3351). Since the Federal Reserve does not collect this information, confidentiality under the Freedom of Information Act (FOIA) is generally not at issue. The issue of the confidentiality of the information, however, might arise if the Federal Reserve were to obtain a copy of the appraisal during an examination or inspection. In such a case, the documents would be exempt (5 U.S.C. 552(b)(8)). The information also would be exempt if disclosure would likely cause substantial harm to the institution from which it was obtained (5 U.S.C. 552(b)(4)).

Abstract: This information collection is a recordkeeping requirement contained in the Board's Regulation H (12 C.F.R. 208.18) and Regulation Y (12 C.F.R. 225.61) that implements Title XI of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. The purpose of the statute is to provide that federal financial and public policy interests in real estate related transactions will be protected by requiring that real estate appraisals used in connection with federally related transactions are performed in writing, in accordance with uniform standards, by individuals whose competency has been demonstrated and whose professional conduct will be subject to effective supervision.

The Federal Deposit Insurance Corporation, the Office of the Controller of the Currency, and the Office of Thrift Supervision have parallel requirements for the institutions they supervise.

Board of Governors of the Federal Reserve System, September 19, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–25494 Filed 9–24–97; 8:45 am]

Billing Code 6210–01–F

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Committee on Employee Benefits of the Federal Reserve System.

TIME AND DATE: 2:30 p.m., Tuesday, September 30, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 2lst Streets, N.W., Washington, D.C. 20551.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Review of the 1998 budget for the Office of Employee Benefits.

2. Any items carried forward from a previously announced meeting.

• The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for Employees of the Federal Reserve System.

Note: This meeting will be recorded for the benefit of those unable to attend. Cassettes will be available for listening in the Board's Freedom of Information Office, and copies may be ordered for $5 per cassette by calling (202) 452–3684 or by writing to: Freedom of Information Office, Board of Governors of the Federal Reserve System, Washington, D.C. 20551.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 23, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–25685 Filed 9–23–97; 3:55 pm]

BILLING CODE 6210–01–P

FEDERAL RESERVE SYSTEM

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: Committee on Employee Benefits of the Federal Reserve System*.

TIME AND DATE: 3:00 p.m., Tuesday, September 30, 1997.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, N.W., Washington, D.C. 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Proposals relating to Federal Reserve System benefits.

2. Any items carried forward from a previously announced meeting.

• The Committee on Employee Benefits considers matters relating to the Retirement, Thrift, Long-Term Disability Income, and Insurance Plans for Employees of the Federal Reserve System.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: September 23, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–25686 Filed 9–23–97; 3:55 pm]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Advisory Commission on Consumer Protection and Quality in the Health Care Industry's Subcommittee on Consumer Rights, Protections and Responsibilities, Notice of Public Meeting

In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given of the meeting of the Advisory Commission on Consumer Protection and Quality in the Health Care Industry's Subcommittee on Consumer Rights, Protections and Responsibilities. This meeting will be open to the public, limited only by the space available.

Place of meeting: Hubert H. Humphrey Building, Room 800; 200 Independence Avenue, S.W. Washington, D.C. 20201.

Times and Dates: 9:00 a.m.–4:00 p.m., Monday, October 6, 1997.

Purpose/Agenda: To hear testimony and to continue formal proceedings of the Commission's Subcommittee on Consumer Rights, Protections, and Responsibilities. Agenda items are subject to change as priorities dictate.

Contact Person: For more information, including substantive program information and summaries of the meeting, please contact: Edward (Chip) Malin, Hubert H. Humphrey Building, Room 118F, 200 Independence Avenue, S.W., Washington, DC 20201; [202/205–3038]

Dated: September 17, 1997.

Janet Corrigan,

Executive Director, Advisory Commission on Consumer Protection and Quality in the Health Care Industry.

[FR Doc. 97–25466 Filed 9–24–97; 8:45 am]

BILLING CODE 4110–60–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 91N–0295]

Agency Information Collection Activities; Announcement of OMB Approval

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a collection of information entitled ''Medical Devices: Medical Device Reporting Certification'' has been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995 (the PRA).

FOR FURTHER INFORMATION CONTACT: Margaret R. Wolff, Office of Information Resources Management (HFA–250), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–1223.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of March 20, 1997 (62 FR 13302), the agency announced that the proposed information collection had been submitted to OMB for review and clearance under section 3507 of the PRA (44 U.S.C. 3507). 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. OMB has now approved the information collection and has assigned OMB control number 0910–0059. The approval expires on June 30, 2000.

Dated: September 18, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–25367 Filed 9–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Office of Inspector General; Statement of Organization, Functions and Delegations of Authority

Notice is hereby given that I have delegated to the Inspector General my authority under section 552a(b)(7) of the Privacy Act, as amended, to request disclosure of any record from another agency or government instrumentality without the prior written consent of the individual to whom the record pertains for civil and criminal law enforcement activities. The delegation includes the authority to redelegate in accordance with the Office of Management and Budget (OMB) guidelines.

This delegation supersedes all previous delegations to the Inspector General on this subject. This delegation is effective immediately.

Dated: September 16, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–25468 Filed 9–24–97; 8:45 am]

BILLING CODE 4150–04–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Program Announcement No. 93612–981]

Administration for Native Americans: Availability of Financial Assistance

AGENCY: Administration for Native Americans, ACF, DHHS.

ACTION: Announcement of availability of competitive financial assistance for projects in competitive areas administered by the Administration for Native Americans for American Indians, Native Hawaiians, Alaska Natives and Native American Pacific Islanders.

SUMMARY: The Administration for Native Americans (ANA) announces the anticipated availability of fiscal year 1998 funds in three competitive areas:

(1) Governance and social and economic development;

(2) Governance and social and economic development for Alaska Native entities; and

(3) environmental regulatory enhancement.

Financial assistance provided by ANA in support of projects in these three areas is intended to promote the goal of self-sufficiency for Native Americans.

APPLICATION KIT: Application kits, (Approved by the OMB under control number 0980–0204, which expires August 31, 1999) containing the necessary forms and instructions to apply for a grant under this program announcement, may be obtained from: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, D.C. 20447, Attention: 93612–981, Telephone: (202) 690–7776, Fax: (202) 690–7441.

Copies of this program announcement and many of the required forms may be obtained electronically at the ANA World Wide Web Page: http://www.acf.dhhs.gov/programs/ana/index.html

The printed **Federal Register** notice is the only official program announcement. Although all reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of this Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

SUPPLEMENTARY INFORMATION:

Introduction and Purpose

The purpose of this program announcement is to announce the anticipated availability of fiscal year 1998 funds, authorized under the Native American Programs Act of 1974 (Act), as amended, to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and Native American Pacific Islanders in three competitive areas. Funding authorization is provided under sections [803(a), and 803(d) of the Native American Programs Act of 1974, as amended (Pub. L. 93–644, 88 Stat. 2324, 42 U.S.C. 2991b).]

The Indian Environmental Regulatory Enhancement Act of 1990 (Pub. L. 101–408) authorizes financial assistance for projects to address environmental regulatory concerns (Section 803(d) of the Native American Programs Act of 1974, as amended).

The Administration for Native Americans assists eligible applicants for the three competitive areas to undertake 12 to 36 month development projects that are part of long-range comprehensive plans to move toward governance, social, and/or economic self-sufficiency.

In order to streamline the application process for eligible applicants under three competitive areas, ANA is issuing a single program announcement for fiscal year 1998 funds. Information regarding ANA's mission, policy, goals, application requirements, review criteria and closing dates for all three competitive areas is included in this announcement.

The Administration for Native Americans promotes the goal of self-sufficiency in Native American communities primarily through Social and Economic Development Strategies (SEDS) projects. The Native American Programs Act also authorizes ANA to establish an additional program for environmental regulatory enhancement.

This program announcement is being issued in anticipation of the appropriation of funds for fiscal year 1998 and the availability of funds for the three competitive areas is contingent upon sufficient final appropriations. Proposed projects will be reviewed on a competitive basis against the specific evaluation criteria presented under each competitive area in this announcement.

Eligible applicants may compete for a grant award in each of the three competitive areas. However, no applicant may receive more than one SEDS grant. Also, an Alaska Native entity may not submit an application under both Competitive Areas 1 and 2 for the May closing dates. Alaska Native entities may receive a grant under either competitive area 1 or 2, but not under both. However, ANA continues its policy that an applicant may only submit one application per competitive area.

This program announcement consists of three parts.

Part I ANA Policy and Goals

Provides general information about ANA's policies and goals for the three competitive areas.

Part II ANA Competitive Areas

Describes the three competitive areas under which ANA is requesting applications:

- Governance, Social and Economic Development (SEDS);
- Governance, Social and Economic Development (SEDS) for Alaska Native entities;
- Environmental Regulatory Enhancement.

Each competitive area includes the following sections which provide information to be used to develop an application:

A PURPOSE AND AVAILABILITY OF FUNDS;
B BACKGROUND;
C PROPOSED PROJECTS TO BE FUNDED;
D ELIGIBLE APPLICANTS;
E GRANTEE SHARE OF THE PROJECT;
F REVIEW CRITERIA;
G APPLICATION DUE DATE; and
H FOR FURTHER INFORMATION CONTACT

Part III General Application Information and Guidance

Provides important information and guidance that applies to all three competitive areas and that must be taken into account in developing an application for any of the three areas.

A DEFINITIONS;
B GENERAL CONSIDERATIONS;
C ACTIVITIES THAT CANNOT BE FUNDED BY ANA;
D MULTI-YEAR PROJECTS;
E INTERGOVERNMENTAL REVIEW OF FEDERAL PROGRAMS;
F THE APPLICATION PROCESS;
G THE REVIEW PROCESS;
H GENERAL GUIDANCE TO APPLICANTS;
I PAPERWORK REDUCTION ACT OF 1995; and
J RECEIPT OF APPLICATIONS

Part I—ANA Policy and Goals

The mission of the Administration for Native Americans (ANA) is to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and other Native American Pacific Islanders.

The Administration for Native Americans believes that a Native American community is self-sufficient when it can generate and control the resources necessary to meet its social and economic goals, and the needs of its members.

The Administration for Native Americans also believes that the responsibility for achieving self-sufficiency resides with the governing bodies of Indian tribes, Alaska Native villages, and in the leadership of Native American groups. A community's progress toward self-sufficiency is based on its efforts to plan, organize, and direct resources in a comprehensive manner which is consistent with its established long-range goals.

The Administration for Native Americans' policy is based on three interrelated goals:

1. Governance: To assist tribal and Alaska Native village governments, Native American institutions, and local leadership to exercise local control and decision-making over their resources.

2. Economic Development: To foster the development of stable, diversified local economies and economic activities which will provide jobs and promote economic well-being.

3. Social Development: To support local access to, control of, and coordination of services and programs which safeguard the health, well-being and culture of people, provide support services and training so people can work, and which are essential to a thriving and self-sufficient community.

Applicants for the three competitive areas may propose to undertake 12 to 36 month projects. For each type of project, applicants must describe a locally-determined strategy to carry out a proposed project with fundable objectives and activities. Local long-range planning must consider the maximum use of all available resources, how the resources will be directed to development opportunities, and present a strategy for overcoming the local issues that hinder movement toward self-sufficiency in the community.

An application from a federally recognized Tribe, Alaska Native Village or Native American organization must be from the governing body of the Tribe or organization. ANA will not accept applications from tribal components which are tribally-authorized divisions of a larger tribe, unless the application includes a Tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved grant period, should the application be funded.

If a federally recognized Tribe or Alaska Native village chooses not to submit an application under a specific competitive area, it may support another

applicant's project (e.g., a tribal organization) which serves or impacts the reservation. In this case, the applicant must include a Tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area both for the current competition and for the duration of the approved grant period, should the application be funded.

Part II—ANA Competitive Areas

The three competitive areas under this Part describe ANA's funding authorities, priorities, special initiatives, special application requirements, and review criteria. The standard requirements necessary for each application, as well as standard ANA program guidance and technical guidance are described in Part III of this announcement.

An applicant may submit a separate application under any of the competitive areas described in this Part, as long as the applicant meets the listed eligibility requirements. However, for the May closing, applications for SEDS grants from Alaska Native entities may be submitted under either Competitive Area 1 or Competitive Area 2, but not both.

Under each competitive area, ANA will only accept one application which serves or impacts a reservation, Tribe, or Native American community.

ANA Competitive Area 1. Social and Economic Development Strategies (SEDS) Projects

A. Purpose and Availability of Funds

The purpose of this competitive area is to announce the anticipated availability of fiscal year 1998 financial assistance to promote the goal of social and economic self-sufficiency for American Indians, Alaska Natives, Native Hawaiians, and Native American Pacific Islanders through locally developed social and economic development strategies (SEDS).

Approximately $14 million of financial assistance is anticipated to be available under this priority area for governance, social and economic development projects. In fiscal year 1998, ANA anticipates awarding approximately 120 competitive grants ranging from $30,000 to $1,000,000 under this area.

B. Background

ANA assists tribal and village governments, and Native American organizations, in their efforts to develop and implement community-based, long-term governance, social and economic development strategies (SEDS). These strategies must promote the goal of self-sufficiency in local communities.

The SEDS approach is based on ANA's program goals and incorporates two fundamental principles:

1. The local community and its leadership are responsible for determining goals, setting priorities, and planning and implementing programs aimed at achieving those goals. The local community is in the best position to apply its own cultural, political, and socio-economic values to its long-term strategies and programs.

2. Governance and social and economic development are interrelated. In order to move toward self-sufficiency, development in one area should be balanced with development in the others. Consequently, comprehensive development strategies should address all aspects of the governmental, economic, and social infrastructures needed to promote self-sufficient communities.

ANA's SEDS policy uses the following definitions:

- ''Governmental infrastructure'' includes the constitutional, legal, and administrative development requisite for independent governance.
- ''Economic infrastructure'' includes the physical, commercial, industrial and/or agricultural components necessary for a functioning local economy which supports the life-style embraced by the Native American community.
- ''Social infrastructure'' includes those components through which health, economic well-being and culture are maintained within the community and that support governance and economic goals.

These definitions should be kept in mind as a local social and economic development strategy is developed as part of a grant application.

A community's movement toward self-sufficiency could be jeopardized if a careful balance between governmental, economic and social development is not maintained. For example, expansion of social services, without providing opportunities for employment and economic development, could lead to dependency on social services.

Conversely, inadequate support services and training could seriously impede productivity and local economic development. Additionally, the necessary infrastructures must be developed or expanded at the community level to support social and economic development and growth. In designing their social and economic development strategies, ANA encourages an applicant to use or leverage all available human, natural, financial, and physical resources.

In discussing their community-based, long-range goals, and the objectives for the proposed projects, ANA recommends that non-Federally recognized and off-reservation groups include a description of what constitutes their specific community.

ANA encourages the development and maintenance of comprehensive strategic plans which are an integral part of attaining and supporting the balance necessary for successful activities that lead to self-sufficiency.

C. Proposed Projects To Be Funded

This section provides descriptions of activities which are consistent with the SEDS philosophy. Proposed activities should be tailored to reflect the governance, social and economic development needs of the local community and should be consistent and supportive of the proposed project objectives. The types of projects which ANA may fund include, but are not limited to, the following:

Governance

- Improvements in the governmental, judicial and/or administrative infrastructures of tribal and village governments (such as strengthening or streamlining management procedures or the development of tribal court systems);
- Increasing the ability of tribes, villages, and Native American groups and organizations to plan, develop, and administer a comprehensive program to support community social and economic self-sufficiency (including strategic planning);
- Increasing awareness of and exercising the legal rights and benefits to which Native Americans are entitled, either by virtue of treaties, the Federal trust relationship, legislative authority, executive orders, administrative and court decisions, or as citizens of a particular state, territory, or of the United States.
- Status clarification activities for Native groups seeking Federal or State tribal recognition, such as performing research or any other function necessary to submit a petition for Federal acknowledgement or in response to any obvious deficiencies cited by the Bureau of Acknowledgement and Research (BAR), Department of Interior, in a petition from a Native group seeking Federal recognition; and
- Development of and/or amendments to tribal constitutions,

court procedures and functions, by-laws or codes, and council or executive branch duties and functions.

Economic Development

- Development of a community economic infrastructure that will result in businesses, jobs, and an economic support structure;
- Establishment or expansion of businesses and jobs in areas such as tourism, specialty agriculture, light and/or heavy manufacturing, construction, housing and fisheries or aquaculture;
- Stabilizing and diversifying a Native community's economic base through business development ventures; and,
- Creation of microenterprises or private sector development.

Social Development

- Enhancing tribal capabilities to design or administer programs aimed at strengthening the social environment desired by the local community;
- Developing local and intertribal models related to comprehensive planning and delivery of services;
- Developing programs or activities to preserve and enhance tribal heritage and culture; and
- Establishing programs which involve extended families or tribal societies in activities that strengthen cultural identity and promote community development or self-esteem.

Other SEDS Relationships. ANA encourages projects designed to use the SEDS approach to help achieve current priorities of the Administration for Children and Families which are to:

- Address welfare reform initiatives such as moving families to work.
- Help ensure child support from both parents.
- Create access to affordable child care for low income working families.
- Reach children earlier to promote full development, including links to Head Start, Early Head Start and Child Care.
- Help enroll children in quality Head Start and prepare them to be ready to learn.
- Provide safety, permanency and well-being for children and double the number of adoptions from the public child welfare system.

D. Eligible Applicants

Current ANA SEDS grantees whose grant project period ends on or before September 30, 1998 are eligible to apply for a grant award under this program announcement. (The Project Period is noted in Block 9 of the ''Financial Assistance Award'' document). Applicants for new grants may not have a pending request to extend their existing grant beyond September 30, 1998.

The following organizations are eligible to apply under this competitive area:

- Federally recognized Indian Tribes;
- Consortia of Indian Tribes;
- Incorporated non-federally recognized Tribes;
- Incorporated nonprofit multi-purpose community-based Indian organizations;
- Urban Indian Centers;
- National or regional incorporated nonprofit Native American organizations with Native American community-specific objectives;
- Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;
- Incorporated nonprofit Alaska Native multi-purpose community-based organizations;
- Nonprofit Alaska Native Regional; Corporations/Associations in Alaska with village specific projects;
- Nonprofit Native organizations in Alaska with village specific projects;
- Public and nonprofit private agencies serving Native

Hawaiians (The populations served may be located on these islands or on the continental United States);

- Public and nonprofit private agencies serving native peoples from Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands. (The populations served may be located on these islands or in the United States); and
- Tribally controlled community colleges, Tribally controlled cost-secondary vocational institutions, and colleges and universities located in Hawaii, Guam, American Samoa, Palau, or the Commonwealth of the Northern Mariana Islands which serve Native American Pacific Islanders.
- Non-profit Alaska Native community entities or tribal governing bodies (Indian Reorganization Act or traditional Councils) as recognized by the Bureau of Indian Affairs.

Any non-profit organization submitting an application must submit proof of its non-profit status in the application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

If the applicant, other than a tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Native Alaskans, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community, to be served. To establish compliance with the requirement in the regulations for a Board representative of the community applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more of the following categories: (1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.

Under each competitive area, ANA will only accept one application which serves or impacts a reservation, Tribe, or Native American community. If a federally recognized Tribe or Alaska Native village chooses not to submit an application under a specific competitive area, it may support another applicant's project (e.g., a tribal organization) which serves or impacts a reservation. In this case, the applicant must include a Tribal resolution which clearly demonstrates the Tribe's approval of the application and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under the specific competitive area for the duration of the approved grant period.

E. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project; i.e. the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions; although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $300,000 in Federal funds must include a match of at least $75,000 (20% of the total $375,000 project cost).

As per 45 CFR 74.2, In-Kind contributions are defined as ''the value of non-cash contributions provided by non-Federal third parties. Third party-in kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.''

In addition it may include other Federal funding sources where legislation or regulations authorize

using specific types of funds for match and provided the source relates to the ANA project, examples follow:

- Indian Child Welfare funds, through the Department of Interior;
- Indian Self-Determination and Education Assistance funds, through the Department of Interior and the Department of Health and Human Services; and
- Community Development Block Grant funds, through the Department of Housing and Urban Development.

An itemized budget detailing the applicant's non-Federal share, and its source(s), must be included in an application.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Agreement must be included in the application.

A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

Note: Applications originating from American Samoa, Guam, Palau, or the Commonwealth of the Northern Mariana Islands are covered under Section 501(d) of Public Law 95–134, as amended (48 U.S.C. 1469a) under which HHS waives any requirement for local matching funds under $200,000 (including in-kind contributions).

F. Review Criteria

A proposed project should reflect the purposes of ANA's SEDS policy and program goals described in the Background section of this competitive area; include a social and economic development strategy which reflects the needs and specific circumstances of the local community; and address the specific developmental steps that the tribe or Native American community is undertaking toward self-sufficiency.

The evaluation criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to this competitive area and these criteria. Proposed projects will be reviewed on a competitive basis using the following evaluation criteria:

(1) Long-Range Goals and Available Resources. (15 points)

(a) The application describes the long-range goals and strategy, including:

- How specific social, governance and economic long-range community goals relate to the proposed project and strategy;
- How the community intends to achieve these goals;
- The relationship between the long-range goals and the applicant's comprehensive community social and economic development plan. (Inclusion of the community's entire development plan is not necessary); and
- A clearly delineated social and economic development strategy (SEDS).

The application identifies and documents pre-existing and planned involvement and support of the community in the planning process and implementation of the proposed project. The type of community you serve and nature of the proposal being made, will influence the type of documentation necessary. For example, a Tribe may choose to address this requirement by submitting a resolution stating that community involvement has occurred in the project planning or may determine that additional community support work is necessary.

Similarly, a tribal organization may submit resolutions supporting the project proposal from each of its members tribes, as well as a resolution from the applicant organization. Other examples of documentation include: community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/position papers.

Applications from National Indian and Native organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. National Indian and Native organizations should define their membership and describe how the organization operates.

(b) Available resources (other than ANA and the non-Federal share) which will assist, and be coordinated with the project are described. These resources should be documented by letters or documents of commitment of resources, not merely letters of support.

- ''Letters of support'' merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters or do not factually establish the authenticity of other resources.
- ''Letters and other documents of commitment'' are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds.

For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. (Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.)

(2) Organizational Capabilities and Qualifications. (10 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is demonstrated. The application clearly shows the successful management of projects of similar scope by the organization, and/or by the individuals designated to manage the project.

(b) Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Objective Work Plan and in the proposed budget. Position descriptions very clearly describe each position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes and/or proposed position descriptions demonstrate that the proposed staff are or will be qualified to carry out the project activities. Either the position descriptions or the resumes contain the qualifications and/or specialized skills necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are strongly encouraged to give preference to Native Americans in hiring staff and subcontracting services under an approved ANA grant.

(3) Project Objectives, Approach and Activities. (45 points)

The application proposes specific project Objective Work Plan(s) with activities related to each specific objective.

The Objective Work Plan(s) in the application includes project objectives and activities for each budget period proposed and demonstrates that each of the objectives and its activities:

- Is measurable and/or quantifiable in terms of results or outcomes;
- Supports the community's social and economic development strategy;
- Clearly relates to the community's long-range goals;
- Can be accomplished with the available or expected resources during the proposed project period;
- Indicates when the objective, and major activities under each objective, will be accomplished;
- Specifies who will conduct the activities under each objective; and

• Supports a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) Results or Benefits Expected. (20 points)

Completion of the proposed objectives will result in specific, measurable results. The application shows how the expected results will help the community meet its long-range goals. The specific information provided in the narrative and objective work plans on expected results or benefits for each objective is the standard upon which its achievement can be evaluated at the end of each budget year.

(5) Budget. (10 points)

A detailed and fully explained budget is provided for each budget period requested which:

• Justifies each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source;

• Includes and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project; and

• Requests funds which are appropriate and necessary for the scope of the proposed project.

For business development projects, the proposal demonstrates that the expected return on the funds used to develop the project provides a reasonable operating income and return within a future specified time frame.

Note: Applicants from the Native American Pacific Islands are not required to provide a 20% match for the non-Federal share if it is under $200,000 and may not have points reduced for this policy. They are, however, expected to coordinate non-ANA resources for the proposed project, as are all ANA applicants.

G. Application Due Date

The closing dates for submission of applications under this competitive area are: November 24, 1997 and May 1, 1998.

H. For Further Information Contact:

Leon McKoy, Program Specialist, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, D.C. 20447, tel: (202) 690–6320, e-mail: LMcKoy@acf.dhhs.gov

Competitive Area 2. Alaska-Specific Social and Economic Development Strategies (SEDS) Projects

A. Purpose and Availability of Funds

The purpose of this competitive area is to announce the anticipated availability of fiscal year 1998 funds for Alaska Native social and economic development projects. Approximately $1.5 million of financial assistance is anticipated to be available under this competitive area for Alaska Native governance, social and economic development projects.

ANA plans to award approximately 15–18 grants under this competitive area. For individual village projects, the funding level for a budget period of 12 months will be up to $100,000; for regional nonprofit and village consortia, the funding level for a budget period of 12 months will be up to $150,000, commensurate with approved multi-village objectives.

B. Background

Based on the three ANA goals described in Part I, ANA implemented a special Alaska social and economic development initiative in fiscal year 1984. This special effort was designed to provide financial assistance at the village level or for village-specific projects aimed at improving a village's governance capabilities and for social and economic development.

This competitive area continues to implement this special initiative. ANA believes both the nonprofit and for-profit corporations in Alaska can play an important supportive role in assisting individual villages to develop and implement their own locally determined strategies which capitalize on opportunities afforded to Alaska Natives under the Alaska Native Claims Settlement Act (ANCSA), Public Law 92–203.

While the Administration for Native Americans does not fund objectives or activities for the core administration of an organization. ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place.

C. Proposed Projects To Be Funded

Examples of the types of projects that ANA may fund include, but are not limited to, projects that will:

Governance

• Initiate demonstration programs at the regional level to allow Native people to become involved in developing strategies to maintain and develop their economic subsistence base;

• Assist villages in developing land use capabilities and skills in the areas of land and natural resource management and protection, resource assessment and conducting environmental impact studies;

• Assist village consortia in the development of tribal constitutions, ordinances, codes and tribal court systems;

• Develop agreements between the State and villages that transfer programs jurisdictions, and/or control to; Native entities;

• Strengthen village government control of land management, including land protection, through coordination of land use planning with village corporations and cities, if appropriate;

• Assist in status clarification activities;

• Initiate village level mergers between village councils, village corporations and others to coordinate programs and services which safeguard the health, well being and culture of a community and its people;

• Strengthen local governance capabilities through the development of village consortia and regional IRAs (Indian Reorganization Act councils organized under the Indian Reorganization Act, 25 U.S.C. 473a);

• Assist villages in preparing and coordinating plans for the development and/or improvement of water and sewer systems within the village boundaries;

• Assist villages in establishing initiatives through which youth may participate in the governance of the community and be trained to assume leadership roles in village governments; and

• Consider strategies and plans to protect against, monitor, and assist when catastrophic events occur, such as oil spills or earthquakes.

Economic Development

• Assist villages in developing businesses and industries which: 1) use local materials; 2) create jobs for Alaska Natives; 3) are capable of high productivity at a small scale of operation; and 4) complement traditional and necessary seasonal activities;

• Substantially increase and strengthen efforts to establish and improve the village and regional infrastructure and the capabilities to develop and manage resources in a highly competitive cash-economy system;

• Assist villages, or consortia of villages, in developing subsistence compatible industries that will retain local dollars in villages;

- Assist in the establishment or expansion of new native-owned businesses; and
- Assist villages in labor export; i.e., people leaving the local communities for seasonal work and returning to their communities.

Social Development

- Assist in developing training and education programs for local jobs in education, government, and health-related fields; and work with these agencies to encourage job replacement of non-Natives by trained Natives;
- Develop local models related to comprehensive planning and delivery of social services;
- Develop new service programs, initially established with ANA funds, which will be funded by local communities or the private sector for continued operation after the ANA grant expires;
- Develop or coordinate with State-funded projects, activities designed to decrease the incidence of child abuse and neglect, fetal alcohol syndrome, and/or suicides;
- Assist in obtaining licenses to provide housing or related services from State or local governments; and
- Develop businesses to provide relief for caretakers needing respite from human service-related care work.

D. Eligible Applicants

Current ANA SEDS grantees in Alaska whose project period ends on or before September 30, 1998 are eligible to apply for a grant award under this program announcement. The Project Period is noted in Block 9 of the ''Financial Assistance Award'' document.

The following organizations are eligible to apply under this competitive area:

- Federally recognized Indian Tribes in Alaska;
- Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;
- Incorporated nonprofit Alaska Native multi-purpose community-based organizations;
- Nonprofit Alaska Native Regional Corporations/Associations in Alaska with village specific projects; and
- Nonprofit Native organizations in Alaska with village specific projects.

Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

If the applicant, other than a tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans orNative Alaskans, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community to be served. To establish compliance with the requirement in the regulations for a Board representative of the community, applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more of the following categories: (1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.

Although for-profit regional corporations established under ANCSA are not eligible applicants, individual villages and Indian communities are encouraged to use for-profit corporations as subcontractors and to collaborate with them in joint-venture projects for promoting social and economic self-sufficiency. ANA encourages the for-profit corporations to assist the villages in developing applications and to participate as subcontractors in a project.

Under each competitive area, ANA will only accept one application which serves or impacts a reservation, Tribe, or Native American community. If a federally recognized Tribe or Alaska Native village chooses not to submit an application under a specific competitive area, it may support another applicant's project (e.g., a tribal organization) which serves or impacts a reservation. In this case, the applicant must include a Tribal resolution which clearly demonstrates the Tribe's approval of the application and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under the specific competitive area for the duration of the approved grant period.

E. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project; i.e. the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions, although applicants are encouraged to meet their match requirements through cash contributions. Therefore, a project requesting $100,000 in Federal funds must include a match of at least $25,000 (20% of the total $125,000 project cost).

As per 45 CFR 74.2, In-Kind contributions is defined as ''the value of non-cash contributions provided by non-Federal third parties. Third party-in-kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.''

In addition it may include other Federal funding sources where legislation or regulations authorize using specific types of funds for match and provided the source relates to the ANA project, examples follow:

- Indian Child Welfare funds, through the Department of Interior;
- Indian Self-Determination and Education Assistance funds, through the Department of Interior and the Department of Health and Human Services; and
- Community Development Block Grant funds, through the Department of Housing and Urban Development.

An itemized budget detailing the applicant's non-Federal share, and its source, must be included in an application.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Agreement must be included in the application.

A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

F. Review Criteria

A proposed project should reflect the purposes of ANA's SEDS policy and goals (described in the Background section of this competitive area and in the Background section of Competitive Area 1), include a social and economic development strategy which reflects the needs and specific circumstances of the local community, and address the specific developmental steps that the tribe or Native American community is undertaking toward self-sufficiency.

The evaluation criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to this competitive area and these criteria. Proposed projects will be reviewed on a competitive basis using the following evaluation criteria:

(1) Long-Range Goals and Available Resources. (15 points)

(a) The application describes the long-range goals and strategy, including:

- How specific social, governance and economic long-range community goals relate to the proposed project and strategy;
- How the community intends to achieve these goals;
- The relationship between the long-range goals and the applicant's comprehensive community social and economic development plan. (Inclusion of the community's entire development plan is not necessary); and
- A clearly delineated social and economic development strategy (SEDS).

The application identifies and documents pre-existing and planned involvement and support of the community in the planning process and implementation of the proposed project. The type of community you serve and nature of the proposal being made, will influence the type of documentation necessary. For example, a Tribe may choose to address this requirement by submitting a resolution stating that community involvement has occurred in the project planning or may determine that additional community support work is necessary.

Similarly, a tribal organization may submit resolutions supporting the project proposal from each of its members tribes, as well as a resolution from the applicant organization. Other examples of documentation include: community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/position papers.

Applications from National Indian and Native organizations must clearly demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project. National Indian and Native organizations should describe their membership and define how the organization operates.

(b) Available resources (other than ANA and the non-Federal share) which will assist, and be coordinated with the project are described. These resources should be documented by letters or documents of commitment of resources, not merely letters of support.

- ''Letters of support'' merely express another organization's endorsement of a proposed project.

Support letters are not binding commitment letters or do not factually establish the authenticity of other resources.

- ''Letters and other documents of commitment'' are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds.

For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. (Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.)

(2) Organizational Capabilities and Qualifications. (10 points)

(a) The management and administrative structure of the applicant is explained. Evidence of the applicant's ability to manage a project of the proposed scope is demonstrated. The application clearly shows the successful management of projects of similar scope by the organization, and/or by the individuals designated to manage the project.

(b) Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Approach Page and in the proposed Budget of the application. Position descriptions very clearly describe each position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes demonstrate that the proposed staff are qualified to carry out the project activities. Either the position descriptions or the resumes contain the qualifications and/or specialized skills necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are strongly encouraged to give preference to Native Americans in hiring staff and subcontracting services under an approved ANA grant.

(3) Project Objectives, Approach and Activities. (45 points)

The application proposes specific project objective work plans with activities related to each specific objective. The objective work plan(s) in the application includes project objectives and activities for each budget period proposed and demonstrates that each of the objectives and its activities:

- Is measurable and/or quantifiable in terms of results or outcomes;
- Supports the community's social and economic development strategy;
- Clearly relates to the community's long-range goals;
- Can be accomplished with the available or expected resources during the proposed project period;
- Indicates when the objective, and major activities under each objective, will be accomplished;
- Specifies who will conduct the activities under each objective; and
- Supports a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) Results or Benefits Expected. (20 points)

Completion of the proposed objectives will result in specific, measurable results. The application shows how the expected results will help the community meet its long-range goals. The specific information provided in the narrative and objective work plans on expected results or benefits for each objective is the standard upon which its achievement can be evaluated at the end of each budget year.

(5) Budget. (10 points)

A detailed and fully explained budget is provided for each budget period requested which:

- Justifies each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source;
- Includes and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project; and
- Requests funds which are appropriate and necessary for the scope of the proposed project.

For business development projects, the proposal demonstrates that the expected return on the funds used to develop the project provides a reasonable operating income and return within a future specified time frame.

G. Application Due Date

The closing date for submission of applications under this competitive area is: May 1, 1998.

H. For Further Information Contact

Diann Winford, Program Specialist, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, D.C. 20447, tel: (202) 401–7365, e-mail: DWinford@acf.dhhs.gov

Competitive Area 3. Indian Environmental Regulatory Enhancement Projects

A. Purpose and Availability of Funds

The purpose of this competitive area is to announce the anticipated availability of fiscal year 1998 funds for environmental regulatory enhancement projects. Approximately $3 million of financial assistance is anticipated to be available under this announcement for environmental regulatory enhancement projects. ANA expects to award approximately 35 grants under this competitive area. The funding level for a budget period of 12 months will be up to $250,000. An applicant may propose project periods of between 12 and 36 months.

B. Background

Despite an increasing environmental responsibility and growing awareness of environmental issues on Indian lands, there has been a lack of resources available to tribes to develop tribal environmental programs that are responsive to tribal needs. In many cases, this lack of resources has resulted in a delay in action on the part of the tribes.

Some of the critical issues identified by tribes before Congressional committees include:

- The need for assistance to train professional staff to monitor and enforce tribal environmental programs;
- The lack of adequate data for tribes to develop environmental statutes and establish environmental quality standards; and
- The lack of resources to conduct studies to identify sources of pollution and the ability to determine the impact on existing environmental quality.

As a result, Congress enacted the Indian Environmental Regulatory Enhancement Act of 1990 (Pub. L. 101–408) to strengthen tribal governments through building capacity within the tribes in order to identify, plan, develop, and implement environmental programs in a manner that is consistent with tribal culture. ANA is to support these activities on a government-to-government basis in a way that recognizes tribal sovereignty and is consistent with tribal culture.

The Administration for Native Americans believes that responsibility for achieving environmental regulatory enhancement rests with the governing bodies of Indian tribes, Alaska Native villages, and with the leadership of Native American groups.

''Environmental regulatory enhancement'' includes (but is not limited to) the planning, development, and application of laws, training, monitoring, and enforcement procedures, tribal courts, environmental laboratories and other facilities, and associated regulatory activities to strengthen the tribal government's capacity to enhance the quality of reservation life as measured by the reduction of pollutants in the air, water, soil, food and materials encountered by inhabitants of tribes and villages.

Progress toward the goal of environmental regulatory enhancement would include the strengthening of tribal environmental laws, providing for the training and education of those employees responsible for ensuring compliance with and enforcement of these laws, and the development of programs to conduct compliance and enforcement functions.

Other functions leading toward enhancing local regulatory capacity include, but are not limited to:

- Environmental assessments;
- Development and use of environmental laboratories; and
- Development of court systems for enforcement of tribal and Federal environmental laws.

Ultimate success in this program will be realized when the applicant's desired level of environmental quality is acquired and maintained.

C. Proposed Projects To Be Funded

Financial assistance provided by ANA is available for developmental projects designed to assist tribes in advancing their capacity and capability to plan for and:

- Develop or enhance the tribal environmental regulatory infrastructure required to support a tribal environmental program, and to regulate and enforce environmental activities on Indian lands pursuant to Federal and Indian law;
- Develop regulations, ordinances and laws to protect the environment;
- Develop the technical and program capacity to carry out a comprehensive tribal environmental program and perform essential environmental program functions;
- Promote environmental training and education of tribal employees;
- Develop technical and program capability to meet tribal and Federal regulatory requirements;
- Develop technical and program capability to monitor compliance and enforcement of tribal environmental regulations, ordinances, and laws; and
- Ensure the tribal court system enforcement requirements are developed in concert with and support the tribe's comprehensive environmental program.

D. Eligible Applicants

The following organizations are eligible to apply under this competitive area:

- Federally recognized Indian tribes;
- Incorporated non-federally and State recognized Indian tribes;
- Alaska Native villages as defined in the Alaska Native Claims Settlement Act (ANCSA) and/or nonprofit village consortia;
- Nonprofit Alaska Native Regional Corporations/Associations with village specific projects; and
- Other tribal or village organizations or consortia of Indian tribes.
- Tribal governing bodies (IRA or traditional councils) as recognized by the Bureau of Indian Affairs.

The following organizations are not eligible to apply:

- Urban Indian Centers;
- Incorporated nonprofit multi-purpose community-based Indian organizations;
- Public and nonprofit private agencies serving: Native Hawaiians, peoples from Guam, American Samoa, Palau, or the Commonwealth of Northern Mariana Islands;
- Incorporated nonprofit Alaska Native multi-purpose community based organizations; and
- National or regional incorporated nonprofit Native American organizations with Native American community-specific objectives.

Any non-profit organization submitting an application must submit proof of its non-profit status in its application at the time of submission. The non-profit agency can accomplish this by providing a copy of the applicant's listing in the Internal Revenue Service's (IRS) most recent list of tax exempt organizations described in Section 501(c)(3) of the IRS code or by providing a copy of the currently valid IRS tax exemption certificate, or by providing a copy of the articles of incorporation bearing the seal of the State in which the corporation or association is domiciled.

If the applicant, other than a tribe or an Alaska Native Village government, is proposing a project benefiting Native Americans or Native Alaskans, or both, it must provide assurance that its duly elected or appointed board of directors is representative of the community to be served. To establish compliance with the requirement in the regulations for a Board representative of the community applicants should provide information establishing that at least ninety (90) percent of the individuals serving on a non-profit applicant's board fall into one or more of the following categories:

(1) A current or past member of the community to be served; (2) a prospective participant or beneficiary of the project to be funded; or (3) have a cultural relationship with the community to be served.

Note: Under each competitive area, ANA will only accept one application which serves or impacts a reservation, Tribe or Native American community. If a federally recognized Tribe or Alaska native village chooses not to submit an application under a specific competitive area, it may support another applicant's project (e.g., a tribal organization) which serves or impacts a reservation.

In this case, the applicant must include a Tribal resolution which clearly demonstrates the Tribe's approval of the application and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area for the duration of the approved grant period.

E. Grantee Share of the Project

Grantees must provide at least 20 percent of the total approved cost of the project; i.e. the sum of the ACF share and the non-Federal share. The non-Federal share may be met by cash or in-kind contributions; although applicants are encouraged to meet their match requirement through cash contributions. Therefore, a project requesting $250,000 in Federal funds must include a match of at least $62,500 (20% of total $312,500 project cost).

As per 45 CFR 74.2, In-Kind contributions are defined as ''the value of non-cash contributions provided by non-Federal third parties. Third party-in kind contributions may be in the form of real property, equipment, supplies and other expendable property, and the value of goods and services directly benefiting and specifically identifiable to the project or program.''

In addition it may include other Federal funding sources where legislation or regulations authorize using specific types of funds for match and provided the source relates to the ANA project, examples follow:

- Indian Child Welfare funds, through the Department of Interior;
- Indian Self-Determination and Education Assistance funds, through the Department of Interior and the Department of Health and Human Services; and
- Community Development Block Grant funds, through the Department of Housing and Urban Development.

An itemized budget detailing the applicant's non-Federal share, and its source(s), must be included in an application.

If an applicant plans to charge or otherwise seek credit for indirect costs in its ANA application, a current copy of its Indirect Cost Agreement must be included in the application.

A request for a waiver of the non-Federal share requirement may be submitted in accordance with 45 CFR 1336.50(b)(3) of the Native American Program Regulations.

F. Review Criteria

A proposed project should reflect the environmental regulatory purposes stated and described in the Background section of this competitive area. The evaluation criteria are closely related to each other and are considered as a whole in judging the overall quality of an application. Points are awarded only to applications which are responsive to this competitive area and these criteria. Proposed projects will be reviewed on a competitive basis using the following evaluation criteria:

(1) Long-Range Goals and Available Resources. (15 points)

(a) The application describes the long-range goals and strategy, including:

- How specific environmental regulatory enhancement long-range goal(s) relate to the proposed project and strategy;
- How the community intends to achieve these goals;
- The applicant's specific environmental regulatory needs; and
- a clearly delineated strategy to improve the capability of the governing body of a tribe to regulate environmental quality through enhancing local capacity to perform necessary regulatory functions.

The application identifies and documents pre-existing and planned involvement and support of the community in the planning process and implementation of the proposed project. The type of community you serve and nature of the proposal being made, will influence the type of documentation necessary. For example, a Tribe may choose to address this requirement by submitting a resolution stating that community involvement has occurred in the project planning or may determine that additional community support work is necessary.

Similarly, a tribal organization may submit resolutions supporting the project proposal from each of its member tribes, as well as a resolution from the applicant organization. Other examples of documentation include: Community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/position papers.

(b) Available resources (other than ANA and the non-Federal share) which will assist, and be coordinated with the project are described. These resources should be documented by letters or documents of commitment of resources, not merely letters of support.

- ''Letters of support'' merely express another organization's endorsement of a proposed project. Support letters are not binding commitment letters or do not factually establish the authenticity of other resources.
- ''Letters and other documents of commitment'' are binding when they specifically state the nature, the amount, and conditions under which another agency or organization will support a project funded with ANA funds.

For example, a letter from another Federal agency or foundation pledging a commitment of $200,000 in construction funding to complement proposed ANA funded pre-construction activity is evidence of a firm funding commitment. These resources may be human, natural or financial, and may include other Federal and non-Federal resources. (Applicant statements that additional funding will be sought from other specific sources are not considered a binding commitment of outside resources.)

(2) Organizational Capabilities and Qualifications. (15 points)

(a) The management and administrative structure of the applicant is described and explained. Evidence of the applicant's ability to manage a project of the scope proposed is well documented. The application clearly shows the successful management of projects of similar scope by the organization, and/or by the individuals designated to manage or consult on the project. The tribe itself may not have experience to meet this requirement but the proposed staff and consultants should have the required qualifications and experience. The application should clearly describe any previous or current activities of the applicant organization or proposed staff and/or consultants in support of environmental regulatory enhancement.

(b) Position descriptions and/or resumes of key personnel, including those of consultants, are presented. The position descriptions and/or resumes relate specifically to the staff proposed in the Approach Page and in the proposed Budget of the application. Position descriptions very clearly describe each position and its duties and clearly relate to the personnel staffing required to achieve the project objectives. Resumes indicate that the

proposed staff are qualified to carry out the project activities. Either the position descriptions or the resumes contain the qualifications and/or specialized skills necessary for overall quality management of the project. Resumes must be included if individuals have been identified for positions in the application.

Note: Applicants are strongly encouraged to give preference to Native Americans in hiring staff and subcontracting services under an approved ANA grant.

(3) Project Objectives, Approach and Activities. (40 points) The application proposes specific project objective work plans with activities related to each specific objective. The objective work plan(s) in the application includes project objectives and activities for each budget period proposed and demonstrates that each of the objectives and its activities:

- Is measurable and/or quantifiable in terms of results or outcomes;
- Supports the community's strategy for environmental regulatory enhancement;
- Clearly relates to the community's long-range environmental goals;
- Can be accomplished with the available or expected resources during the proposed project period;
- Indicates when the objective, and major activities under each objective, will be accomplished;
- Specifies who will conduct the activities under each objective; and
- Supports a project that will be completed, self-sustaining, or financed by other than ANA funds at the end of the project period.

(4) Results or Benefits Expected. (20 points)

Completion of the proposed objectives will result in specific, measurable results. The application shows how the expected results will help the community meet its long-range environmental goals. The specific information provided in the narrative and objective work plans on expected results or benefits for each objective is the standard upon which its achievement can be evaluated at the end of each budget year.

(5) Budget. (10 points)

A detailed and fully explained budget is provided for each budget period requested which:

- Justifies each line item, with a well-written justification, in the budget categories in Section B of the Budget Information of the application, including the applicant's non-Federal share and its source;
- Includes and justifies sufficient cost and other necessary details to facilitate the determination of cost allowability and the relevance of these costs to the proposed project; and
- Requests funds which are appropriate and necessary for the scope of the proposed project.

G. Application Due Date

The closing date for submission of applications under this competitive area is March 6, 1998.

H. For Further Information Contact

Jeanette Clyburn, Program Specialist, Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, Mail Stop HHH 348F, Washington, D.C. 20447, tel: (202) 690–6326 e-mail: JClyburn@acf.dhhs.gov

Part III—General Application Information and Guidance

A. Definitions

Funding areas in this program announcement are based on the following definitions:

- A ''multi-purpose community-based Native American organization'' is an association and/or corporation whose charter specifies that the community designates the Board of Directors and/or officers of the organization through an elective procedure and that the organization functions in several different areas of concern to the members of the local Native American community. These areas are specified in the by-laws and/or policies adopted by the organization. They may include, but need not be limited to, economic, artistic, cultural, and recreational activities, and the delivery of human services such as health care, day care, counseling, education, and training.
- A ''multi-year project'' is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.
- ''Budget Period'' is the interval of time (usually 12 months) into which the project period is divided for budgetary and funding purposes.
- ''Core administration'' is funding for staff salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project.
- ''Environmental regulatory enhancement'' includes (but is not limited to) the planning, development, and application of laws, training, monitoring, and enforcement procedures, tribal courts, environmental laboratories and other facilities, and associated regulatory activities to strengthen the tribal government's capacity to enhance the quality of reservation life as measured by the reduction of pollutants in the air, water, soil, food and materials encountered by inhabitants of tribes and villages.
- ''Real Property'' means land, including land improvements, structures and appurtenances thereto, excluding movable machinery and equipment.
- ''Construction'' is the term which specifies a project supported through a discretionary grant or a cooperative agreement, to support the initial building of a facility.

B. General Considerations

Non-ANA resources should be leveraged to strengthen and broaden the impact of the proposed project in the community. Project designs should explain how those parts of projects which ANA does not fund will be financed through other sources. For example, ANA does not fund construction. Applicants must show the relationship of non-ANA funded activities to those objectives and activities that are funded with ANA grant funds.

Costs of fund raising, including financial campaigns, endowment drives, solicitation of gifts and bequests, and similar expenses incurred solely to raise capital or obtain contributions are unallowable under a grant award. However, even though these costs are unallowable for purposes of computing charges to Federal awards, they must be treated as direct costs for purposes of determining indirect cost rates and be allocated their share of the organization's indirect costs if they represent activities which (1) include the salaries of personnel, (2) occupy space, and (3) benefit from the organization's indirect costs.

All projects funded by ANA must be completed, or self-sustaining or supported with other than ANA funds at the end of the project period. ''Completed'' means that the project ANA funded is finished, and the desired result(s) have been attained. ''Self-sustaining'' means that a project will continue without outside resources. ''Supported by other than ANA funds'' means that the project will continue beyond the ANA project period, but will be supported by funds other than ANA's.

C. Activities That Cannot Be Funded by ANA

The Administration for Native Americans does not fund projects that:

- Operate indefinitely or require ANA funding on a recurring basis.
- Projects in which a grantee would provide training and/or technical assistance (T/TA) to other tribes or Native American organizations which are otherwise eligible to apply to ANA (''third party T/TA''). However, the purchase of T/TA by a grantee for its own use or for its members' use (as in the case of a consortium), where T/TA is necessary to carry out project objectives, is acceptable. In addition, T/TA is an allowable activity for environmental regulatory enhancement projects submitted under Competitive Area 3.
- The support of on-going social service delivery programs or the expansion, or continuation, of existing social service delivery programs.
- ANA will not fund the purchase of real property.
- ANA will not fund construction.
- Objectives or activities for the support of core administration of an organization.

''Core administration'' is funding for staff salaries for those functions which support the organization as a whole, or for purposes unrelated to the actual management or implementation of work conducted under an ANA approved project. Under Competitive Area 2, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place. However, functions and activities that are clearly project related are eligible for grant funding. For example, the management and administrative functions necessary to carry out an ANA approved project are not considered ''core administration'' and are, therefore, eligible costs. Additionally, ANA will fund the salaries of approved staff for time actually and reasonably spent to implement a funded ANA project.

Projects or activities that generally will not meet the purposes of this announcement are discussed further in Part III, Section H, General Guidance to Applicants, below.

D. Multi-Year Projects

A multi-year project is a project on a single theme that requires more than 12 months to complete and affords the applicant an opportunity to develop and address more complex and in-depth strategies than can be completed in one year. Applicants are encouraged to develop multi-year projects as defined in Section D of this Part. A multi-year project cannot be a series of unrelated objectives with activities presented in chronological order over a two or three year period.

Awards, on a competitive basis, will be for a one-year budget period, although project periods may be for three years. Applications for continuation grants funded under these awards beyond the one-year budget period, but within a two-to-three year project period, will be entertained in subsequent years on a non-competitive basis, subject to the availability of funds, satisfactory progress of the grantee and determination that continued funding would be in the best interest of the Government. Therefore, this program announcement does not apply to current ANA grantees with multi-year projects that apply for continuation funding for their second or third year budget periods.

E. Intergovernmental Review of Federal Programs

This program is not covered by Executive Order 12372 or 45 CFR Part 100.

F. The Application Process

1. Availability of Application Forms

In order to be considered for a grant under this program announcement, an application must be submitted on the forms supplied and in the manner prescribed by ANA. The application kits containing the necessary forms and instructions may be obtained from: Department of Health and Human Services, Administration for Children and Families, Administration for Native Americans, 370 L'Enfant Promenade, SW., Mail Stop HHH 348F, Washington, D.C. 20447, Attention: 93612–981, Telephone: (202) 690–7776.

Copies of this program announcement and many of the required forms may be obtained electronically at the ANA World Wide Web Page: www.acf.dhhs.gov/programs/ana/index.html

The printed **Federal Register** notice is the only official program announcement. Although all reasonable efforts are taken to assure that the files on the ANA World Wide Web Page containing electronic copies of the Program Announcement are accurate and complete, they are provided for information only. The applicant bears sole responsibility to assure that the copy downloaded and/or printed from any other source is accurate and complete.

2. Application Submission

One signed original, and two copies, of the grant application, including all attachments, must be mailed on or before the specific closing date of each ANA competitive area to: Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, S.W., Mail Stop 6C–462, Washington, D.C. 20447, Attention: Lois B. Hodge, ANA No. 93612–981.

Hand delivered applications are accepted between the hours of 8:00 a.m. to 4:30 p.m., Monday through Friday, if they are either received on or before the deadline date or postmarked on or before the established closing date at: Administration for Children and Families, Division of Discretionary Grants, ACF Mail Room, Second Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024.

The application (Form 424) must be signed by an individual authorized (1) to act for the applicant tribe or organization, and (2) to assume the applicant's obligations under the terms and conditions of the grant award, including Native American Program statutory and regulatory requirements.

Each tribe, Native American organization, or other eligible applicant may compete for a grant award in each of the three competitive areas. However, no applicant may receive more than one SEDS grant. The Administration for Native Americans will accept only one application per competitive area from any one applicant. Alaska Native entities may receive a grant under either competitive area 1 or 2, but not under both. Therefore, applications for SEDS grants from Alaska Native entities may be submitted under either Competitive Area 1 or Competitive Area 2, but not both at the same time.

If an eligible applicant sends in two applications for the same competitive area, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

3. Application Consideration

The ANA Commissioner determines the final action to be taken on each grant application received under this program announcement.

The following points should be taken into consideration by all applicants:

- Incomplete applications and applications that do not conform to this announcement will not be accepted for review. Applicants will be notified in writing of any such determination by ANA. An incomplete application is one that is:

- Missing Form SF 424.
- Does not have a signature on Form SF 424.
- Does not include proof of non-profit status, if applicable.
- Complete applications that conform to all the requirements of this program announcement are subjected to a competitive review and evaluation process (discussed in section G below). Independent review panels consisting of reviewers familiar with American Indian Tribes and Native American communities and organizations, and environmental issues, as appropriate, evaluate each application using the published criteria in each funding competitive area. As a result of the review, a normalized numerical score will be assigned to each application. A normalized score reflects the average score from the reviewers, adjusted to reflect the average score from the panels.
- The Commissioner's funding decision is based on the review panel's analysis of the application, recommendation and comments of ANA staff, State and Federal agencies having contract and grant performance related information, and other interested parties.
- The Commissioner makes grant awards consistent with the purpose of the Act, all relevant statutory and regulatory requirements, this program announcement, and the availability of funds.
- ANA staff cannot respond to requests for information regarding funding decisions prior to the official notification to the applicants.
- After the Commissioner has made decisions on all applications, unsuccessful applicants are notified in writing within 30 days. The notification will be accompanied by a critique including recommendations for improving the application.
- Successful applicants are notified through an official Financial Assistance Award (FAA) document. The FAA will state the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the grant award, the effective date of the award, the project period, the budget period, and the amount of the non-ACF matching share requirement.

G. The Review Process

1. Initial Application Review

Applications submitted by the closing date and verified by the postmark under this program announcement will undergo a pre-review to determine that:

- The applicant is eligible in accordance with the Eligible Applicants Section of this announcement; and
- The application is signed and submitted by the deadline explained in section G, Application Due Date, in each competitive area of this announcement.
- The application narrative, forms and materials submitted are adequate to allow the review panel to undertake an in depth evaluation and the project described is an allowable type. (All required materials and forms are listed in the Grant Application Checklist in the Application Kit).

Applications subjected to the pre-review described above which fail to satisfy one or more of the listed requirements will be ineligible or otherwise excluded from competitive evaluation.

2. Competitive Review of Accepted Applications

Applications which pass the pre-review will be evaluated and rated by an independent review panel on the basis of the specific evaluation criteria listed in Part II. These criteria are used to evaluate the quality of a proposed project, and to determine the likelihood of its success.

3. Appeal of Ineligibility

Applicants who are initially excluded from competitive evaluation because of ineligibility, may appeal an ANA decision of applicant ineligibility. Likewise, applicants may also appeal an ANA decision that an applicant's proposed activities are ineligible for funding consideration. The appeals process is stated in the final rule published in the **Federal Register** on August 19, 1996 (61 FR 42817).

H. General Guidance To Applicants

The following information is provided to assist applicants in developing a competitive application.

1. Program Guidance

- The Administration for Native Americans funds projects that demonstrate the strongest prospects for addressing the stated purposes of this program announcement.
- Projects will not be ranked on the basis of general financial need.
- In discussing the goals, strategy, and problems being addressed in the application, include sufficient background and/or history of the community concerning these issues and/or progress to date, as well as the size of the population to be served. This material will assist the reviewers in determining the appropriateness and potential benefits of the proposed project.
- In the discussion of community-based, long-range goals, non-Federally recognized and off-reservation groups are encouraged to include a description of what constitutes their specific ''community.''
- Applicants must document the community's support for the proposed project and explain the role of the community in the planning process and implementation of the proposed project. For tribes, a current signed resolution from the governing body of the tribe supporting the project proposal stating that there has been community involvement in the planning of this project will suffice as evidence of community support/involvement. For all other eligible applicants, the type of community you serve will determine the type of documentation necessary. For example, a tribal organization may submit resolutions supporting the project proposal from each of its members tribes, as well as a resolution from the applicant organization. Other examples of documentation include: community surveys; minutes of community meetings; questionnaires; tribal presentations; and/or discussion/position papers.
- Applications from National Indian and Native American organizations must demonstrate a need for the project, explain how the project was originated, state who the intended beneficiaries will be, and describe how the recipients will actually benefit from the project.
- An application should describe a clear relationship between the proposed project, the social and economic development strategy, or environmental or language goals, as appropriate, and the community's long-range goals or plan.
- The project application, including the Objective Work Plans, must clearly identify in measurable terms the expected results, benefits or outcomes of the proposed project, and the positive or continuing impact that the project will have on the community.
- Supporting documentation, including letters of support, if available, or other testimonies from concerned interests other than the applicant should be included to demonstrate support for the feasibility of the project and the commitment of other resources to the proposed project.
- In the ANA Project Narrative, Section A of the application package, ''Resources Available to the Proposed Project,'' the applicant should describe any specific financial circumstances which may impact on the project, such as any monetary or land settlements made to the applicant, and any restrictions on the use of those settlements. When the applicant appears to have other resources to support the

proposed project and chooses not to use them, the applicant should explain why it is seeking ANA funds and not utilizing these resources for the project.

• Reviewers of applications for ANA indicate they are better able to evaluate whether the feasibility has been addressed and the practicality of a proposed economic development project, or a new business, if the applicant includes a business plan that clearly describes its feasibility and the approach for the implementation and marketing of the business. (ANA has included sample business plans in the application kit).

It is strongly recommended that an applicant use these materials as guides in developing a proposal for an economic development project or business that is part of the application.

• Applications which were not funded under a previous closing date and revised for resubmission should make reference to the changes, or reasons for not making changes, in their current application which are based on ANA panel review comments.

2. Technical Guidance

• It is strongly suggested that the applicant follow the Supplemental Guide included in the ANA application kit to develop an application. The Guide provides practical information and helpful suggestions, and is an aid to help applicants prepare ANA applications.

• Applicants are encouraged to have someone other than the author apply the evaluation criteria in the program announcement and score the application prior to its submission, in order to gain a better sense of the application's quality and potential competitiveness in the ANA review process.

• For purposes of developing an application, applicants should plan for a project start date approximately 120 days after the closing date under which the application is submitted.

• The Administration for Native Americans will not fund essentially identical projects serving the same constituency.

• If a project could be supported by other Federal funding sources, the applicant should fully explain its reasons for not pursuing other Federal funds for the project.

• For purposes of this announcement, ANA is using the Bureau of Indian Affairs' list of Federally recognized Indian tribes which includes nonprofit Alaska Native community entities or tribal governing bodies (IRA or traditional councils). Other Federally recognized Indian tribes which are not included on this list (e.g., those Tribes which have been recently recognized or restored by the United States Congress) are also eligible to apply for ANA funds.

• The Administration for Native Americans will accept only one application, per competitive area, from any one applicant. If an eligible applicant sends in two applications for the same competitive area, the one with the earlier postmark will be accepted for review unless the applicant withdraws the earlier application.

• An application from a federally recognized Tribe, Alaska Native Village or Native American organization must be from the governing body of the Tribe or organization. ANA will not accept applications from tribal components which are tribally-authorized divisions of a larger tribe, unless the application includes a Tribal resolution which clearly demonstrates the Tribe's support of the project and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area for the duration of the approved grant period.

• Under each competitive area, ANA will only accept one application which serves or impacts a reservation, Tribe, or Native American community. If a federally recognized Tribe, or Alaska Native village chooses not to submit an application under a specific competitive area, it may support another applicant's project (e.g., a tribal organization) which serves or impacts a reservation. In this case, the applicant must include a Tribal resolution which clearly demonstrates the Tribe's support and approval of the application and the Tribe's understanding that the other applicant's project supplants the Tribe's authority to submit an application under that specific competitive area for the duration of the approved grant period.

• The Objective Work Plan proposed should be of sufficient detail to become a monthly staff guide for project responsibilities if the applicant is funded.

• If a profit-making venture is being proposed, profits must be reinvested in the business in order to decrease or eliminate ANA's future participation. Such revenue must be reported as general program income. A decision will be made at the time of grant award regarding appropriate use of program income. (See 45 CFR Part 74 and Part 92.)

• Applicants proposing multi-year projects must fully describe each year's project objectives and activities.

Separate Objective Work Plans (OWPs) must be presented for each project year and a separate itemized budget of the Federal and non-Federal costs of the project for each budget period must be included.

• Applicants for multi-year projects must justify the entire time-frame of the project (i.e., why the project needs funding for more than one year) and clearly describe the results to be achieved for each objective by the end of each budget period of the total project period.

• The Administration for Native Americans will critically evaluate applications in which the acquisition of equipment is a major component of the Federal share of the budget. ''Equipment is tangible, non-expendable personal property having a useful life of more than one year and an acquisition cost of $5,000 or more per ''unit.'' During negotiation, such expenditures may be deleted from the budget of an otherwise approved application, if not fully justified by the applicant and deemed not appropriate to the needs of the project by ANA.

• Applicants are encouraged to request a legibly dated receipt from a commercial carrier or U.S. Postal Service as proof of timely mailing.

3. Grant Administrative Guidance

• The application's Form 424 must be signed by the applicant's representative authorized to act with full authority on behalf of the applicant.

• The Administration for Native Americans recommends that the pages of the application be numbered sequentially and that a table of contents be provided. Simple tabbing of the sections of the application is also helpful to the reviewers.

• An application with an original signature and two additional copies are required.

• The Cover Page (included in the Kit) should be the first page of an application, followed by the one-page abstract.

• The applicant should specify the entire project period length on the first page of the Form 424, Block 13, not the length of the first budget period. Should the application propose one length of project period and the Form 424 specify a conflicting length of project period, ANA will consider the project period specified on the Form 424 as the request. ANA may negotiate a reduction of the project period. The approved project period is shown on block 9 of a Financial Assistance Award.

• Line 15a of the Form 424 must specify the Federal funds requested for the first Budget Period, not the entire project period.

• Applicants may propose a 17 month project period. However, the project period for the first year of a multi-year project may only be 12 months.

4. Projects or Activities That Generally Will Not Meet The Purposes of This Announcement

• Projects that request funds for feasibility studies, business plans, marketing plans or written materials, such as manuals, that are not an essential part of the applicant's long-range development plan. As an objective of a larger project, business plans are allowable. However, ANA is not interested in funding ''wish lists'' of business possibilities. ANA expects written evidence of the solid investment of time and consideration on the part of the applicant with regard to the development of business plans. Business plans should be developed based on market analysis and feasibility studies regarding the potential success to the business prior to the submission of the application.

• Core administration functions, or other activities, which essentially support only the applicant's on-going administrative functions. However, under Competitive Area 2, ANA will consider funding core administrative capacity building projects at the village government level if the village does not have governing systems in place.

• Project goals which are not responsive to one or more of the funding competitive areas.

• Proposals from consortia of tribes that are not specific with regard to support from, and roles of, member tribes. ANA expects an application from a consortium to have goals and objectives that will create positive impacts and outcomes in the communities of its members. Proposals from consortia of tribes should have individual objectives which are related to the larger goal of the proposed project. Project objectives may be tailored to each consortia member, but within the context of a common goal for the consortia. In situations where both a consortia of tribes and the tribes who belong to the consortia receive ANA funding, ANA expects that consortia groups will not seek funding that duplicates activities being conducted by their member tribes.

• Projects that will not be completed, self-sustaining, or supported by other than ANA funds, at the end of the project period.

• ANA will not fund investment capital for purchase or takeover of an existing business, for purchase or acquisition of a franchise, or for purchase of stock or other similar investment instruments.

• Renovation or alteration unless it is essential for the project. Renovation or alteration costs may not exceed the lesser of $150,000 or 25 percent of the total direct costs approved for the entire budget period.

• Projects originated and designed by consultants who provide a major role for themselves in the proposed project and are not members of the applicant organization, tribe or village.

I. Paperwork Reduction Act of 1995

Under the Paperwork Reduction Act of 1995, Public Law 104–13, the Department is required to submit to the Office of Management and Budget (OMB) for review and approval any reporting and record keeping requirements in regulations including program announcements. This program announcement does not contain information collection requirements beyond those approved for ANA grant applications under the Program Narrative Statement by OMB.

J. Receipt of Applications

Applications must either be hand delivered or mailed to the address in Section F, The Application Process: Application Submission. The Administration for Native Americans cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ANA electronically will not be accepted regardless of date or time of submission and time of receipt. Videotapes and cassette tapes may not be included as part of a grant application for panel review.

Applications and related materials postmarked after the closing date will be classified as late.

1. Deadlines

• Mailed applications shall be considered as meeting an announced deadline if they are either received on or before the deadline date or sent on or before the deadline date and received by ACF in time for the independent review to: U. S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, 370 L'Enfant Promenade, SW., Mail Stop 6C–462, Washington, D.C. 20447.

• Applicants are cautioned to request a legibly dated U.S. Postal Service postmark or to obtain a legibly dated receipt from a commercial carrier or the U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.

• Applications hand carried by applicants, applicant couriers, or by overnight/express mail couriers shall be considered as meeting an announced deadline if they are received on or before the deadline date or postmarked on or before the deadline date, Monday through Friday (excluding Federal holidays), between the hours of 8:00 am and 4:30 pm at: U.S. Department of Health and Human Services, Administration for Children and Families, Division of Discretionary Grants, ACF Mailroom, 2nd Floor Loading Dock, Aerospace Center, 901 D Street, S.W., Washington, D.C. 20024. (Applicants are cautioned that express/overnight mail services do not always deliver as agreed.)

• ACF cannot accommodate transmission of applications by fax or through other electronic media. Therefore, applications transmitted to ACF electronically will not be accepted regardless of date or time of submission and time of receipt.

• No additional material will be accepted, or added to an application, unless it is postmarked by the deadline date.

2. Late Applications

Applications which do not meet the criteria above are considered late applications. ACF shall notify each late applicant that its application will not be considered in the current competition.

3. Extension of Deadlines

The Administration for Children and Families may extend an application deadline for applicants affected by acts of God such as floods and hurricanes, or when there is a widespread disruption of the mails. A determination to extend or waive deadline requirements rests with the Chief Grants Management Officer.

(Catalog of Federal Domestic Assistance Program Numbers: 93.612 Native American Programs; and 93.581 Improving the Capability of Indian Tribal Governments to Regulate Environmental Quality)

Dated: September 16, 1997.

Gary N. Kimble,

Commissioner, Administration for Native Americans.

[FR Doc. 97–25498 Filed 9–24–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97F–0388]

Cultor Food Science, Inc.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Cultor Food Science, Inc., has filed a petition proposing that the food additive regulations be amended to permit aqueous transition metal catalytic hydrogenation in the production of polydextrose and to adopt the specifications for polydextrose of the Food Chemicals Codex, 4th ed., 1996.

DATES: Written comments on the petitioner's environmental assessment by October 27, 1997.

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

FOR FURTHER INFORMATION CONTACT: Rosalie M. Angeles, Center for Food Safety and Applied Nutrition (HFS–206), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3107.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7A4556) has been filed by Cultor Food Science, Inc., 205 East 42d St., New York, NY 10017. The petition proposes to amend the food additive regulations in § 172.841 *Polydextrose* (21 CFR 172.841) to permit aqueous transition metal catalytic hydrogenation in the production of polydextrose and to adopt the specifications for polydextrose of the Food Chemicals Codex, 4th ed., 1996, pp. 297–300.

The potential environmental impact of this action is being reviewed. To encourage public participation consistent with regulations promulgated under the National Environmental Policy Act (40 CFR 1501.4(b)), the agency is placing the environmental assessment submitted with the petition that is the subject of this notice on public display at the Dockets Management Branch (address above) for public review and comment. Interested persons may, on or before October 27, 1997 submit to the Dockets Management Branch (address above) written comments. Two copies of any comments are to be submitted, except that individuals may submit one copy. Comments are to be identified with the docket number found in brackets in the heading of this document. Received comments may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday. FDA will also place on public display any amendments to, or comments on, the petitioner's environmental assessment without further announcement in the **Federal Register**. If, based on its review, the agency finds that an environmental impact statement is not required and this petition results in a regulation, the notice of availability of the agency's finding of no significant impact and the evidence supporting that finding will be published with the regulation in the **Federal Register** in accordance with 21 CFR 25.40(c).

Dated: September 9, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–25368 Filed 9–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food And Drug Administration

[Docket No. 97F–0405]

Shikoku Chemical Corp.; Filing of Food Additive Petition

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Shikoku Chemical Corp. has filed a petition proposing that the food additive regulations be amended to provide for the safe use of aluminum borate as an antistatic agent and/or antifogging agent for olefin polymers intended for use as packaging materials in contact with food.

FOR FURTHER INFORMATION CONTACT: Vir D. Anand, Center for Food Safety and Applied Nutrition (HFS–215), Food and Drug Administration, 200 C St. SW., Washington, DC 20204, 202–418–3081.

SUPPLEMENTARY INFORMATION: Under the Federal Food, Drug, and Cosmetic Act (sec. 409(b)(5) (21 U.S.C. 348(b)(5))), notice is given that a food additive petition (FAP 7B4559) has been filed by Shikoku Chemical Corp., c/o SRS International Corp., suite 1000, 1625 K St. NW., Washington DC 20006–1604. The petition proposes to amend the food additive regulations in § 178.3130 Antistatic and/or antifogging agents in food-packaging materials (21 CFR 178.3130) to provide for the safe use of aluminum borate as an antistatic and/or antifogging agent for olefin polymers complying with 21 CFR 177.1520(c) as packaging materials intended for use in contact with food.

The agency has determined under 21 CFR 25.32(i) that this action is of the 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.

Dated: September 11, 1997.

Alan M. Rulis,

Director, Office of Premarket Approval, Center for Food Safety and Applied Nutrition.

[FR Doc. 97–25430 Filed 9–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0399]

Helen A. Ballack Co. et al.; Withdrawal of Approval of 61 New Drug Applications, 8 Abbreviated Antibiotic Applications, and 36 Abbreviated New Drug Applications

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is withdrawing approval of 61 new drug applications (NDA's), 8 abbreviated antibiotic applications (AADA's), and 36 abbreviated new drug applications (ANDA's). The holders of the applications notified the agency in writing that the drug products were no longer marketed and requested that the approval of the applications be withdrawn.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Olivia A. Pritzlaff, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

SUPPLEMENTARY INFORMATION: The holders of the applications listed in the table in this document have informed FDA that these drug products are no longer marketed and have requested that FDA withdraw approval of the applications. The applicants have also,

by their request, waived their opportunity for a hearing.

Application No.	Drug	Applicant
NDA 4–526	Bal-Con Capsules	Helen A. Ballack Co., 1356 Book Bldg., Detroit, MI 48226.
NDA 6–203	Nupercaine Heavy Solution (dibucaine hydrochloride)	Novartis Pharmaceuticals Corp., 59 Rt. 10, East Hanover, NJ 07936–1080.
NDA 6–514	Benylin (diphenhydramine hydrochloride) Cough Syrup 12.5 milligrams (mg)/milliliter (mL)	Warner-Lambert Co., 170 Tabor Rd., Morris Plains, NJ 07950.
NDA 6–550	ORTHOXICOL Cough Syrup	The Upjohn Co., 7000 Portage Rd., Kalamazoo, MI 49001–0199.
NDA 6–658	Floropryl (isoflurophate ophthalmic solution) Ophthalmic Solution	Merck & Co., Inc., P.O. Box 4, BLA–20, West Point, PA 19486.
NDA 6–921	CHLOR-TRIMETON (chlorpheniramine maleate) Tablets and Syrup	Schering-Plough Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.
NDA 7–635	NPH Insulin	Merck Sharp & Dohme, Division of Merck & Co., Inc.
NDA 7–757	Gantrisin (sulfoxazole diolamine ophthalmic solution) Ophthalmic Solution	Hoffman-LaRoche, Inc., 340 Kingsland St., Nutley, NJ 07110–1199.
NDA 9–018	Hydrocortone Acetate Ophthalmic Solution and Ophthalmic Ointment	Merck & Co., Inc.
NDA 10–656	Floropryl (isoflurophate ophthalmic ointment) Ophthalmic Ointment	Do.
NDA 11–185	Reserpine Tablets USP, 0.1 mg and 0.25 mg	Zenith Goldline Pharmaceuticals, Inc., 140 Legrand Ave., Northvale, NJ 07647.
NDA 11–300	Paraflex (chlorzoxazone tablet) Caplets, 250 mg	R. W. Johnson Pharmaceutical Research Institute, 920 Rt. 202 South, P.O. Box 300, Raritan, NJ 08860–0602.
NDA 11–521	Rauwolfia Serpentine Tablets USP, 50 mg and 100 mg	Zenith Goldline Pharmaceuticals, Inc.
NDA 11–919	Otrivin (xylometazoline hydrochloride)	Novartis Pharmaceuticals, Corp., 59 Rt. 10, East Hanover, NJ 07936–1080.
NDA 17–313	Iodohippurate Sodium I–131 Injection	CIS–US, Inc., 10 De Angelo Dr., Bedford, MA 01730.
NDA 17–672	Lithonate Syrup (Lithium Citrate Syrup, USP)	Solvay Pharmaceuticals, Inc., 901 Sawyer Rd., Marietta, GA 30062.
NDA 17–792	AN–MAA, Technetium TC 99m Albumin Aggregated Kit	CIS–US, Inc.
NDA 17–996	Semilente Insulin (prompt insulin zinc suspension, USP (Beef))	Novo Nordisk Pharmaceuticals, Inc., suite 200, 100 Overlook Center, Princeton, NJ 08540–7810.
NDA 17–997	Ultralente Insulin (extended insulin zinc suspension, USP (Beef))	Novo Nordisk.
NDA 18–125	Halog (halcinonide ointment) Ointment, 0.025%	Bristol-Myers Squibb Pharmaceutical Research Institute, P.O. Box 4000, Princeton, NJ 08543–4000.
NDA 18–055	3.3% Dextrose and 0.3% Sodium Chloride Injection in Flexible Containers	Abbott Laboratories, D–389 Bldg. AP30, 200 Abbott Park Rd., Abbott Park, IL 60064–3537.
NDA 18–384	Lentard (Purified pork and beef insulin zinc suspension)	Novo Nordisk.
NDA 18–462	Ringer's Irrigation in Flexible Containers	Abbott Laboratories.
NDA 18–525	Purified beef insulin zinc suspension	Novo Nordisk.
NDA 18–526	Isophane purified beef insulin suspension	Do.
NDA 18–528	Purified pork insulin injection	Do.
NDA 18–804	Aminosyn 3.5% and 3.5%M in Flexible Containers	Abbott Laboratories.
NDA 18–875	Aminosyn 3.5% and 3.5%M in CR3 Flexible Containers	Do.
NDA 18–923	38.5% Dextrose Injection in Flexible Containers	Do.
NDA 19–065	Novolin N NPH Human Insulin Isophane Suspension (semi-synthetic)	Novo Nordisk.
NDA 19–118	Aminosyn 3.5% and 25% Dextrose Injection	Abbott Laboratories.
NDA 19–119	Aminosyn 4.25% and 25% Dextrose Injection	Do.
NDA 19–120	Aminosyn 3.5% and 5% Dextrose Injection	Do.
NDA 19–218	0.9% Sodium Chloride Injection in Plastic Vials	Do.
NDA 19–339	Heparin Sodium in 5% Dextrose Injection in CR3 Flexible Container	Do.
NDA 19–400	Aminosyn-HBC 7% in CR3 Flexible Containers	Do.
NDA 19–449	Insulatard NPH Human (human insulin (semi-synthetic) isophane suspension)	Novo Nordisk.
NDA 19–482	5% Dextrose and 0.225% Sodium Chloride Injection in 250 mL ADD-Vantage Flexible Containers	Abbott Laboratories.
NDA 19–483	5% Dextrose and 0.9% Sodium Chloride Injection in 250 mL ADD-Vantage Flexible Containers	Do.
NDA 19–484	5% Dextrose and 0.45% Sodium Chloride Injection in 250 mL ADD-Vantage Flexible Containers	Do.
NDA 19–485	Lactated Ringer's Injection in 250 mL ADD-Vantage Flexible Containers	Do.
NDA 19–486	5% Dextrose and 0.3% Sodium Chloride Injection in 250 mL ADD-Vantage Flexible Containers	Do.
NDA 19–491	Aminosyn II 3.5% in CR3 Flexible Containers	Do.
NDA 19–493	Aminosyn II 3.5M in CR3 Flexible Containers	Do.

Application No.	Drug	Applicant
NDA 19–504	Aminosyn II 4.25% w/25% Dextrose in Dual-Chamber Flexible Container	Do.
NDA 19–505	Aminosyn II 3.5% w/25% Dextrose in CR3 Dual-Chamber Flexible Container	Do.
NDA 19–506	Aminosyn II 3.5% w/5% Dextrose in CR3 Dual-Chamber Flexible Container	Do.
NDA 19–712	Aminosyn II w/Electrolytes in Dextrose Injection in 2000 mL CR3 Flexible Container	Do.
NDA 19–713	Aminosyn II in Dextrose Injection in CR3 Flexible Containers	Do.
NDA 19–714	Aminosyn II w/Electrolytes in Dextrose Injection w/Calcium in 2000 mL CR3 Flexible Container	Do.
NDA 19–837	Bretylium Tosylate in 5% Dextrose Injection in Plastic Container, PL 146	Baxter Healthcare Corp., Rt. 120 and Wilson Rd., Round Lake, IL 60073–0490.
NDA 20–043	OMNIFLOX (temafloxacin hydrochloride) Filmtab Tablets	Abbott Laboratories.
NDA 50–188	VINACTANE (sterile viomycin sulfate)	Novartis Pharms, 556 Morris Ave., Summit, NJ 07901.
NDA 50–019	Penbritin Drops	Wyeth-Ayerst Laboratories, P.O. Box 8299, Philadelphia, PA 19101–8299.
NDA 50–028	DYNAPEN (Dicloxacillin sodium menohydrate) Capsules	Bristol-Myers, U.S. Pharmaceutical Group, Evansville, IN 47721–0001.
NDA 50–029	Hetacillin Potassium, Sterile	Bristol-Myers Squibb Co., P.O. Box 4755, Syracuse, NY 13221–4755.
NDA 50–134	SYNCILLIN (phenethicillin potassium) O.S.	Bristol-Myers, U.S. Pharmaceutical Group.
NDA 50–328	Methicillin Sodium	Bristol-Myers Squibb Co.
NDA 50–378	Neohydeltrasol (neomycin sulfate/prednisolone sodium sulfate ophthalmic ointment) Ophthalmic Ointment	Merck & Co., Inc.
NDA 50–562	Azlin (azlocillin sodium)	Miles, Pharmaceutical Division, 400 Morgan Lane, West Haven, CT 06516–4175.
NDA 50–618	AMIKIN (amikacin sulfate) in 0.9% NaCL (PVC flexible containers)	Apothecon, P.O. Box 4500, Princeton, NJ 08543–4500.
AADA 60–291	Tetracycline Oral Suspension USP, 125 mg/5 mL	Purepac Pharmaceutical Co., 200 Elmora Ave., Elizabeth, NJ 07207.
AADA 62–218	Ampicillin Trihydrate, bulk drug	ACS Dobfar SpA, U.S. Agent: Interchem Corp., 120 Rt. 17 North, P.O. Box 1579, Paramus, NJ 07653–1579.
AADA 62–319	Tetracycline Hydrochloride (bulk, nonsterile)	Tianjin Pharmaceuticals Corp., U.S. Agent: Darsheng Trade & Tech. Dev. Co., Ltd., P.O. Box 1220, 655 Amboy Ave., A-wing, 1st Fl., Woodbridge, NJ 07095.
AADA 62–387	Nystatin Cream USP, 100,000 Units/g	Alpharma, U.S. Pharmaceuticals Div., Johns Hopkins Bayview Center, 333 Cassell Dr., suite 3500, Baltimore, MD 21224.
AADA 62–571	Nystatin Oral Suspension USP, 100,000 Units/mL	Do.
AADA 62–731	Nystatin Ointment USP, 100,000 Units/g	Do.
AADA 62–809	Cephalexin Capsules USP, 250 mg and 500 mg	Purepac Pharmaceutical.
AADA 62–942	Cyclacilin, bulk drug	ACS Dobfar SpA.
ANDA 70–580	Allopurinol Tablets, USP, 300 mg	Purepac Pharmaceutical.
ANDA 71–085	Betamethasone Dipropionate Lotion USP, 0.05%	Alpharma.
ANDA 71–798	Triprolidine and Pseudo-ephedrine Hydrochlorides Extended-Release Capsules, 5 mg/120 mg	KV Pharmaceutical Co., 2503 South Hanley Rd., St. Louis, MO 63144–2555.
ANDA 71–924	Clorazepate Dipotassium Capsules, 3.75 mg	Purepac Pharmaceutical.
ANDA 71–925	Clorazepate Dipotassium Capsules, 7.5 mg	Do.
ANDA 71–926	Clorazepate Dipotassium Capsules, 15 mg	Do.
ANDA 80–087	Sulfisoxazole Tablets USP, 500 mg	Do.
ANDA 80–395	Hydrocortisone Tablets, 20 mg	Do.
ANDA 83–271	Niacin Tablets, 500 mg	Do.
ANDA 84–020	Triamcinolone Tablets USP, 4 mg	Do.
ANDA 84–247	Hydrocortisone Tablets, 10 mg	Do.
ANDA 84–804	Meprobamate Tablets USP, 200 mg and 400 mg	Do.
ANDA 84–939	Chlordiazepoxide Hydrochloride Capsules USP, 10 mg	Do.
ANDA 85–144	Chlordiazepoxide Hydrochloride Capsules USP, 25 mg	Do.
ANDA 85–155	Chlordiazepoxide Hydrochloride Capsules USP, 5 mg	Do.
ANDA 85–753	Liothyronine Sodium Tablets, 50 micrograms	Bolar Pharmaceutical Co., Inc., 130 Lincoln St., Copiague, NY 11726.
ANDA 85–904	Isoproterenol Hydrochloride Inhalation Aerosol USP, 0.25%	Alpharma.
ANDA 86–110	Sustachron (Nitroglycerin Extended-release) Oral Tablets, 6.5 mg	Forest Laboratories, Inc., 909 Third Ave., New York, NY 10022–4731.
ANDA 86–112	Sustachron (Nitroglycerin Extended-release) Oral Tablets, 2.6 mg	Do.
ANDA 86–649	Sustachron (Nitroglycerin) Tablets, 10 mg	Do.
ANDA 87–110	Nitroglycerin Extended-release Capsules	KV Pharmaceutical Co.
ANDA 87–683	Pentaerythritol Tetra-nitrate Extended-release Capsules, 80 mg	Inwood Laboratories, Inc., 909 Third Ave., New York, NY 10022–4731.
ANDA 87–995	THEO–DUR (Theophylline Sustained-release Capsules) Sprinkle, 200 mg	Schering Corp., 2000 Galloping Hill Rd., Kenilworth, NJ 07033.

Application No.	Drug	Applicant
ANDA 88–015	THEO–DUR (Theophylline Sustained-release Capsules) Sprinkle, 75 mg	Do.
ANDA 88–016	THEO–DUR (Theophylline Sustained-release Capsules) Sprinkle, 125 mg	Do.
ANDA 88–022	THEO–DUR (Theophylline Sustained-release Capsules) Sprinkle, 50 mg	Do.
ANDA 88–066	Hydrocone Bitartrate and Homatropine Methylbromide Syrup, 5 mg/1.5 mg per5 mL	Halsey Drug Co., 1827 Pacific St., Brooklyn, NY 11233.
ANDA 88–112	Tripodrine (Triprolidine and Pseudoephedrine Hydrochlorides Tablets USP) 2.5 mg/60 mg	Danbury Pharmacal, Inc., 131 West St., Danbury, CT 06810.
ANDA 88–140	Chlorthalidone Tablets USP, 50 mg	Purepac Pharmaceutical.
ANDA 88–178	Hydralazine Hydrochloride Tablets, 50 mg	Do.
ANDA 88–360	Fluocinolone Acetonide Cream USP, 0.025%	Alpharma.
ANDA 88–361	Fluocinolone Acetonide Cream USP, 0.01%	Do.
ANDA 88–950	Tolbutamide Tablets, 500 mg	Purepac Pharmaceutical.
ANDA 88–997	Dexamethasone Elixir USP, 0.5 mg/5 mL	Alpharma.
ANDA 89–754	Hydrocortisone Cream USP, 2.5%	Do.
ANDA 89–840	Procainamide Hydrochloride Extended-release Tablets, 500 mg	Inwood Laboratories.

Therefore, under section 505(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 355(e)) and under authority delegated to the Director, Center for Drug Evaluation and Research (21 CFR 5.82), approval of the applications listed in the table in this document, and all amendments and supplements thereto, is hereby withdrawn, effective September 25, 1997.

Dated: September 11, 1997.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 97–25369 Filed 9–24–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Delegation of Authority

Notice is hereby given that I have delegated to the Director, Centers for Disease Control and Prevention, with authority to redelegate, the following authorities vested in the Secretary of Health and Human Services under Title XXVI of the Public Health Service Act, ''Health Care Services Program,'' and the Ryan White Care Act Amendments of 1996 (P.L. 104–146), as amended hereafter, insofar as these authorities pertain to the functions assigned to the Centers for Disease Control and Prevention:

Section 2625—CDC Guidelines for Pregnant Women

Section 2626—Perinatal Transmission of HIV Disease; Contingent Requirement Regarding State Grants Under This Part

Section 2628—Report by the Institute of Medicine

Sections 2641–2650—Formula Grants for States

Sections 2661–2667—General Provisions

Section 2675—Coordinaiton

Section 2680—Grants to States and political subdivisions of States to implement guidelines and model curriculum for health workers and public safety workers, including emergency response employees.

Sections 2681–2690—Notificaiton of Possible Exposure to Infectious Diseases

The Centers for Disease Control and Prevention and the Health Resources and Services Administration shall cooperate in the implementation of Section 2626(e).

This delegation shall be excised under the Department's existing delegation of authority and policy on regulations.

This delegation became effective upon date of signature. In addition, I have affirmed and ratified any actions taken by the Director, Centers for Disease Control and Prevention or his subordinates which involved the exercise of the authorities delegated herein prior to the effective date of the delegation.

Dated: September 15, 1997.

Donna E. Shalala,

Secretary.

[FR Doc. 97–25467 Filed 9–24–97; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[Document Identifier: HCFA–R–97]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration.

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, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Type of Information Collection Request: Reinstatement, without change, of a previously approved collection for which approval has expired; *Title of Information Collection:* Requirement to Disclose HMO Financial Information to Members and Supporting Regulations in 42 CFR 417.124; *Form No.:* HCFA–R–0097 (OMB 0938–0472); *Use:* Federally

qualified HMOs must meet the full and fair disclosure requirements at 42 CFR 417.124. It requires a written description of an HMOs benefits, coverage, procedures for obtaining benefits, circumstances under which benefits may be denied, premium rates, grievance procedures, service area, provider location(s), hours of service, participating providers, and the financial condition of the HMO. *Frequency:* On occasion; *Affected Public:* Business or other for profit, and Not for profit institutions; *Number of Respondents:* 386; *Total Annual Responses:* 386; *Total Annual Hours:* 1.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, E-mail your request, including your address, phone number, OMB number, and HCFA document identifier, 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: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 19, 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. 97–25470 Filed 9–24–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meeting of the National Institute of Dental Research Special Grants Review Committee

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Dental Research Special Grants Review Committee.

Date: October 16–17, 1997.

Time: 8:30 a.m. to Adjournment.

Place: Gaithersburg Hilton Hotel, 620 Perry Parkway, Gaithersburg, Maryland 20814.

Contact Person: Dr. William Gartland, Scientific Review Administrator, NIDR Special Grants Review Committee, Natcher Building, Room 4AN–38E, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To review and evaluate grant applications and/or contract proposals.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. 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. 93.121, Dental Research Institute; National Institutes of Health, HHS)

Dated: September 19, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25425 Filed 9–24–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; 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 Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of R13 grant (98–02).

Date: October 1, 1997.

Time: 1:00 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

This notice is being published less than fifteen days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of R01 grant (98–03).

Date: October 13, 1997.

Time: 10:00 a.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel—Review of R01 grant (98–04).

Date: October 20, 1997.

Time: 1:00 p.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Pane—Review of R01 grant (98–06).

Date: October 22, 1997.

Time: 10:00 a.m.

Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892, (teleconference).

Contact Person: Dr. Philip Washko, Scientist Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.

Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

These meetings will be closed in accordance with the provisions set forth in sections 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. 93.121, Oral Diseases and Disorders Research)

Dated: September 19, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25426 Filed 9–24–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health (NIH)

National Institute on Aging; Notice of Meeting of the Board of Scientific Counselors, National Institute on Aging

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Board of Scientific Counselors, National Institute on Aging, October 21–23, 1997 to be held at the Gerontology Research Center, Baltimore, Maryland. On Wednesday, October 22, the meeting will be open to the public for the review

of the Laboratory of Biological Chemistry from 8:20 a.m. until 12:00 noon; and from 1:00 until 4:30 p.m. On Thursday, October 23, the meeting will be open to the public for the review of the Laboratory of Neurosciences—Brain Aging Dementia Section from 8:30 until 11:30 a.m. and from 12:30 to 3:00 p.m. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in sec. 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Pub. L. 92–463, the meeting will be closed to the public on Tuesday, October 21, from 8:00 p.m. to recess; Wednesday, October 22, from 8:00 to 8:20 a.m.; from 12:00 noon to 1:00 p.m.; and from 4:30 to 5:00 p.m.; and Thursday, October 23, from 8:00 to a 8:30 a.m.; from 11:30 a.m. to 12:30 p.m.; and from 3:00 p.m. until adjournment for the review, discussion, and evaluation of individual programs and projects conducted by the National Institute on Aging, (NIA), including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. June McCann, Committee Management Officer, NIA, Gateway Building, Room 2C218, National Institutes of Health, Bethesda, Maryland 20892, (301/496–9322), will provide a summary of the meeting and a roster of committee members upon request.

Dr. Dan L. Longo, Scientific Director, NIA, Gerontology Research Center, 4940 Eastern Avenue, Baltimore, Maryland 21224 will furnish substantive program information.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Scientific Director in advance of the meeting.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: September 18, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25428 Filed 9–24–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

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 meetings:

Name of SEP: National Institute on Aging Special Emphasis Panel Healthy Aging and Senile Dementia.

Date of Meeting: October 21, 1997.

Time of Meeting: 8:00 a.m. to 5:00 p.m.

Place of Meeting: Washington University, St. Louis, Missouri.

Purpose/Agenda: To review a program project grant application.

Contact Person: Dr. Arthur D. Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of Committee: National Institute on Aging Initial Review Group Neurosciences Aging Review Committee.

Dates of Meeting: November 3–5, 1997.

Times of Meeting:

November 3—7:00 p.m. to recess
November 4—8:00 a.m. to recess
November 5—8:00 a.m. to adjournment

Place of Meeting: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Purpose/Agenda: To review grant applications.

Contact Person: Dr. Maria Mannarino and Dr. Louise Hsu, Scientific Review Administrators, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Pilot Research Grant Program in Neuroscience and Biology.

Date of Meeting: November 5, 1997.

Time of Meeting: 8:00 a.m. to adjournment.

Place of Meeting: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Purpose/Agenda: To review R03 grant applications.

Contact Person: Dr. Louise Hsu, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Pilot Research Grant Program.

Date of Meeting: November 5, 1997.

Time of Meeting: 10:30 a.m. to adjournment.

Place of Meeting: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Purpose/Agenda: To review R03 grant applications.

Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Prevention of Alzheimer's Dementia and Cognitive Decline.

Dates of Meeting: November 10–11, 1997.

Times of Meeting:

November 10—7:00 p.m. to recess
November 11—8:00 a.m. to adjournment.

Place of Meeting: Holiday Inn-Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, Maryland 20815.

Purpose/Agenda: To review one grant application.

Contact Person: Dr. Maria Mannarino, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel.

Date of Meeting: November 13, 1997.

Time of Meeting: 8:00 a.m. to 5:00 p.m.

Place of Meeting: Bethesda Holiday Inn, 5120 Wisconsin Avenue, Bethesda, Maryland 20814.

Purpose/Agenda: To review a program project grant application.

Contact Person: Dr. Arthur D. Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

These meetings 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. 93.866, Aging Research, National Institutes of Health)

Dated: September 18, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25429 Filed 9–24–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Division of Research Grants; Notice of Closed Meetings

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 Division of Research Grants Special Emphasis Panel (SEP) meetings:

Purpose/Agenda: To review individual grant applications.

Name of SEP: Clinical Sciences.

Date: October 8–10, 1997.

Time: 8:00 a.m.

Place: Holiday Inn, Chevy Chase, MD.

Contact Person: Dr. Christine Melchior, Scientific Review Administrator, 6701 Rockledge Drive, Room 4118, Bethesda, Maryland 20892, (301) 435–1713.

Name of SEP: Biological and Physiological Sciences.
Date: October 9, 1997.
Time: 12:00 p.m.
Place: NIH, Rockledge 2, Room 4212, Telephone Conference.
Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 4212, Bethesda, Maryland 20892, (301) 435–1222.

Name of SEP: Chemistry and Related Sciences.
Date: October 15, 1997.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 4170, Telephone Conference.
Contact Person: Dr. Nancy LaMontagne, Scientific Review Administrator, 6701 Rockledge Drive, Room 4170, Bethesda, Maryland 20892, (301) 435–1726.

Name of SEP: Multidisciplinary Sciences.
Date: October 23, 1997.
Time: 11:00 a.m.
Place: NIH, Rockledge 2, Room 5116, Telephone Conference.
Contact Person: Dr. Lee Rosen, Scientific Review Administrator, 6701 Rockledge Drive, Room 5116, Bethesda, Maryland 20892, (301) 435–1171.

Name of SEP: Biological and Physiological Sciences.
Date: October 27–28, 1997.
Time: 8:00 a.m.
Place: Bethesda Marriott Hotel, Bethesda, MD.
Contact Person: Dr. Nabeeh Mourad, Scientific Review Administrator, 6701 Rockledge Drive, Room 4212, Bethesda, Maryland 20892, (301) 435–1222.

Name of SEP: Biological and Physiological Sciences.
Date: November 4, 1997.
Time: 8:30 a.m.
Place: Georgetown Holiday Inn, Washington, DC.
Contact Person: Dr. Syed Quadri, Scientific Review Administrator, 6701 Rockledge Drive, Room 4132, Bethesda, Maryland 20892, (301) 435–1211.

Name of SEP: Chemistry and Related Sciences.
Date: November 13, 1997.
Time: 3:00 p.m.
Place: NIH, Rockledge 2, Room 4168, Telephone Conference.
Contact Person: Dr. John Bowers, Scientific Review Administrator, 6701 Rockledge Drive, Room 4168, Bethesda, Maryland 20892, (301) 435–1725.

Name of SEP: Biological and Physiological Sciences.
Date: November 18, 1997.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 4132, Telephone Conference.
Contact Person: Dr. Syed Quadri, Scientific Review Administrator, 6701 Rockledge Drive, Room 4132, Bethesda, Maryland 20892, (301) 435–1211.

The meetings 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 Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93,893, National Institutes of Health, HHS)

Dated: September 18, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–25427 Filed 9–24–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–26]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: November 24, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, DEPARTMENT OF HOUSING & URBAN DEVELOPMENT, 451—7th Street, SW, Room 9116; Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Rose Donnelly, telephone number (202) 708–4767 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Conveyance (Acquisition) and Disposition.

OMB Control Number: 2502–0306.

Descripton of the need for the information and proposed use:

This proposed information collection is required under under 24 CFR 203.377. The Single Family Property Disposition Sales Program is the only HUD program that disposes of single family acquired properties. Therefore, the collection information forms are unique to this program. The acquisition forms are: HUD–9516A, Initial Inspection Report, Condition of Property covers the obligation for mortgagees to inspect, preserve and protect properties; HUD–9519, Acquired Property Inspection Report, is used by the Department's property managers and/or local office staff to document all types of inspections related to contract work on acquired properties; HUD–9519A, Property Maintenance inspections; HUD–9733, Property Disposition Program Management Broker Qualification Data, is completed by prospective bidders and is used to determine the qualifications and responsibility of an applicant to be placed on HUD's bidder's mailing list for property management services. The disposition forms required in this information collection are: HUD–9544, Contract of Sale and Purchase (All Cash-Bulk Sale), sales contract specifically for the purpose of selling more than one property to a single purchaser and is completed by a real estate broker; HUD–9548, Sales Contract, used between the purchaser and HUD; HUD–9548–A, Law Enforcement Officer Certification, is an addendum to the Form HUD–9548, Sales Contract, and will be used as part of the contract between the purchaser of acquired property and HUD; HUD–9548–B, Land Use Restriction Addendum, is an addendum to the form HUD–9548, Sales Contract, and will be used a part of the contract between HUD and a nonprofit organization or unit of local government when purchasing a

property under the Officer Next Door Sales Program; HUD–9548–C, Assignment of Sales Contract, is an addendum to the form HUD–9548, Sales Contract, and will be used as part of the contract between the purchaser of a single family acquired property and HUD.

Form numbers: HUD–9516A, 9519, 9519A, 9733, 9544, 9548, 9548–A, 9548–B, 9548–C.

Members of affected public: Individuals or households; business or other for profit; not for-profit institutions; federal government and state and local or tribal governments.

An estimation of the total numbers of hours needed to prepare the information collection is 248,570, the number of respondents is varied, frequency of response is on occasion, and the hours of response is HUD–9516A (.50 hrs.); HUD–9519 (.25 hrs.); HUD–9519A (.25 hrs); HUD–99733 (.50 hrs); HUD–9544 (.50 hrs); HUD–9548 (.50 hrs.); HUD–9548–A (.17 hrs); HUD–9548–B (.17 hrs); HUD–9548–C (.17 hrs).

Status of the proposed information collection: Revision of currently approved collection.

Authority: Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35,as amended.

Dated: September 19, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–25452 Filed 9–24–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Applications for Permit

The following applicants have applied for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, *as amended* (16 U.S.C. 1531, *et seq.*):

Applicant: Edward D. Yates, Wrightsville, PA,PRT–834219.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus dorcas*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

The public is invited to comment on the following application for permits to conduct certain activities with marine mammals. The application was submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) and the regulations governing marine mammals (50 CFR 18).

Applicant: The Seattle Aquarium, Seattle, WA, PRT–834418.

Type of Permit: Take for Public Display.

Name and Number of Animals: Northern sea otter (*Enhydra l.lutris*), 1.

Summary of Activity to be Authorized: The applicant has requested a permit for the public display of a non-releasable sea otter pup that was found orphaned in Alaska, and turned over to the U.S. Fish and Wildlife Service, Office of Marine Mammals Management.

Source of Marine Mammals: Orphaned/stranded pup found near Kodiak, Alaska.

Period of Activity: Up to five years from issuance date of the permit, if issued.

Applicant: Mote Marine Laboratory, Sarasota, FL, PRT–834406.

Type of Permit: Take for Scientific Research.

Name and Number of Animals: Manatee (*Trichechus manatus*), unlimited.

Summary of Activity to be Authorized: The applicant has requested a permit to collect blood samples (approximately 20 ml each) on an opportunistic basis during regular veterinary care from manatees held in captivity at Mote Marine Laboratory, Lowry Park Zoo, Sea World of Florida, and Homosassa Springs Wildlife Park for the purpose of scientific research of the manatee cellular immune function.

Period of Activity: five years from issuance date of the permit, if issued.

Concurrent with the publication of this notice in the **Federal Register**, the Office of Management Authority is forwarding copies of the applications listed above to the Marine Mammal Commission and the Committee of Scientific Advisors for their review.

Applicant: Casper Schrepfer, Lakeside, MT, PRT–834414.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted prior to April 30, 1994, from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Applicant: Wilton Hardesty, Gunnison, CO, PRT–832902.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted prior to April 30, 1994, from the Davis Strait polar bear population, Northwest Territories, Canada for personal use.

Applicant: Edward Minto, Davison, MI, PRT–833518.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport-hunted from the Lancaster Sound polar bear population, Northwest Territories, Canada for personal use.

Written data or comments should be submitted to the Director, U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203 and must be received by the Director within 30 days of the date of this publication.

Documents and other information submitted with these applications are available for review, *subject to the requirements of the Privacy Act and Freedom of Information Act,* by any party who submits a written request for a copy of such documents to the following office within 30 days of the date of publication of this notice: U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Room 430, Arlington, Virginia 22203. Phone: (703/358–2104); FAX: (703/358–2281).

Dated: September 19, 1997.

MaryEllen Amtower,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–25378 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Draft Conservation Agreement for the Least Chub (Iotichthys phlegethontis) for Review and Comment

AGENCY: U.S. Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The Fish and Wildlife Service announces the availability for public review of a Draft Conservation Agreement for the least chub (*Iotichthys phlegethontis*). This species is proposed for Federal listing as endangered with critical habitat pursuant to the Endangered Species Act (Act) of 1973, as amended. The Conservation Agreement was developed by the Utah Department of Natural Resources, with participation from the following parties—Bureau of Land Management;

Utah Reclamation, Mitigation and Conservation Commission; Bureau of Reclamation; Central Utah Water Conservancy District; Army Corps of Engineers; and the Service. The agreement focuses on eliminating or minimizing threats to the least chub and its habitat to the greatest extent possible and on restoring and maintaining populations of least chub throughout its historical range. The Service solicits review and comment from the public on the draft agreement.

DATES: Comments on the Draft Conservation Agreement must be received on or before October 27, 1997 to be considered by the Service during preparation of the final conservation agreement and prior to the Service's determination whether it will be a signatory party to the agreement.

ADDRESSES: Persons wishing to review the Draft Conservation Agreement may obtain a copy by contacting the Field Supervisor, U.S. Fish and Wildlife Service, 145 East 1300 South, Suite 404, Salt Lake City, Utah 84115. Written comments and materials regarding the Draft Conservation Agreement also should be directed to the same address. Comments and written materials will be available upon request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Reed E. Harris, Field Supervisor (see **ADDRESSES** section) (telephone 801/524–5001).

SUPPLEMENTARY INFORMATION:

Background

The least chub is a small monotypic minnow endemic to the Bonneville Basin in Utah where it was once common and widely distributed. The distribution and abundance of least chub populations have declined steadily over the past 15–20 years, and at the time it was proposed for Federal listing as an endangered species with critical habitat, September 29, 1995 (60 FR 50518), was only known to occur within the Snake Valley in western Utah. The declines in range and abundance of least chub has been attributed to competition and predation from nonnative species and habitat loss and degradation. Shortly after the species was proposed for Federal listing, the Utah Department of Natural Resources initiated development of a Conservation Agreement, working cooperatively with other agencies, in an effort to reduce the threats affecting the least chub.

The Draft Conservation Agreement focuses on identifying, reducing and eliminating significant threats to the species that warrant its listing as an endangered species with critical habitat, and on restoring and maintaining least chub populations throughout its historical range.

Public Comments Solicited

The Service will use information received in its determination on whether it should be a signatory party to the agreement. Comments or suggestions from the public, other concerned government agencies, the scientific community, industry, or any other interested party concerning this draft document are hereby solicited. All comments and materials received will be considered prior to the approval of any final document.

Author: The primary author of this notice is Janet Mizzi (see **ADDRESSES** section) (telephone 801/524–5001).

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), the Fish and Wildlife Act of 1956, the Fish and Wildlife Service Coordination Act of 1964, and the National Memorandum of Understanding (94 (SMU–058)).

Dated: September 18, 1997.

Terry T. Terrell,

Deputy Regional Director, Denver, Colorado.

[FR Doc. 97–25414 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of a Draft Recovery Plan for the Threatened and Rare Native Fishes of the Warner Basin and Alkali Subbasin: Warner Sucker (Catostomus warnerensis) (Threatened); Hutton Tui Chub (Gila bicolor ssp.) (Threatened); Foskett Speckled Dace (Rhinichthys osculus ssp.) (Threatened); Cowhead Lake Tui Chub (Gila bicolor vaccaceps) (Candidate); Warner Valley Redband Trout (Oncorhynchus mykiss ssp.) (Special Concern)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability of the draft recovery plan for the Threatened and Rare Native Fishes of the Warner Basin and Alkali Subbasin. These fishes include the threatened Warner sucker (Catostomus warnerensis), the threatened Hutton tui chub (Gila bicolor ssp.), the threatened Foskett speckled dace (Rhinichthys osculus ssp.), the candidate Cowhead Lake tui chub (Gila bicolor vaccaceps) and the Warner Valley redband trout (Oncorhynchus mykiss ssp.) which is considered to be of special concern.

These species inhabit a wide variety of spring, stream, and lake habitats in the Warner Basin of Oregon, California, and Nevada. The Hutton tui chub inhabits a spring system in the Alkali Subbasin of Oregon. The Service solicits review and comment from the public on this draft plan.

DATES: All comments on the draft recovery plan received by November 24, 1997 will be considered by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the State Supervisor, U.S. Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Avenue, Suite 100, Portland, Oregon 97266–1398 (telephone 503–231–6179). Written comments and materials regarding the plan should be addressed to the State Supervisor, at the above address. Comments and materials received are available on request for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Mr. Antonio Bentivoglio at the above Oregon State Office address and phone number.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions necessary for the conservation of the species, establish criteria for reclassification or delisting, and estimate the time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973 (Act), as amended (16 U.S.C. 1531 *et seq.*) requires development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review be provided during recovery plan development. The Service hereby publishes a notice that the draft plan is

available for public review during a 60-day comment period.

The Warner sucker inhabits the lakes and low gradient stream reaches of the Warner Valley in southeastern Oregon. The Foskett speckled dace inhabits two springs in the Coleman subbasin of the Warner Valley. The Hutton tui chub inhabits one spring, and may inhabit a second spring, in the Alkali subbasin of the Chewaucan Basin, in southeastern Oregon. The Warner sucker was listed in September of 1985 (50 FR 39117), and critical habitat was designated at that time. The Foskett speckled dace and Hutton tui chub were listed in March of 1985 (50 FR 12305) and at that time the designation of critical habitat was determined to be imprudent.

In addition to these listed species, this plan also addresses the conservation needs of the candidate Cowhead Lake tui chub and the Warner Valley redband trout which is considered to be of special concern. The Cowhead Lake tui chub is native to Cowhead Lake, Modoc County, California, where it inhabits the seasonal waters of the lake and a nearby slough that drains the lake. The Warner Valley redband trout is native to the Warner Valley and is found in the same habitats as the Warner sucker, but also in higher gradient stream reaches upstream of the Warner sucker's habitat.

Most of these species are impacted by a variety of human induced disturbances to their habitats. Activities such as grazing of livestock, timber harvest, road construction, irrigation practices, and the stocking of non-native fish species have all contributed to the declines of, or otherwise increased the risk of extinction of, these species. Recovery and long term conservation of these species will require establishment of self-sustaining populations with adequate distribution in current habitats and, in some cases, the reestablishment of migration corridors among habitats. For spring dwelling species, conservation will additionally require securing spring water sources, research into long-term habitat management needs, and assessment of genetic threats to small populations.

Public Comments Solicited

The Service solicits written comments on the recovery plan. All comments received by the date specified above will be considered prior to the approval of the plan.

Author: The author of this notice is Antonio Bentivoglio (see Oregon State Office address above).

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: August 30, 1997.

Mike Spear,

Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. 97–25419 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–U

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for Applegate's Milk-vetch (Astragalus applegatei) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service announces the availability for public review of the Technical/Agency Draft Recovery Plan for Applegate's Milk-vetch (*Astragalus applegatei* Peck). This endangered plant is from the Lower Klamath Basin near the city of Klamath Falls, Klamath County, in southern Oregon.

DATE: Comments on the draft recovery plan received by November 24, 1997 will be considered by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, Klamath Falls Fish and Wildlife Office, 6610 Washburn Way, Klamath Falls, Oregon 97603. Requests for copies of the draft recovery plan and written comments and materials regarding this plan should be addressed to Steven Alan Lewis, Project Leader, at the above Klamath Falls office.

FOR FURTHER INFORMATION CONTACT: Barb Masinton at the Klamath Falls address above (541/885–8481).

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions considered necessary for the conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act as amended in 1988 requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during the public comment period prior to approval of each new or revised Recovery Plan. Substantive technical comments will result in changes to the plans. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plans, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

Astragalus applegatei (Applegate's milk-vetch) is endangered and is currently known from only three populations occurring in the Lower Klamath Basin near the city of Klamath Falls, Klamath County, in southern Oregon. It is restricted to flat-lying, seasonally moist, strongly alkaline soils. Although it is currently replete with introduced grasses and other weeds, the species' habitat was historically characterized by sparse, native bunch grasses and patches of bare soil. Intensive agricultural and urban development of the Klamath River floodplain has resulted in severe depletion and fragmentation of Applegate's milk-vetch habitat. The largest of the three populations continues to face attrition through industrial development on private lands. Virtually all remaining potential (undeveloped) habitat for the species has been seriously modified by a proliferation of weeds, fire suppression, flood control, and land reclamation projects involving extensive construction of drainage ditches and water retention dikes. Threats to the species are exacerbated by the small number of populations in a limited area, which increases the vulnerability of Applegate's milk-vetch to extirpation due to random mortality events. Furthermore, the smaller populations may not have enough individuals to maintain the genetic variability necessary for long-term population viability.

This plan provides a framework for the recovery of Applegate's milk-vetch so it can at least be reclassified from endangered to threatened status, and might eventually no longer need the protection by the Endangered Species Act. This plan summarizes available information about the species, reviews the threats to its continued existence, and lists management actions needed to remove these threats. Immediate actions needed to prevent extinction of Applegate's milk-vetch includes conservation of natural populations and establishment of new populations. Inventories will be conducted to attempt to find undiscovered populations and to find suitable sites to establish new populations. Habitat management will be instituted for populations of this plant, as will monitoring to determine whether populations are likely to persist. Long-term activities necessary to perpetuate this species in its natural habitats include long-term seed storage and propagation to mitigate future population losses and make it possible to maintain genetic variability in small populations that are vulnerable to inbreeding depression and/or allele fixation. Research to define population self-sustainability, improve population establishment and augmentation techniques, assess the efficacy of habitat management strategies, and evaluate the plant's soil and water requirements are all needed to help make appropriate management decisions.

Public Comments Solicited

The Service solicits written comments on the recovery plan. All comments received by the date specified above will be considered prior to approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 18, 1997.

Don Weathers,

Acting Regional Director, U.S. Fish and Wildlife Service, Pacific Region.

[FR Doc. 97–25420 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of Draft Recovery Plan for Nelson's Checker-Mallow (Oregon and Washington) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability and public comment period.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Nelson's checker-mallow (*Sidalcea nelsoniana*), listed as a threatened species on February 12, 1993 (58 FR 8242). The species occurs primarily as scattered populations in two distinct ecological regions—the northern Coast Range and the Willamette Valley of Oregon. Two outlying populations are located in the Puget Trough of Washington.

DATES: Comments on the draft recovery plan received by November 24, 1997 will be considered by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the U.S. Fish and Wildlife Service, Oregon State Office, 2600 S.E. 98th Ave., Suite 100, Portland, Oregon 97266–1398. Written comments and material regarding the plan should be addressed to the Field Supervisor at the above address. Comments and materials received are available for public inspection, by appointment, during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Dr. Andrew F. Robinson Jr., Fish and Wildlife Biologist, at the above address or by phone at 503/231–6179.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystems is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe the site specific management actions considered necessary for conservation and survival of the species, establish objectives and measurable criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice and an opportunity for public review and comment be provided during recovery plan development. The Service, and other affected Federal agencies, will take these comments into account in the course of implementing approved recovery plans.

Nelson's checker-mallow (*Sidalcea nelsoniana*) is a herbaceous perennial plant species in the mallow family (Malvaceae). Like many of the members of its genus, Nelson's checker-mallow produces mature plants that have either exclusively female flowers or perfect flowers. Nelson's checker-mallow is listed as threatened, with 59 known extant occurrences containing an estimated 27,000 individuals. The species typically occurs in or along the margins of seasonally moist, early successional valley bottom habitats of the Willamette Valley or in mountain meadows in the Oregon Coast Range.

Populations in the Willamette Valley are threatened by agriculture and urban development that has resulted in severe habitat depletion and modification, and the fragmentation of its populations into mostly small, widely-scattered patches. Successional species, primarily resulting from suppression or elimination of natural disturbances such as periodic flooding and fires, are eliminating Nelson's checker-mallow from much of its remaining habitat. In addition to land use threats, Willamette Valley populations are subject to competitive exclusion by exotic species, seed predation by weevils prior to seed dispersal, and increased vulnerability to extirpation due to small population size and genetic isolation, and lack of genetic variation within and among populations.

Land use threats are serious in the Oregon Coast Range, where the meadows occupied by Nelson's checker-mallow are isolated from agricultural and Urban development. The major land use threat in the Oregon Coast Range is inundation by a reservoir planned for Walker Creek, the site of the largest known population of the species. The habitat of several Oregon Coast Range populations is disturbed by recreational use of habitat by motorcyclists.

The objective of this plan is to provide a framework for the recovery of Nelson's checker-mallow so that its protection by the Act is no longer necessary. The plan will be made final and approved following incorporation of comments and material received during this comment period.

Public Comments Solicited

The Service solicits written comments on the recovery plan described above. All comments received by the date specified above will be considered prior to approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 14, 1997.

William F. Shake,

Acting Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–25421 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of the Draft Recovery Plan for the Pacific Pocket Mouse for Review and Comment

AGENCY: Fish and Wildlife, Interior.

ACTION: Notice of document availability.

SUMMARY: The Fish and Wildlife Service (Service) announces the availability of the draft recovery plan for the endangered Pacific pocket mouse (*Perognathus longimembris pacificus*) for public review and comment. The Pacific pocket mouse occurs on 3 small parcels on private or federal lands in coastal Orange and San Diego Counties, California. The Service solicits review and comments from the public on this draft plan.

DATES: Comments on the draft recovery plan received by November 24, 1997 will be considered by the Service.

ADDRESSES: Persons wishing to review the draft recovery plan may obtain a copy by contacting the Field Supervisor at the following address: Carlsbad Field Office, U.S. Fish and Wildlife Service, 2730 Loker Avenue West, Carlsbad, California, 92008. Telephone requests may be made by calling (760) 431–9440. Comments and material received will be available for public inspection, by appointment, during normal business hours, at the above address.

FOR FURTHER INFORMATION CONTACT: Loren R. Hays at the above address or telephone (760) 431–9440.

SUPPLEMENTARY INFORMATION:

Background

Restoring an endangered or threatened animal or plant to the point where it is again, a secure, self-sustaining member of its ecosystem is a primary goal of the U.S. Fish and Wildlife Service's endangered species program. To help guide this effort, the Service is working to prepare recovery plans for most of the listed species native to the United States. Recovery plans describe actions necessary for conservation of the species. The plans additionally establish criteria for downlisting or delisting the species and provide estimates of the time and cost of implementing the necessary recovery measures.

The Endangered Species Act of 1973, as amended (U.S.C. 1531 *et seq.*) (Act) requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that public notice be given during plan development to provide an opportunity for public review and comment. The Service will consider all significant information presented during the public comment period prior to the approval of each new or revised recovery plan. The Service and other federal agencies also will consider these comments in the course of implementing approved recovery plans.

The Pacific pocket mouse has an extremely limited distribution in coastal southern California. Less than 150 animals were detected in the 3 known populations from 1993–1995. Pacific pocket mice occur on fine-grain, sandy substrates and inhabit (or inhabited) coastal strand, coastal dunes, river alluvium, and coastal sage scrub habitats growing on marine terraces within approximately 4 kilometers (2.4 miles) of the ocean. The threats to the species include habitat destruction and fragmentation and documented depredation by cats. The conservation, protection, and management of existing populations and occupied and potential habitat are the primary goals of the recovery effort.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All significant comments received by the date specified above will be considered prior to the approval of the plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1533(f)).

Dated: August 19, 1997.

Thomas J. Dwyer,

Acting Regional Director.

[FR Doc. 97–25422 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for the Micronesian megapode (Megapodius laperouse laperouse) for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Micronesian megapode (*Megapodius laperouse laperouse*). This species is known only from the Mariana islands and is currently limited to 10 islands in this archipelago with a total population of 1,000 to 1,500 individuals.

DATES: Comments on the draft recovery plan received by December 24, 1997 will be considered by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, Pacific Islands Office, 300 Ala Moana Boulevard, room 6307, P.O. Box 50167, Honolulu, Hawaii 96850 (phone: 808/541–2749); the Northern Marianas College Library, P.O. Box 1250, Asterlaje Campus, Saipan, MP 96950 (phone: 670/234–5498, extension 1121/2); and University of Guam, RFK Memorial Library, UOG Station, Mangilao, Guam 96923 (phone: 671/734–9412). Requests for copies of the draft recovery plan and written comments and materials regarding the plan should be addressed to Brooks Harper, Field Supervisor-Ecological Services of the Pacific Islands Office at the Honolulu address given above.

FOR FURTHER INFORMATION CONTACT: Michael Lusk, Fish and Wildlife Biologist, Recovery Branch, at the Honolulu address given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States, its Territories and Commonwealths. Recovery plans describe actions considered necessary for conservation of the species, criteria for recognizing the recovery levels for downlisting or

delisting them, and initial estimates of times and costs to implement the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the plan.

Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The species being considered in this recovery plan is the Micronesian megapode (*Megapodius laperouse laperouse*). This forest bird was historically widespread throughout the Mariana islands archipelago and found on all the islands except Farrallon de Medinilla. The extinction of birds in Micronesia began 2000 to 4000 years ago with the arrival of aboriginal man. These human populations altered vegetation, introduced predatory Polynesian rats (*Rattus exulans*), hunted adult birds and gathered eggs. Decline in bird numbers continued with the arrival of Europeans in the 16th century who brought domestic livestock that caused widespread damage to native forests. At this time, predatory black (*R. rattus*) and Norway (*R. norwegicus*) rats were also introduced. Large areas were converted to agriculture during the German (1899–1917) and Japanese (1917–1944) occupations and native forest were further damaged during World War II battles. These factors, along with the appearance of other exotic competitors and predators, such as the brown tree snake (*Boiga irregularis*), have led to reduction or extirpation of megapode populations from most of the Mariana Islands. Small remnant populations persist on Aguiguan, Tinian, and Saipan, while larger populations persist on Anatahan, Guguan, Sarigan, Alamagan, Pagan, Ascuion, and Maug. Habitat loss and exotic predators, such as the brown tree snake, continue to be the greatest threats to the survival of the Micronesian megapode.

The Micronesian megapode is currently represented by populations on ten islands with a total estimate of 1,000 to 1,500 birds. The areas of emphasis for recovery actions are the ten islands with existing populations. In addition, the recovery plan recommends reintroduction of the species onto the islands of Agrihan and/or Rota.

The objective of this plan is to provide a framework for the recovery of this species so that protection by the Act is no longer necessary. Recovery efforts will focus on protection of all extant individuals from habitat loss, control of introduced competitors and predators, and preventing the spread of the brown tree snake. Further research on the reproductive ecology, territory size and habitat use, nesting requirements, demographics, and the impacts of predation and hunting is needed to ensure the long-term survival of the megapode. Recovery efforts will include augmenting existing populations and reestablishment of the species in protected areas throughout its former range.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the data specified above will be considered prior to approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 18, 1997.

Mike Spear,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–25423 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Availability of Draft Recovery Plan for the Hawaiian Hoary Bat, Lasiurus cinereus semotus, for Review and Comment

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of document availability.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces the availability for public review of a draft recovery plan for the Hawaiian hoary bat, *Lasiurus cinereus semotus.* This subspecies is known from the islands of Hawaii, Maui, Oahu, Kauai, and Molokai. Population numbers are not known, but Hawaiian hoary bats are observed regularly only on Hawaii, Kauai, and Maui, and the bat is apparently restricted in distribution on the latter two islands. There is a general lack of historic and current data on this subspecies, and its present status is not well understood.

DATES: Comments on the draft recovery plan received by December 24, 1997 will be considerated by the Service.

ADDRESSES: Copies of the draft recovery plan are available for inspection, by appointment, during normal business hours at the following locations: U.S. Fish and Wildlife Service, Pacific Islands Ecoregion, Room 3108, 300 Ala Moana Boulevard, P.O. Box 50088, Honolulu, Hawaii 96850 (phone: 808/541–3441). Requests for copies of the draft recovery plan and written comments and materials regarding the plan should be addressed to Brooks Harper, Field Supervisor-Ecological Services, U.S. Fish and Wildlife Service, Pacific Islands Ecoregion at the Honolulu address given above.

FOR FURTHER INFORMATION CONTACT: Karen Rosa, Assistant Field Supervisor-Endangered Species, at the Honolulu address given above.

SUPPLEMENTARY INFORMATION:

Background

Restoring endangered or threatened animals and plants to the point where they are again secure, self-sustaining members of their ecosystem is a primary goal of the Service's endangered species program. To help guide the recovery effort, the Service is working to prepare recovery plans for most of the listed species native to the United States, its Territories and Commonwealths. Recovery plans describe actions considered necessary for conservation of the species, establish criteria for the recovery levels for downlisting or delisting them, and estimate time and cost for implementing the recovery measures needed.

The Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act), requires the development of recovery plans for listed species unless such a plan would not promote the conservation of a particular species. Section 4(f) of the Act, as amended in 1988, requires that a public notice and an opportunity for public review and comment be provided during recovery plan development. The Service will consider all information presented during a public comment period prior to approval of each new or revised recovery plan. Substantive technical comments will result in changes to the

plan. Substantive comments regarding recovery plan implementation may not necessarily result in changes to the recovery plan, but will be forwarded to appropriate Federal or other entities so that they can take these comments into account during the course of implementing recovery actions. Individualized responses to comments will not be provided.

The subspecies being considered in this recovery plan is the Hawaiian hoary bat, *Lasiurus cinereus semotus.* It is known from the islands of Hawaii, Maui, Oahu Kauai, and Molokai. Population numbers are not known, but Hawaiian hoary bats are observed regularly only on Hawaii, Kauai, and Maui, and the bat is apparently restricted in distribution on the latter two islands. There is a general lack of historic and current data on this subspecies, and its present status is not well understood. Habitat requirements for the Hawaiian hoary bat are not well known. Bats are most often observed foraging in open areas, near the edges of native forests, or over open water. Hawaiian hoary bats roost solitarily in trees. Habitat requirements may vary seasonally, but this is not clear. Threats to this subspecies include habitat destruction (elimination of roosting sites), and possibly direct and indirect effects of predation, pesticides, introduced insects, and disease.

The objective of the actions proposed by this recovery plan is to delist the Hawaiian hoary bat. Interim goals include determining the abundance, distribution, and habitat needs of this subspecies. Interim criteria for downlisting the Hawaiian hoary bat to threatened status are also identified.

Delisting and downlisting decisions cannot be made without a basic understanding of the Hawaiian hoary bat's distribution, abundance, and habitat needs. Research addressing these questions must be undertaken prior to consideration of delisting or downlisting.

Downlisting Objectives

A widespread population of Hawaiian hoary bats must be naturally reproducing and stable or increasing in size on the island of Hawaii for a minimum of 5 consecutive years before downlisting is considered.

Delisting Objectives

Hawaiian hoary bat populations on Hawaii, Kauai, and Maui must be well-distributed, naturally reproducing, and stable or increasing in size for at least 5 consecutive years before delisting is considered.

Public Comments Solicited

The Service solicits written comments on the recovery plan described. All comments received by the date specified above will be considered prior to approval of this plan.

Authority

The authority for this action is section 4(f) of the Endangered Species Act, 16 U.S.C. 1533(f).

Dated: September 15, 1997.

Thomas J. Dwyer,

Acting Regional Director, U.S. Fish and Wildlife Service, Region 1.

[FR Doc. 97–25424 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–050–1220–00]

Closure of Public Lands

AGENCY: Bureau of Land Management.

ACTION: Closure of public lands, roads and trails in Fremont County, CO.

SUMMARY: Notice is hereby given that effective October 1, 1997 that certain public lands, including all existing roads and trails, east of Badger Creek in Fremont County are closed to all types of motor vehicle (including but not limited to 4x4, ATVs, and motorcycles) travel. The purpose of this closure is to prevent further disturbance to soils and vegetation in and near the riparian area, reduce sedimentation into Badger Creek, and stop the expansion of user-created trails in the area. This closure is made under the authority of 43 CFR 8364.1. The public lands affected by this emergency closure are specifically identified as follows: Fremont County, Colorado.

New Mexico Principal Meridian

T. 49 N., R. 10 E.,
Sec. 22 east of Badger Creek
Sec. 23 N½
Sec. 24 N½ west of BLM Road 5980
Sec. 13 S½ west of BLM Road 5980
Sec. 14 SE¼ (locally known as Bloody Gulch and/or Rattlesnake Canyon).

DATES: Effective October 1, 1997 and will remain in effect unless revised, revoked or amended.

ADDRESSES: Bureau of Land Management, Canon City District Office, 3170 East Main Street, Canon City, Colorado 81212; Telephone (719) 269–8500.

FOR FURTHER INFORMATION CONTACT: Levi Deike, Area Manager, Royal Gorge Resource Area at the above address and phone number or John Nahomenuk, Outdoor Recreation Planner, Arkansas Headwaters Recreation Area, P.O. Box 126, Salida, CO 81201; (719) 539–7289.

SUPPLEMENTARY INFORMATI0N: This closure does not apply to emergency, law enforcement, and federal or other government vehicles while being used for official or emergency purposes, or to any vehicle whose use is expressly authorized or otherwise officially approved by BLM. Violation of this order is punishable by fine and/or imprisonment as defined in 18 USC 3571. A copy of this **Federal Register** Notice and map showing the closure area is posted in the Canon City District Office and in public places in the affected area.

Stuart L. Freer,

Associate District Manager.

[FR Doc. 97–25475 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WO–220–1060–00–24 1A]

Wild Horse and Burro Advisory Board; Re-opening of Public Call for Nominations

AGENCY: Bureau of Land Management, Interior.

ACTION: Re-opening of Public Call for Nominations for the Wild Horse and Burro Advisory Board.

SUMMARY: This notice is published in accordance with Section 9(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App.). Notice is hereby given that the public call for nominations for membership on the Wild Horse and Burro Advisory Board is being re-opened for a 30-day period to ensure that all interested parties have had an adequate opportunity to submit nominations for board membership.

Any individual or organization may nominate one or more persons to serve on the Wild Horse and Burro Advisory Board. Individuals may also nominate themselves for Board membership. Nominations that have already been made do not have to be resubmitted. All nomination letters should include the name, address, profession, relevant biographic data, and reference sources for each nominee, and should be sent to the address below.

Nominations may be made for the following categories of interest:

Wild horse and burro advocacy group
Wild horse and burro research
(especially genetics and population biology)

Veterinary medicine (equine science)
Natural resources management (especially rangeland science)
Humane organization
Wildlife management
Livestock management
Public-at-large.

The specific category that the nominee will represent should be identified in the letter of nomination.

DATES: Nominations should be submitted to the address listed below no later than October 27, 1997.

FOR FURTHER INFORMATION CONTACT: Jim Fox, Bureau of Land Management, LS 314, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 452–7744. Internet: j1fox@wo.blm.gov.

SUPPLEMENTARY INFORMATION: The purpose of the Wild Horse and Burro Advisory Board will be to advise the Secretary of the Interior, the Director of the Bureau of Land Management, the Secretary of Agriculture, and the Chief of the Forest Service on matters pertaining to management and protection of wild free-roaming horses and burros on the Nation's public lands.

Board membership shall be balanced in terms of categories of interest represented. Each member will be a person who, as a result of training and experience, has knowledge or special expertise that qualifies him or her to provide advice from among the categories of interest listed above. Pursuant to Section 7 of the Wild Free-Roaming Horse and Burro Act, members of the Board shall not be employees of Federal or State Government.

Members will serve without salary, but will be reimbursed for travel and per diem expenses at current rates for Government employees.

The Board will meet no less than two times annually. Additional meetings may be called by the Director, Bureau of Land Management, in connection with special needs for advice.

Dated: September 19, 1997.

Tom Fry,

Acting Director.

[FR Doc. 97–25469 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–020–1020–00]

Notice of Meeting

AGENCY: Bureau of Land Management (BLM), Montana, Miles City District, Interior.

ACTION: Notice of meeting.

SUMMARY: The Miles City District Resource Advisory Council will have a meeting Wednesday, October 22, 1997 at 8:00 a.m. at the Big Horn Restaurant meeting room in Lovell, Wyoming. On October 23 the Council will participate in a field trip to the Pryor Mountains.

Topics of discussion at the meeting will be an overview of the management and gather plan for the Pryor Mountain Wild Horse Range, access, and updates on current BLM projects including the alluvial valley floor coal exchange.

The meeting is open to the public and the public comment period is set for 12:30 p.m. The public may make oral statements before the Council or file written statements for the Council to consider. Depending on the number of persons wishing to make an oral statement, a per person time limit may be established. Summary minutes of the meeting will be available for public inspection and copying during regular business hours.

FOR FURTHER INFORMATION CONTACT: Marilyn Krause, Public Affairs Specialist, Miles City District, 111 Garryowen Road, Miles City, Montana 59301, telephone (406) 233–2831.

SUPPLEMENTARY INFORMATION: The purpose of the Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management. The 15 member Council includes individuals who have expertise, education, training or practical experience in the planning and management of public lands and their resources and who have a knowledge of the geographical jurisdiction of the Council.

Dated: September 17, 1997.

Timothy M. Murphy,

District Manager.

[FR Doc. 97–25472 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF INTERIOR

Bureau of Land Management

[CO–070–1230–00]

Castle Peak Area Travel Management Designations and Use Restrictions

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of change in off highway vehicle use designations, and area closure and use restrictions.

SUMMARY: Notice is hereby given on changes in the off highway vehicle use designations and travel related rules of conduct on approximately 119,631 acres of public land administered by the Grand Junction District, Glenwood Springs Resource Area of the Bureau of Land Management. This order closes public lands in the Bull Gulch and Castle Peak Wilderness Study Areas to use and operation of all motorized and mechanized vehicles, limits use of said vehicles to designated routes on all other public lands in the Castle Peak planning area, and prohibits use of motorized vehicles in specified areas during the fall and winter seasons. The motorized and mechanized travel designations and use restrictions are established pursuant 43 CFR 8341.2(a), and 43 CFR 8464.1. These designations and use restrictions modify current designations established in the Glenwood Springs Resource Area Resource Management Plan, record of decision signed in January 1984, and supersede general rules of conduct for recreational use of public lands in the affected area.

The affected public lands are bounded by the Colorado River, Eagle River and Highway 131 and are located in Townships 2, 3, 4, and 5 South, Ranges 83, 84, 85 and 86 West of the 6th Principal Meridian, Eagle County, Colorado.

EFFECTIVE DATES: The designations will be effective as of the date of approval of the Castle Peak Travel Management Plan. The use restrictions shall be effective as of September 15, 1997 until rescinded or modified by the Authorized Officer.

SUPPLEMENTARY INFORMATION: Public lands in the Castle Peak area contain important and fragile resource values and provide a variety of outdoor recreational opportunities. Changes in the current travel designations are needed to protect erosive soils, wintering wildlife habitat, sensitive water quality management areas, cultural resources, important scenic values, semi-primitive non-motorized settings, and wilderness values. Growing recreational use in the area is expected to continue, and travel management is needed to prevent conflicts between users and unacceptable impacts on resource values, while continuing to provide a variety of recreational opportunities.

These travel designations and use restrictions are the result of the Castle Peak Travel Management Plan. Public comments were received throughout the planning process beginning in April 1996, which included scoping of the issues and potential solutions, review of alternatives and the plan proposed in September 1996, and review of the final plan with record of decision approved

by the Colorado State Director on August 8, 1997. Comments were received from users, adjacent landowners, interest groups, the Colorado Division of Wildlife and other State and local agencies.

The areas, roads and trails affected by this order will be posted with appropriate regulatory signs. Information including maps of the restricted areas and travel management designations is available in the Resource Area Office and District Office at the addresses shown below.

The Castle Peak Area described herein will be subject to the following designations, closures and use restrictions:

A. Closed Designation

Use and operation of all motorized and mechanized vehicles including mountain bikes and snowmobiles operating over snow shall be prohibited year round within the following areas:

(1) Bull Gulch Wilderness Study Area—15,201 acres located 8 miles north of the Town of Gypsum in all or portion of T2S R85W Secs. 21, 28, 32, 33; T3S R85W Secs. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 28, 29, 30, 31, 32; T3S R86W Secs. 24; T4S R85W Secs. 3, 4, 5, 6, 8, 9, 10.

(2) Castle Peak Wilderness Study Area—12,237 acres located 9 miles north of the Town of Eagle in all or portion of T3S R84W Secs. 5, 6, 7, 8, 9, 10, 11, 15, 16, 17, 18, 19, 20, 21, 22, 23, 26, 27, 28, 29, 30, 33, 34 and 35.

B. Limited Designation

All travel by motorized and mechanized vehicles, except snowmobiles operating over snow, is limited to designated routes year-round on all public lands not otherwise closed. Motorized and mechanized travel off the designated routes is prohibited.

C. Fall Limitation

Between October 1 and April 30 annually, use and operation of all motorized vehicles, including snowmobiles operating over snow, is prohibited on the following routes. This fall limitation does not restrict non-motorized travel on these routes.

1. Stagecoach Trail (Route #8535) and related spurs: 5.1 miles of route located 2 miles southwest of McCoy in T2S, R84W Secs. 10, 11, 12, 13 and 24.

2. Domantle Road (Route #8513) and related spurs: 3 miles of route located 11 miles northeast of the Town of Eagle in T3S R 84 W Secs. 11, 12, and 13.

D. Winter Limitation

Between December 1 and April 30 annually, all motorized vehicle use, including snowmobiles operating over snow, is prohibited on and off the roads and trails on public lands in the following areas and on all routes therein. This winter limitation does not restrict non-motorized travel, or any travel on county roads.

(1) Cottonwood Creek: 11,768 acres west of Eby Creek, northwest of the Town of Eagle in all or portion of T4S R84W Secs. 6, 7, 8, 17, 18, 19, 20, 29, 30, 31, and 32; T4S R85W Secs. 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36.

(2) Red Canyon: 5,451 acres east of Eby Creek and west of Milk Creek, northeast of the Town of Eagle in all or portion of T4S R83W Secs. 5, 7, 8 and 18; T4S R84W Secs. 8, 13, 14, 15, 17, 20, 21, 22, 23, 24, 26, 27, 28, 29, 32, and 33.

(3) Bocco Mountain: 3,117 acres east of Milk Creek, north of the Eagle River to Alkali Creek and west of Highway 131, northeast of Wolcott in all or portion of T3S R83W Secs. 27, 28, 32, 33 and 34; T4S R83W Secs. 3, 4, 5, 8, 9 and 10.

(4) Domantle-Boore Flats: 10,134 acres north of Alkali Creek, south of Pisgah Mountain and east of the Winter Ridge Road, southeast of Burns in all or portion of T2S R83W Secs. 30, 31, 32; T2S R84W Secs. 24, 25, 26, 27, 28, 29, 30, 31, 32, 34, 35 and 36; T3S R83W Secs. 6, 7, and 18; T3S R84W Secs. 1, 2, 3, 4, 5, 9, 10, 11, 12, 13, and 14.

(5) Pisgah Mountain-Windy Point Area: 15,849 acres south of the Colorado River, west of Highway 131 to Big Alkali Creek, south of McCoy in all or portion of T2S R83W 7, 8, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, 33, 34, 35, 36; T2S R84W Secs 1, 2, 3, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, and 28.

(6) Black Mountain: 7,536 acres south of the Colorado River, west of the Winter Ridge Road to the Bull Gulch area near Burns in all or portion of T2S R84W Secs. 17, 18, 19, 30, 31; T2S R85W Secs. 13, 14, 22, 23, 24, 25, 26, 27, 28, 33, 34, 35, and 36.

E. Motorized Routes

Open to use and operation of all motorized vehicles including motorcycles, all terrain vehicles, four wheel drive vehicles and snowmobiles, subject to the conditions of use in 43 CFR 8341. Also open to non-motorized travel including mountain bikes, foot and horseback or pack animal unless otherwise restricted.

F. Single Track Motorized Routes

Use and operation of motorized vehicles over 40'' in width is prohibited. Open to use of motorcycles and snowmobiles operating over snow and mountain bikes unless otherwise closed.

G. Non Motorized Routes

Use and operation of all motorized vehicles is prohibited. Open to all non-motorized travel year round including mountain bikes, unless otherwise closed.

Persons who are exempt from these restrictions include any Federal, State, or local officers engaged in fire, emergency and law enforcement activities; BLM employees engaged in official duties, and other persons specifically authorized to conduct or engage in the otherwise prohibited use or activity. These designations and use restrictions do not apply to use of county roads or private lands.

The environmental impacts of these designations and use restrictions are described in the Castle Peak Travel Management Plan Environmental Assessment No. CO–078–07–49.

Penalties

Violations of this closure and restriction order are punishable by fines not to exceed $1,000 and/or imprisonment not to exceed 12 months.

FOR FURTHER INFORMATION CONTACT: Michael S. Mottice, Area Manager, Glenwood Springs Resource Area, 50629 Highway 6/24, P.O. Box 1009, Glenwood Springs, CO 81602; (970) 947–2800. Mark Morse, District Manager, Grand Junction District, 2815 H Road, Grand Junction, Colorado 81506; (970) 244–3000.

Mark Morse,

Grand Junction District Manager.

[FR Doc. 97–25474 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–020–5410–A153] AZA 30011; [AZ–020–5410–A152] AZA 30354]

Notice of Segregation

SUMMARY: An application for the conveyance of federally-owned minerals has been filed for the federally-owned mineral interests in the following described lands, under the provisions of 43 U.S.C. 1719:

Gila and Salt River Meridian, Arizona

T. 4 S., R. 13 E.,
Sec. 33, SE¼, W½.
T. 6 S., R. 15 E.,

Sec. 33.

Aggregating 1,120 acres.

Upon publication in the **Federal Register**, the mineral interests owned by the United States in the land described above will be segregated from appropriation under the public land laws, including the mining laws. The segregation will terminate upon issuance of a patent for the mineral interests, rejection of the application, or 2 years from the date of publication, whichever comes first.

FOR FURTHER INFORMATION CONTACT: Laura Wood, Land Law Examiner, Arizona State Office, Bureau of Land Management (602) 417–9360.

Dated: September 11, 1997.

Mary Jo Yoas,

Supervisor, Lands and Minerals Operations.

[FR Doc. 97–25476 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–010–1430–00; COC60563]

Realty Action: Sale Of Public Land In Grand County, Colorado

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Realty Action.

SUMMARY: The following public lands in Grand County, Colorado have been examined and found suitable for direct sale under section 203 and 209(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713 & 1719), at not less than the appraised fair market value. The mineral interest will be included in the sale.

Affected Public Lands:

Sixth Principal Meridian, Colorado

T. 1S., R. 76W.,
Sec. 20, NW¼SE¼;
Sec. 21, NW¼SW¼.

The lands described above contains 80 acres more or less.

FOR FURTHER INFORMATION CONTACT: Information concerning this sale is available for review by contacting Madeline Dzielak at the Kremmling Resource Area Office at P.O. Box 68, Kremmling, Colorado 80459, (970) 724–3437.

SUPPLEMENTARY INFORMATION: Publication of this notice in the **Federal Register** segregates the public land from the operation of the public land laws, including the mining laws, for a period of 270 days from the date of publication of this notice. The land will be segregated as specified above unless the sale is cancelled or completed prior to that date.

The following reservations, will be made in a patent issued for the public lands:

1. A reservation to the United States of a right-of-way for ditches and canals constructed by authority of the United States, pursuant to the Act of August 30, 1890 (43 U.S.C. 945).

For a period of 45 days from the date of this notice, interested parties may submit comments to the Area Manager, Kremmling Resource Area Office, Bureau of Land Management, P.O. Box 68, Kremmling, Colorado 80459. Any adverse comments will be evaluated by the State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

Dated: September 3, 1997.

Mark T. Morse,

District Manager.

[FR Doc. 97–25405 Filed 9–24–97; 8:45 am]

BILLING CODE 1430–CO–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–00]

Filing of Plats of Survey; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2135 Butano Drive, Sacramento, CA 95825–0451, (916) 978–4310.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Humboldt Meridian, California

Tps. 3 & 4 N., Rs. 1 E. and 1 W.—Dependent resurvey and tract survey (Group 1300), accepted August 29, 1997, to meet certain administrative needs of the BLM, Arcata Resource Area.

Mount Diablo Meridian, California

T. 29 S., R. 40 E.—Supplemental plat of a portion of section 35, accepted August 7, 1997, to meet certain administrative needs of the BLM, California Desert District, Ridgecrest Resource Area.

T. 6 N., R. 14 E.—Corrective dependent resurvey and subdivision (Group 1257), accepted August 12, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

T. 26 S., R. 10 E.—Dependent resurvey and subdivision (Group 1219), accepted August 25, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Caliente Resource Area.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: September 15, 1997.

Lance J. Bishop,

Chief, Branch of Cadastral Survey.

[FR Doc. 97–25406 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–931–1430–01; F–92350]

Notice of Proposed Extension of Withdrawal and Transfer of Jurisdiction; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The General Services Administration has filed an application for the Extension of Withdrawal and Transfer of Jurisdiction from the U. S. Department of the Treasury, Bureau of Customs, to the General Services Administration for approximately 10 acres of land known as the Poker Creek Border Station. The land is withdrawn from all forms of appropriation under the public land laws by Public Land Order No. 5645. The land will be administered by the General Services Administration, and used jointly with the Bureau of Customs and the Immigration and Naturalization Service as a border inspection station to aid in the enforcement of the Customs and Immigration laws.

DATE: Comments and requests for a public meeting must be received by December 24, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Alaska State Director, BLM Alaska State Office,

222 West 7th Avenue, No. 13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION CONTACT: Robbie J. Havens, BLM Alaska State Office, 907–271–5477.

SUPPLEMENTARY INFORMATION: On August 28, 1997, the General Services Administration filed an application to transfer jurisdiction and extend the existing land withdrawal made by Public Land Order No. 5645 for 20 years, pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, U.S.C. 1714 (1994). The land is described as follows:

Copper River Meridian

A parcel of land located within the S½S½ of sec. 25, T. 27 N., R. 22 E., more particularly described as:

Beginning at the intersection of the Alaska-Canada International Boundary with the centerline of the road between Boundary, Alaska, and Dawson, Yukon, at approximate latitude 64°05.1″ N., longitude 141°00″ W.;

Thence South along the International Boundary 330 feet to corner No. 1;

Thence West 660 feet to corner No. 2;

Thence North 660 feet to corner No. 3;

Thence East 660 feet to corner No. 4 on the Alaska-Canada International Boundary;

Thence South on said International Boundary 330 feet to the point of beginning.

The area described contains approximately 10 acres.

The purpose of the withdrawal is to protect the Poker Creek Border Station. The withdrawal segregates the land from settlement, sale, location, or entry, under all of the general land laws, including the mining laws, as provided by Public Land Order No. 5645. No change is proposed in the purpose of the withdrawal.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, or desire a public meeting in connection with the proposed withdrawal extension and transfer of jurisdiction, may present their views in writing to the Alaska State Director of the Bureau of Land Management at the address indicated above.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

Dated: September 19, 1997.

Donald W. Baggs,

Lands and Minerals Group Supervisor, Division of Lands, Minerals, and Resources.

[FR Doc. 97–25418 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA 30353]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 7,040 acres of National Forest System land to protect the Diamond Rim Recreational Mining Collection Area. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System land.

DATES: Comments should be received on or before December 24, 1997.

ADDRESSES: Comments should be sent to the Forest Supervisor, Tonto National Forest, 2324 E. McDowell Road, Phoenix, Arizona 85006.

FOR FURTHER INFORMATION CONTACT: Karyn Harbour, Tonto National Forest, 602–225–5200, or Rod Byers, Payson Ranger District, 520–474–7900.

SUPPLEMENTARY INFORMATION: On August 13, 1997, the United States Department of Agriculture filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

Tonto National Forest

T. 11 N., R. 11 E.,
- Sec. 1;
- Sec. 2;
- Sec. 3;
- Sec. 10;
- Sec. 11;
- Sec. 12;
- Sec. 13;
- Sec. 14;
- Sec. 15, NW¼;
- Sec. 23, N½N½;
- Sec. 24, N½.

T. 11½ N., R. 11 E.,
- Sec. 34;
- Sec. 35, W½, and SE¼;
- Sec. 36, SW¼.

The area described contains 7,040 acres in Gila County.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing to the Forest Supervisor of the Tonto National Forest.

Notice is hereby given that a public meeting in connection with the proposed withdrawal will be held at a later date. A notice of time and place will be published in the **Federal Register** and a newspaper in the general vicinity of the lands to be withdrawn at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Michael A. Ferguson,

Deputy State Director, Resources Division.

[FR Doc. 97–25478 Filed 9–24–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF JUSTICE

Sunshine Act Meeting

United States Parole Commission

Record of Vote of Meeting Closure (Public Law 94–409) (5 U.S.C. 552b)

I, Michael J. Gaines, Chairman of the United States Parole Commission, was present at a meeting of said Commission which started at approximately nine-thirty a.m. on Wednesday, September 17, 1997 at 5550 Friendship Boulevard, Chevy Chase, Maryland 20815. The purpose of the meeting was to decide four appeals from the National Commissioners' decisions pursuant to 28 CFR Section 2.27. Three Commissioners were present, constituting a quorum when the vote to close the meeting was submitted.

Public announcement further describing the subject matter of the meeting and certifications of General Counsel that this meeting may be closed by vote of the Commissioners present were submitted to the Commissioners prior to the conduct of any other business. Upon motion duly made, seconded, and carried, the following Commissioners voted that the meeting be closed: Michael J. Gaines, Edward F. Reilly, Jr., and John R. Simpson.

In witness of whereof, I make this official record of the vote taken to close this meeting and authorize this record to be made available to the public.

Dated: September 19, 1997.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 97–25691 Filed 9–23–97; 3:58 pm]

BILLING CODE 4410–01–M

OFFICE OF MANAGEMENT AND BUDGET

Office of Federal Procurement Policy

Policy Letter on Procurement System Education, Training and Experience Requirements for Acquisition Personnel

AGENCY: Executive Office of the President, Office of Management and Budget (OMB), Office of Federal Procurement Policy (OFPP).

ACTION: OFPP is issuing a Policy Letter on ''Procurement System Education, Training and Experience Requirements for Acquisition Personnel.''

SUMMARY: Section 37(b)(3) of the Office of Federal Procurement Policy Act, as amended, 41 U.S.C. § 401, *et seq.*, requires the Administrator for Federal Procurement Policy to issue policies to promote uniform implementation of a program to provide for improvements in the quality of the Government's acquisition workforce, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission. To the extent practicable, the policies set forth in this Policy Letter are comparable to those established for acquisition personnel in the Department of Defense (DOD) who are subject to the Defense Acquisition Workforce Improvement Act (Chapter 87 of title 10, United States Code).

Pursuant to Section 37 of the OFPP Act, the Administrator established a working group consisting of Senior Procurement Executives of the major civilian agencies to make recommendations concerning a program to improve the quality of the non-DOD acquisition workforce. The policies and procedures set forth in this Policy Letter represent the culmination of that effort.

FOR FURTHER INFORMATION CONTACT: Richard C. Loeb, Executive Secretary, Office of Federal Procurement Policy (telephone: 202–395–3254). The address is Office of Federal Procurement Policy, 725 17th Street, NW, Room 9001, Washington, DC 20503. To obtain a copy of this Policy Letter, please call the Executive Office of the President's Publication Office at (202) 395–7332.

Dated: September 12, 1997.

Steven Kelman,

Administrator.

Policy Letter No. 97–01

To the Heads of Civilian Executive Departments and Agencies

Subject: Procurement System Education, Training and Experience Requirements for Acquisition Personnel

1. Purpose

The purpose of this Letter is to implement Section 37 of the Office of Federal Procurement Policy Act, as amended (hereafter referred to as the Act).

2. Authority

These policies and procedures are issued pursuant to Section 37(b)(3) of the Office of Federal Procurement Policy (OFPP) Act, as amended, (41 U.S.C. 401 *et seq.*), which directs the Administrator, Office of Federal Procurement Policy, to issue policies to promote uniform implementation of Section 37 of the Act by executive agencies, with due regard for differences in program requirements among agencies that may be appropriate and warranted in view of the agency mission.

3. Background

Beginning with the report of the Commission on Government Procurement in 1972, every major study of the Federal acquisition process has recommended improvements in the management of the acquisition workforce, because ''people are the most critical part of any effective procurement process''. Subsequently, Congress directed every Federal department and agency to develop and maintain a procurement career management program to ensure an adequate professional workforce (section 16(4) of the Act). In Section 6(d)(5) of the Act, Congress further directed the OFPP Administrator, through the Federal Acquisition Institute (FAI), to foster and promote the development of a professional acquisition workforce Government-wide. Pursuant to these statutory mandates, OFPP Policy Letter 92–3 (implemented in section 1.603–1 of the Federal Acquisition Regulation) establishes Government-wide policies and standards for skill-based training in performing contracting duties and tasks. In 1990 Congress passed the Defense Acquisition Workforce Improvement Act (DAWIA) which established education, training and experience requirements for entry and advancement in the acquisition career field within the Department of Defense (DOD). In 1996, Congress amended the OFPP Act to establish comparable education, training, and experience requirements for civilian agencies.

4. Applicability

This Letter applies to all executive agencies, except those subject to the Defense Acquisition Workforce Improvement Act (chapter 87 of title 10, United States Code).

5. Responsibility for Acquisition Career Management Programs

Subject to the authority, direction, and control of the head of an executive agency, the Senior Procurement Executive of the agency shall carry out all powers, functions, and duties of the head of the agency with respect to implementation of this Letter. The Senior Procurement Executive shall ensure that the policies of the head of the agency, established in accordance with this Letter, are implemented throughout the agency.

6. Establishment of Agency-wide Policies and Procedures

Agency heads, after consultation with the OFPP Administrator, shall establish department or agency-wide policies and procedures pursuant to the provisions of the Act. The Senior Procurement Executive of each affected agency shall advise the Administrator, within 180 days from the date of this Letter, on agency plans for issuing such policies and procedures for the effective management (including accessions, education, training and career development) of the acquisition workforce. Agency heads, unless otherwise advised by the OFPP Administrator within thirty (30) days after such notification, shall proceed with planned implementation activities. To the maximum extent practicable, these acquisition workforce policies and procedures shall be uniform in their implementation throughout the agency. The head of each department and agency shall issue such policies and procedures by May 1, 1998.

7. Workforce Coverage

For purposes of this Letter, the acquisition workforce of an agency includes:

a. All positions in the General Schedule (GS–1102) Contracting Series and non-DOD uniformed personnel in comparable positions.

b. All Contracting Officers regardless of General Schedule series with authority to obligate funds above the micropurchase threshold.

c. All positions in GS–1105 Purchasing Series.

d. All Contracting Officer Representatives/Contracting Officer Technical Representatives, or equivalent positions.

The Administrator of the Office of Federal Procurement Policy will consult with the agencies in the identification of other acquisition related positions.

8. Management Information System

Agencies are required to collect and maintain standardized information on implementation of the provisions of section 37 of the Act. The Federal Acquisition Institute will work with the agencies and the Office of Personnel Management to establish and prescribe standard data elements for the purposes of this statutory requirement. To the maximum extent practicable, such management information systems will conform to the standards established by the Office of Personnel Management for the Central Personnel Data File. These systems shall include a data element on waivers under paragraph 9.g. of this Letter.

9. Career Development

a. Career Paths—Agencies shall identify and publish model career paths or ''road maps'' to ensure that contracting and other personnel interested in pursuing careers in contracting are knowledgeable of the education, training, and experience requirements for employment, progression and advancement to the most senior positions in the contracting field within the agency.

b. Critical Skills—For each career path, the critical acquisition-related duties and tasks employees must be competent to perform at the full performance and senior levels shall be established by the agencies and shall include coverage of duties and tasks as identified by the Director of the Federal Acquisition Institute. OFPP Policy Letter 92–3 established Government-wide standards for these purposes.

c. Mandatory Education—The education requirements for acquisition positions are established by the OFPP Administrator, in coordination with the Office of Personnel Management, as prescribed by section 37(g) of the Act. The education requirements for GS–1102 positions have been established in coordination with the Office of Personnel Management.

d. Mandatory Training and Experience—Experience requirements for GS–1102 positions are identified in the OPM Contract Specialist (GS–1102) Qualification Standard. In addition to the following mandatory training, agencies may require assignment-specific training for personnel in selected positions, as appropriate:

(1) All personnel in the GS–1102 Contracting Series and Contracting Officers (regardless of General Schedule Series) with authority to obligate funds above the micropurchase threshold shall complete the mandatory and related on-the-job training, as prescribed in OFPP Policy Letter 92–3.

(2) All Personnel in the Purchasing occupational series (General Schedule Series 1105), other civilian and uniformed personnel performing purchasing duties, and individuals with contracting authority at or below the simplified acquisition threshold, or with authority to place delivery orders at any dollar level, shall complete training in acquiring goods and services under FAR Part 13 and placing delivery orders.

(3) Contracting Officer Representatives/Contracting Officer Technical Representatives (CORs/COTRs)—The core training for CORs/COTRs must cover the competencies as contained in the FAI COR/COTR Workbook. Agencies may consider any training methodology to satisfy this requirement, i.e., classroom, correspondence, computer-based instruction, etc.

(4) Other acquisition related occupations—Training for these participants in the procurement process will be established as such occupations are identified by the OFPP Administrator.

e. Skills Currency—Agencies shall establish policies that require an equivalent of at least 40 hours of continuing education or training every two years for contract specialists (GS–1102 series) and Contracting Officers who have satisfied the mandatory and agency/assignment-specific training for the purpose of maintaining currency of acquisition knowledge and skills. This may include, but is not limited to, agency sponsored training and management/executive seminars, special job and/or professional association related projects and/or participation in seminars/workshops, or other appropriated developmental activities.

f. Tuition Assistance—The head of an executive agency may provide tuition reimbursement in education (including a full-time course of study leading to a degree) in accordance with section 4107 of title 5, United States Code, for personnel serving in acquisition positions in the agency.

g. Waiver Authority for GS–1102 Education Requirements. The agency Senior Procurement Executive may, based on demonstrated analytical and decision making capabilities, job performance, and qualifying experience, waive one of the two sets of education requirements for an applicant for a GS–13 and above position based on a certification (see Contract Specialist (GS–1102) Qualification Standard) that the applicant possesses significant potential for advancement to levels of greater responsibility and authority. This waiver should be utilized only in rare and unusual circumstances, i.e., when there are no qualified candidates readily available. The use of this authority should be adequately documented and exercised on a case-by-case basis.

h. Funding Levels—The head of an executive agency shall set forth separately the funding levels requested for education and training of the acquisition workforce in the budget justification documents submitted in support of the President's budget submitted to Congress under section 1105 of title 31, United States Code. Funds appropriated for education and training under this section may not be obligated for any other purpose. [1]

i. Program Evaluation—The OFPP Administrator shall evaluate the implementation of these provisions by executive agencies.

10. FAI Responsibilities

The OFPP Administrator is responsible for providing for and directing the activities of the FAI. The FAI is in turn responsible for a wide range of career management support activities associated with maintaining the inventory of acquisition personnel competencies for use by Federal and private sector education and training communities and providing specific and general technical assistance to Federal agencies in improving the quality of the acquisition workforce.

As courseware (including Workbooks) are developed and/or updated, these products will be made available through the FAI Homepage. The FAI Homepage address is: http://www.gsa.gov/staff/v/training.htm. The FAI specific responsibilities relating to the provisions of this Letter are to:

a. Foster and promote the development of a professional acquisition workforce;

b. Promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to acquisition by the executive agencies;

c. Collect and analyze acquisition workforce data from the Office of

[1] Section 433(h), Title 41 U.S.C.

Personnel Management, the heads of executive agencies and, through periodic surveys of individual employees;

d. Periodically analyze acquisition career fields to identify critical competencies, duties, tasks, and related academic prerequisites, skills, and knowledge;

e. Coordinate and assist agencies in identifying and recruiting highly qualified candidates for acquisition fields;

f. Develop instructional material for acquisition personnel in coordination with private and public acquisition colleges and training facilities;

g. Evaluate the effectiveness of training and career development programs for acquisition personnel;

h. Promote the establishment and utilization of academic programs by colleges and universities in acquisition fields;

i. Facilitate, to the extent requested by agencies, interagency intern and training programs; and

j. Perform other career management and research functions as directed by the Administrator.

11. Information Contact

Questions regarding this Policy Letter should be directed to Richard C. Loeb, Executive Secretary, Office of Federal Procurement Policy, 202–395–3254, facsimile, 202–395–5105. The address is Office of Federal Procurement Policy, 725 17th Street, NW, Washington, DC 20503.

12. Judicial Review

This Policy Letter is not intended to provide a constitutional or statutory interpretation of any kind and it is not intended, and should not be construed, to create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any persons. It is intended only to provide policy guidance to agencies in the exercise of their discretion concerning Federal contracting. Thus, this Policy Letter is not intended, and should not be construed, to create any substantive or procedural basis on which to challenge any agency action or inaction on the ground that such action or inaction was not in accordance with this Policy Letter.

13. Effective Date

This Policy Letter is effective 30 days after the date of issuance.

Steven Kelman,

Administrator.

[FR Doc. 97–25393 Filed 9–24–97; 8:45 am]

BILLING CODE 3110–01–P

NATIONAL COUNCIL ON DISABILITY

Sunshine Act Meeting

TYPE: Quarterly Meeting.

AGENCY: National Council on Disability.

SUMMARY: This notice sets forth the schedule and proposed agenda of the forthcoming quarterly meeting of the National Council on Disability. Notice of this meeting is required under Section 522b(e)(1) of the Government in the Sunshine Act, (P.L. 94–409).

DATES: November 3–5, 1997, 8:30 a.m. to 5:00 p.m.

LOCATION: Sheraton City Centre Hotel, 1143 New Hampshire Avenue, NW., Washington, DC 20037; 202–775–0800.

FOR INFORMATION CONTACT: Mark S. Quigley, Public Affairs Specialist, National Council on Disability, 1331 F Street NW, Suite 1050, Washington, D.C. 20004–1007; 202–272–2004 (Voice), 202–272–2074 (TTY), 202–272–2022 (Fax).

AGENCY MISSION: The National Council on Disability is an independent federal agency composed of 15 members appointed by the President of the United States and confirmed by the U.S. Senate. Its overall purpose is to promote policies, programs, practices, and procedures that guarantee equal opportunity for all people with disabilities, regardless of the nature of severity of the disability; and to empower people with disabilities to achieve economic self-sufficiency, independent living, and inclusion and integration into all aspects of society.

ACCOMMODATIONS: Those needing interpreters or other accommodations should notify the National Council on Disability prior to this meeting.

ENVIRONMENTAL ILLNESS: People with environmental illness must reduce their exposure to volatile chemical substances in order to attend this meeting. In order to reduce such exposure, we ask that you not wear perfumes or scents at the meeting. We also ask that you smoke only in designated areas and the privacy of our room. Smoking is prohibited in the meeting room and surrounding area.

OPEN MEETING: This quarterly meeting of the National Council on Disability will be open to the public.

AGENDA: The proposed agenda includes:.

Reports from the Chairperson and the Executive Director
Committee Meetings and Committee Reports
Strategic Planning—Closed Work Session for Members and Staff
Return-to-work Initiative
Disability Date Collection
Unfinished Business
New Business
Announcements
Adjournment

Records will be kept of all National Council on Disability proceedings and will be available after the meeting for public inspection at the National Council on Disability.

Signed in Washington, DC, on September 23, 1997.

Ethel D. Briggs,

Executive Director.

[FR Doc. 97–25612 Filed 9–23–97; 12:38 p.m.]

BILLING CODE 6820–MA–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Anthropological, Geographic Sciences; Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following six meetings.

Name: Advisory Panel for Anthropological and Geographic Sciences (#1757).

1. *Date & Time:* October 17, 1997 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard Room 970, Arlington, Va 22230.

Contact Person: Dr. John E. Yellen, Program Director for Archaeology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1759.

Agenda: To review and evaluate Archaeometry proposals as part of the selection process for awards.

2. *Date & Time:* November 9, 1997 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. John E. Yellen, Program Director for Archaeology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1759

Agenda: To review and evaluate Archaeometry proposals as part of the selection process for awards.

3. *Date & Time:* November 18–19, 1997; 8:00 a.m.–500 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. Dennis O'Rourke, Program Director for Physical Anthropology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1758.

Agenda: To review and evaluate Physical Anthropology proposals as part of the selection process for awards.

4. *Date & Time:* November 23–24, 1997; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 970, Arlington, VA 22230.

Contact Person: Dr. Stuart Plattner, Program Director for Cultural Anthropology, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1758.

Agenda: To review and evaluate Cultural Anthropology proposals as part of the selection process for awards.

5. *Date & Time:* November 18, 1997; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Contact Person: Dr. Stuart Plattner, Program Director for Cultural Anthropology, National Science Foundation, 4201, Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1758.

Agenda: To review and evaluate Cultural Dissertation proposals as part of the selection process for awards.

6. *Date & Time:* November 17–18, 1997; 9:00 a.m.–5:00 p.m.

Place: National Center for Ecological Analysis Synthesis, University of California, Suite 300, 735 State Street, Santa Barbara, CA 93101–3351.

Contact Person: Dr. Thomas Leinbach, or Bernard Bauer, Program Directors for Geography, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1754.

Agenda: To review and evaluate Geography proposals as part of the selection process for awards.

7. *Date & Time:* December 8–9, 1997; 8:00 a.m.–5:00 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Room 310.

Contact Person: Dr. Thomas Leinbach, or Bernard Bauer, Program Directors for Geography, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1754.

Agenda: To review and evaluate Geography Dissertation proposals as part of the selection process for awards.

Time of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning support for research proposals submitted to the NSF for financial support.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–25460 Filed 9–24–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Proposal Review Panel in Earth Sciences; 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: Proposal Review Panel in Earth Sciences (1569).

Date and Time: October 15–17, 1997; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Room 770.

Type of Meeting: Closed.

Contact Person: Dr. Leonard E. Johnson, Program Director, Continental Dynamics Program, Division of Earth Sciences, Room 785, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1559

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Continental Dynamics proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

Dated: September 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–25461 Filed 9–24–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Committee on Equal Opportunities in Science and Engineering; 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: Committee on Equal Opportunities in Science and Engineering (#1173).

Date & Time: October 14–15, 1997; 11:30 a.m. to 5:00 p.m. and 8:00 a.m. to 5:00.

Place: Room 1295, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Open.

Contact Person: Sue Kemnitzer, Executive Secretary, Room 585, NSF, 4201 Wilson Blvd., Arlington, Va. 22230. Phone: (703) 306–1382.

Minutes: May be obtained from the contact person at the above address.

Purpose of Meeting: To advise NSF on policies and activities of the Foundation to encourage full participation of women, minorities, and persons with disabilities currently underrepresented in scientific, engineering, professional, and technical; fields and to advise NSF concerning implementation of the provisions of the Science and Engineering Equal Opportunities Act.

Agenda: (Tentative)

Tuesday, October 14, 1997

11:30 Lunch (Sandwiches brought into the room)
Noon Welcome; Introduction of New Members; Minutes
12:30 Description of the charge to CEOSE
1:00 Congressional report and Congressional staff visitor
2:00 Break
2:30 Status of Implementation of the New Merit Review Criteria
3:00 Human Resource Development Working Group and Task ForceUpdate
3:30 Strategic Planning Follow Up; Other Federal Science Agencies; Persons with Disabilities; Capacity Building within NSF
4:30 Meeting with the Deputy Director (suggested time)
5:00 Adjorn

October 15, 1997

8:00 Science Resource Studies Division Data Briefing; Women, Minorities and Persons with Disabilities 1998 Report Office of Management and Budget Ethnicity Classification
8:30 Data Needs for 1998 Congressional Report
9:00 Briefing on Science Policy Issues
10:00 Update on new programs (POWRE and IGERT)
10:30 Reports from Advisory Committee Liaisons
11:00 Issues Regarding Persons with Disabilities
Noon Open discussion/Working Lunch
1:00 Linking with Other Federal Agencies
2:00 Capacity Building within NSF
3:00 Meeting with the Director (suggested time)
4:00 Plans for the next meeting
5:00 Adjourn

Dated: September 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–25457 Filed 9–24–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Networking & Communications Research & Infrastructure; 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 Networking and Communications Research & Infrastructure (#1207).

Date and Time: October 16–17, 1997; 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 1175 Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person(s): Tatsuya Suda, Program Director, CISE/NCRI, Room 1175, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1950.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review & evaluate proposals submitted for the Networking and Communications Program.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries, and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b.(c)(4) and (6) of the Government in the Sunshine Act.

Dated: September 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–25459 Filed 9–24–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Neuroscience (1158).

Date and Time: October 16 & 17, 1997; 9:00 a.m. to 6:00 p.m.

Place: Room 340, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Part-Open.

Contact Persons: Dr. Emmeline Edwards, Program Director, Behavioral Neuroscience; Dr. Daniel Hartline, Program Director, Computational Neuroscience; Division of Integrative Biology and Neuroscience; room 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1416.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact persons listed above.

Agenda: Open Session: October 17, 1997; 10:00 a.m. to 11:00 a.m., To discuss research trends and opportunities in Behavioral and Computational Neuroscience. Closed Session: October 16, 1997; 9:00 a.m. to 6:00 p.m.; October 17, 1997, 9:00 a.m. to 10:00 a.m.; 11:00 a.m. to 6:00 p.m. To review and evaluate Behavioral and Computational Neuroscience proposals as part of the selection process for awards.

Reason For Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: September 22, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–25458 Filed 9–24–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–261]

Carolina Power & Light Company; H.B. Robinson Steam Electric Plant, Unit No. 2 Environmental Assessment and Finding of No Significant Impact

1.0 Introduction

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an amendment to Facility Operating License No. DPR–23 issued to the Carolina Power & Light Company (CP&L or the licensee) for operation of the H.B. Robinson Steam Electric Plant, Unit No. 2 (Robinson) located at the licensee's site in Darlington County, South Carolina.

Environmental Assessment

Identification of the Proposed Action

This Environmental Assessment has been prepared to address potential environmental issues related to the licensee's application dated August 27, 1996, as supplemented by letters dated January 17, February 18, March 27, April 4, April 25, April 29, May 30, June 2, June 13, June 18, August 4, August 8, and September 10, 1997. The proposed amendment will replace the current Robinson Technical Specifications (CTS) in their entirety with Improved Technical Specifications (ITS) based on Revison 1 to NUREG–1431, ''Standard Technical Specifications Westinghouse Plants'' dated April 1995, and the CTS for Robinson.

In the application of August 27, 1996, the licensee also requested an amendment to the Appendix B TS to relocate certain radiological and environmental reporting requirements to a licensee-controlled document. Appendix B TS contain environmental reporting requirements which were relocated to Appendix B as an interim action in 1976 pending reissuance of comprehensive Appendix B Environmental TS. These requirements are comparable to portions of other Radiological Environmental Monitoring TS that are also being separately relocated because they do not relate to mitigating a design basis accident or transient.

The Need for the Proposed Action

It has been recognized that nuclear safety in all plants would benefit from improvement and standardization of TS. The Commission's ''NRC Interim Policy Statement on Technical Specification Improvements for Nuclear Power Reactors,'' (52 FR 3788, February 6, 1987), and later the Commission's ''Final Policy Statement on Technical Specification Improvements for Nuclear Power Reactors,'' 58 FR 39132 (July 22, 1993), formalized this need. To facilitate the development of individual improved TS, each reactor vendor owners group (OG) and the NRC staff developed standard TS (STS). For Westinghouse plants, the STS are published as NUREG–1431, and this document was the basis for the new Robinson TS. The NRC Committee to Review Generic Requirements (CRGR) reviewed the STS and made note of the safety merits of the STS and indicated its support of conversion to the STS by operating plants.

Description of the Proposed Change

The proposed revision to the TS is based on NUREG–1431 and on guidance provided in the Final Policy Statement. Its objective is to completely rewrite, reformat, and streamline the existing TS. Emphasis is placed on human factors principles to improve clarity and understanding. The Bases section has been significantly expanded to clarify and better explain the purpose and foundation of each specification. In addition to NUREG–1431, portions of the existing TS were also used as the basis for the ITS. Plant-specific issues (unique design features, requirements, and operating practices) were discussed at length with the licensee, and generic matters with the OG.

The proposed changes from the existing TS can be grouped into four general categories, as follows:

1. Non-technical (administrative) changes, which were intended to make the ITS easier to use for plant operations personnel. They are purely editorial in nature or involve the movement or reformatting of requirements without affecting technical content. Every section of the Robinson TS has undergone these types of changes. In order to ensure consistency, the NRC staff and the licensee have used NUREG–1431 as guidance to reformat and make other administrative changes.

2. Relocation of requirements, which includes items that were in the existing

Robinson TS. The TS that are being relocated to licensee-controlled documents are not required to be in the TS under 10 CFR 50.36 and do not meet any of the four criteria in the Commission's Final Policy Statement for inclusion in the TS. They are not needed to obviate the possibility that an abnormal situation or event will give rise to an immediate threat to the public health and safety. The NRC staff has concluded that appropriate controls have been established for all of the current specifications, information, and requirements that are being moved to licensee-controlled documents. In general, the proposed relocation of items in the Robinson TS to the Final Safety Analysis Report (FSAR), appropriate plant-specific programs, procedures and ITS Bases follows the guidance of the Westinghouse STS (NUREG–1431). Once these items have been relocated by removing them from the TS to licensee-controlled documents, the licensee may revise them under the provisions of 10 CFR 50.59 or other NRC staff-approved control mechanisms, which provide appropriate procedural means to control changes.

3. More restrictive requirements, which consist of proposed Robinson ITS items that are either more conservative than corresponding requirements in the existing Robinson TS, or are additional restrictions that are not in the existing Robinson TS but are contained in NUREG–1431. Examples of more restrictive requirements include: placing a Limiting Condition of Operation (LCO) on plant equipment that is not required by the present TS to be operable; more restrictive requirements to restore inoperable equipment; and more restrictive surveillance requirements.

4. Less restrictive requirements, which are relaxations of corresponding requirements in the existing Robinson TS that provide little or no safety benefit and place unnecessary burdens on the licensee. These relaxations were the result of generic NRC actions or other analyses. They have been justified on a case-by-case basis for Robinson as will be described in the staff's Safety Evaluation to be issued with the license amendment, which will be noticed in the **Federal Register**.

In addition to the changes described above, the licensee proposed certain changes to the existing TS that deviated from the STS in NUREG–1431. These additional proposed changes are described in the licensee's application and in the staff's Notice of Consideration of Issuance of Amendment to Facility Operating License and Opportunity for a Hearing (61 FR 55830). Where these changes represent a change to the current licensing basis for Robinson, they have been justified on a case-by-case basis and will be described in the staff's Safety Evaluation to be issued with the license amendment.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed action and concludes that the proposed TS conversion would not increase the probability or consequences of accidents previously analyzed and would not affect facility radiation levels or facility radiological effluents.

Changes that are administrative in nature have been found to have no effect on the technical content of the TS, and are acceptable. The increased clarity and understanding these changes bring to the TS are expected to improve the operator's control of the plant in normal and accident conditions.

Relocation of requirements to licensee-controlled documents does not change the requirements themselves. Future changes to these requirements may be made by the licensee under 10 CFR 50.59 or other NRC-approved control mechanisms, which ensures continued maintenance of adequate requirements. All such relocations have been found to be in conformance with the guidelines of NUREG–1431 and the Final Policy Statement, and, therefore, are acceptable.

Changes involving more restrictive requirements have been found to be acceptable and are likely to enhance the safety of plant operations.

Changes involving less restrictive requirements have been reviewed individually. When requirements have been shown to provide little or no safety benefit or to place unnecessary burdens on the licensee, their removal from the TS was justified. In most cases, relaxations previously granted to individual plants on a plant-specific basis were the result of a generic NRC action, or of agreements reached during discussions with the OG and found to be acceptable for Robinson. Generic relaxations contained in NUREG–1431 as well as proposed deviations from NUREG–1431 have also been reviewed by the NRC staff and have been found to be acceptable.

In summary, the proposed revision to the TS was found to provide control of plant operations such that reasonable assurance will be provided so that the health and safety of the public will be adequately protected.

These TS changes will not increase the probability or consequences of accidents, no changes are being made in the types of any effluent that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. The revisions to the Appendix B TS relocate reporting requirements on radioactive effluent releases, solid waste shipments and results of the environmental monitoring programs. The relocation of the reporting requirements to a licensee-controlled document is comparable to portions of other radiological environmental monitoring TS which are also being separately relocated. Programmatic aspects of these specifications are retained in the ITS Administrative Controls. The relocation of the reporting requirements will not change or affect the possible releases or monitoring programs. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no measurable environmental impact associated with the proposed amendments, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to this action would be to deny the request for the amendment. Such action would not reduce the environmental impacts of plant operations.

Alternative Use of Resources

This action did not involve the use of any resources not previously considered in the Final Environmental Statement related to the operation of the Robinson Electric Generating Plant.

Agencies and Persons Consulted

In accordance with its stated policy, on September 11, 1997, the staff consulted with the South Carolina State official, Max Batavia, Chief, South Carolina Department of Health, Bureau of Radiological Health and Environmental Control. The State official had no comments.

Findings of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed amendment.

For further details with respect to this action, see the licensee's letter dated August 27, 1996, and supplemental letters dated January 17, February 18, March 27, April 4, April 25, April 29, May 30, June 2, June 13, June 18, August 4, August 8, and September 10, 1997, which are available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the Hartsville Memorial Library, 147 West College, Hartsville, South Carolina 29550.

Dated at Rockville, Maryland this 22nd day of September, 1997.

For The Nuclear Regulatory Commission.

Gordon E. Edison,

Acting Director, Project Directorate II–I, Division of Reactor Projects-I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–25630 Filed 9–24–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–334 and 50–412]

Duquesne Light Company, et al.; Beaver Valley Power Station, Unit Nos. 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering approval, by issuance of an order under 10 CFR 50.80, of the indirect transfer of Facility Operating Licenses Nos. DPR–66 and NPF–73, to the extent they are held by the Duquesne Light Company (DLC) for Beaver Valley Power Station, Unit Nos. 1 and 2 (BVPS–1 and BVPS–2), located in Shippingport, Pennsylvania.

Environmental Assessment

Identification of the Proposed Action

The proposed action would consent to the indirect transfer of the licenses with respect to a proposed merger between DQE, Inc., and Allegheny Power Systems, Inc. DQE, Inc. is the parent holding company of DLC, which holds licenses to possess interests in and operate BVPS–1 and BVPS–2. The Cleveland Electric Illuminating Company, The Toledo Edison Company, and Ohio Edison Company, and its subsidiary Pennsylvania Power Company, also hold licenses to possess interests in BVPS–1 and BVPS–2, but are not involved in the proposed merger. In the proposed merger, DQE, Inc. will become a wholly owned subsidiary of Allegheny Power. Allegheny Power will be renamed Allegheny Energy, Inc.

According to the application, the merger will have no effect on the operation of Beaver Valley Power Station or the provisions of its operating licenses. The Cleveland Electric Illuminating Company, The Toledo Edison Company, Ohio Edison Company, and Pennsylvania Power Company will remain licensees responsible for their possessory interests and related obligations. Duquesne Light Company will continue to operate the Beaver Valley Power Station after the merger, as required by the operating licenses. No direct transfer of the licenses will result from the merger.

The proposed action is in accordance with DLC's request for approval dated August 1, 1997.

The Need for the Proposed Action

The proposed action is required to obtain the necessary consent to the indirect transfer of the licenses discussed above. According to the application, the underlying transaction is needed to create a stronger, more competitive enterprise that is expected to save over $1 billion in net savings over the first 10 years, thereby enhancing DLC's financial resources to possess its interests in BVPS–1 and BVPS–2.

Environmental Impacts of the Proposed Action

The Commission has reviewed the proposed action and concludes that there will be no changes to the facility or its operation as a result of the proposed action. Accordingly, the NRC staff concludes that there are no significant radiological environmental impacts associated with the proposed action.

With regard to potential nonradiological impacts, the proposed action does not affect nonradiological plant effluents and has no other environmental impact. Accordingly, the NRC staff concludes that there are no significant nonradiological environmental impacts associated with the proposed action.

Alternatives to the Proposed Action

As an alternative to the proposed action, the staff considered denial of the proposed action. Denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the alternative action are similar.

Alternative Use of Resources

This action does not involve the use of any resources not previously considered in the ''Final Environmental Statement Related to the Beaver Valley Power Station, Unit 1,'' dated July 1973, and the ''Final Environmental Statement Related to the Operation of Beaver Valley Power Station, Unit 2,'' dated September 1986 in NUREG–1094.

Agencies and Persons Consulted

In accordance with its stated policy, on September 5, 1997, the staff consulted with the Pennsylvania State official, Mr. Michael P. Murphy of the Bureau of Radiation Protection, Department of Environmental Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon the environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment. Accordingly, the Commission has determined not to prepare an environmental impact statement for the proposed action.

For further details with respect to the proposed action, see DLC's submittal dated August 1, 1997, which is available for public inspection at the Commission's Public Document Room, The Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room located at the B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, PA 15001.

Dated at Rockville, Maryland, this 19th day of September 1997.

For The Nuclear Regulatory Commission.

John F. Stolz,

Director, Project Directorate I–2, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–25445 Filed 9–24–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

[File No. 1–10647]

Issuer Delisting; Notice of Application to Withdraw from Listing and Registration; (Precision Optics Corporation, Inc., Common Stock, $0.01 Par Value)

September 19, 1997.

Precision Optics Corporation, 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 security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company is filing this application because its Board of Directors has determined that continued listing on the Exchange is unnecessary in light of the listing of the Security on the Nasdaq SmallCap Market. The Company's experience with Nasdaq has been positive and the Company wishes to avoid the incremental expenses and administrative responsibilities associated with continued listing on the Exchange.

The Company has notified the Exchange of its intention to withdraw its Security from listing on the Exchange. By letter dated August 12, 1997, the BSE indicated that it did not object to the Company's filing of this application with the Commission.

Any interested person may, on or before October 10, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 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. 97–25464 Filed 9–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39092; File No. SR–CBOE–97–44]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Chicago Board Options Exchange Relating to Certain Rules Governing the Trading of Options on the DJIA

September 18, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''), 15 U.S.C. 78s(b)(1), notice is hereby given that on September 8, 1997,[1] the Chicago Board Options Exchange Incorporated (''CBOE '' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Exchange has designated the proposed rule change as constituting a ''non-controversial'' rule change under paragraph (e)(6) of Rule 19b–4 under the act.[2] The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons. CBOE has requested that the Commission accelerate the operative date for the proposed rule change for good cause.[3]

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend certain of its rules governing trading with respect to the trading of options on the Dow Jones Industrial Average (''DJIA'').[4] The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange is proposing to amend certain Exchange rules governing trading with respect to the trading of options on the DJIA (trading under the symbol ''DJX''). In each case, the Exchange is proposing to provide comparable treatment for options on the DJIA to that existing for other broad-based indexes with wide retail investor interest, *i.e.*, options on the Standard & Poor's (''S&P'') 100 Stock Index (''OEX'') and options on the S&P 500 Stock Index (''SPX'').

First, the Exchange is proposing to amend Interpretation .08 to Rule 6.20 to permit members of a floor procedure committee which has been delegated responsibility for overseeing the trading of options on the DJIA to act as Floor Officials. Currently, the interpretation permits members of the Index Floor Procedures Committee to act as Floor Officials in the OEX and SPX trading crowds only. At this time, the Exchange has not decided which committee will be delegated responsibility for options on the DJIA, but the Exchange expects the trading crowd to be large and to develop its unique trading protocols. Therefore, the rationale for allowing committee members to act as Floor Officials, *i.e.*, these members will be familiar with the particular trading protocols in the trading crowd governing those options, applies equally to options on the DJIA. The interpretation will also change the reference to the ''Index Floor Procedure Committee'' to the ''applicable Floor Procedure Committee'' because it has not yet been decided which committee will have jurisdiction over options on the DJIA and because the Index Floor

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[1] CBOE filed Amendment No. 1 to the proposed rule change requesting that the Commission accelerate the operative date of the filing for good cause shown to October 6, 1997. *See* letter from Timothy H. Thompson, Senior Attorney, CBOE, to Heather Seidel, Attorney, Market Regulation, Commission, dated September 12, 1997.

[2] The Exchange has represented that this proposed rule change: (i) Will not significantly affect the protection of investors or the public interest; (ii) will not impose any significant burden on competition; and (iii) will not become operative for 30 days after the date of this filing, unless an earlier operative date is designated by the Commission for good cause shown. The Exchange also has provided at least five business days notice to the Commission of its intent to file this proposed rule change, as required by Rule 19b–4(e)(6) under the Act.

[3] *See supra* note 1.

[4] The Commission recently approved a CBOE rule filing to list and trade options on the DJIA. *See* Securities Exchange Act Release No. 39011 (September 3, 1997), 62 FR 47840 (September 11, 1997) (File No. SR–CBOE–97–26).

Procedure Committee has been divided into the OEX Floor Procedure Committee and the SPX Floor Procedure Committee. The Exchange may decide to delegate responsibility for overseeing the trading in options on the DJIA to an existing Floor Procedure Committee (such as the OEX Floor Procedure Committee) or it might create a new Floor Procedure Committee that is responsible for overseeing trading on options on the DJIA alone. The Exchange also may decide to create one Committee responsible for all broad-based index options which would replace the OEX Floor Procedure Committee and the SPX Floor Procedure Committee.

Second, the Exchange is proposing to exempt DJX from the requirement that the use of hand signals to convey order information must be followed in written form and time stamped immediately after the signal has been sent. Currently, Interpretation .02 to Rule 6.24 exempts options on the OEX and the SPX from this requirement. Because the Exchange expects trading in DJX to be in a large pit with an active order flow, the Exchange believes it is appropriate to exempt DJX from this requirement as well.

Third, the Exchange wants to provide for the possibility of using Lead Market-Makers (''LMMs'') in the DJX crowd as it uses LMMs in the OEX crowd during opening rotations. Due to the size of the OEX trading crowd and the large number of series traded in the crowd, the Exchange has found that the use of a modified opening rotation whereby LMMs are assigned to open particular series has allowed the OEX trading crowd to conduct opening rotations more quickly (and thus, enter into open trading more quickly). The Exchange believes that the LMM system should be available for use by the DJX crowd because the Exchange expects the DJX crowd to be similar in size to the OEX crowd and expects a large number of series to trade in DJX. In addition, the Exchange is proposing to change the LMM rule to specify that the ''appropriate Market Performance Committee,'' rather than the ''Market Performance Committee,'' may assign LMMs because the Exchange has not yet decided which Market Performance Committee will have responsibility for overseeing the trading in DJX.[5] The appropriate Market Performance Committee will likely monitor how opening rotations are conducted without LMMs before it decides whether to appoint LMMs. Nevertheless, the Exchange believes it is critical to have the system available for use in the DJX crowd in the event that the opening rotations are taking too much time from the commencement of trading.

Finally, the Exchange is also proposing to apply the terms of the OEX/SPX joint account circular to trading in options on the DJIA.[6] The circular provides that joint accounts may be represented in the crowd by more than one participant trading in-person for the joint account. In addition, the circular provides that joint account participants who are not trading in-person in the crowd may enter orders for the joint account with floor brokers even if other participants are trading the same joint account in-person. The joint account circular applicable to equity options does not allow a joint account participant to enter orders while another joint account participant is trading in-person on behalf of the joint account. The Exchange believes the OEX/SPX model is more appropriate for options on the DJIA because of the expected large size of the DJX crowd.[7]

2. Statutory Basis

By applying certain existing trading rules and circulars to the trading of options on the DJIA, the Exchange expects to enhance the possibility of the successful launch of options on the DJIA and to be able to provide investors with a useful tool to invest in and hedge interests in the U.S. equity market. Therefore, the proposed rule change will better serve the needs of CBOE's public customers and the Exchange members who make a market for such customers and is consistent with and furthers the objectives of Section 6(b)(5) of the Act[8] in that it is designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and to protect investors and the public interest.

[5] The Exchange may create a new Market Performance Committee responsible for the market performance functions specific to trading the DJX, or it may delegate market performance duties for the DJX crowd to an existing Market Performance Committee.

[6] The Commission approved the Exchange's OEX/SPX joint account circular on September 10, 1992. *See* Securities Exchange Act Release No. 31174, 57 FR 42789 (September 16, 1992) (approving File No. SR–CBOE–91–40). The circular was updated pursuant to Commission approval of a change to allow more than one SPX participant participate on a trade on behalf of the joint account. *See* Securities Exchange Act Release No. 35579 (April 7, 1995), 60 FR 18867 (April 13, 1995) (approving File No. SR–CBOE–95–17).

[7] Attached as Exhibit B to the proposed rule change is a revised version of the joint account circular for OEX/SPX which incorporates DJX.

[8] 15 U.S.C. 78F(b)(5).

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The Commission finds that the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder because it: (1) does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) was provided by the Exchange to the Commission with written notice of its intent to file the proposed rule change at least five days prior to the filing date. A proposed rule change filed under Rule 19b–4(e) does not become operative prior to thirty days after the date of filing or such shorter time as the Commission may designate if such action is consistent with the protection of investors and the public interest. CBOE has requested that the Commission accelerate the implementation of the proposed rule change so that it may become operative prior to the thirty days specified under Rule 19b–4(e)(6)(iii). At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

The Commission finds good cause to accelerate the thirty day period for the proposed rule change to become operative prior to the thirtieth day after the date of filing. Specifically, the Commission believes that the proposed rule change should become operative on the day that CBOE begins to trade options on the DJIA to ensure that all rules applicable to trading DJIA options are in place prior to such trading commences. Accordingly, the proposed rule change will become operative on October 6, 1997, rather than October 8, 1997.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and

arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the Exchange. All submissions should refer to File No. SR–CBOE–97–44 and should be submitted by October 16, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[9]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25374 Filed 9–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39095; File No. SR–DTC–97–08]

Self-Regulatory Organizations; The Depository Trust Company; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Regarding the Memo Segregation Service

September 19, 1997.

Pursuant to Section 19(b)(1)[1] of the Securities Exchange Act of 1934 (''Act''), notice is hereby given that on June 1, 1997, The Depository Trust Company (''TDC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments from interested persons on the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will modify the procedures for participants to control their collateral in connection with the use of DTC's memo segregation service (''memo seg'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, and Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

DTC developed memo seg to assist participants in their compliance with Rule 15c3–3 under the Act.[3] Rule 15c3–3, among other things, requires that broker-dealers maintain control of all fully-paid and excess margin securities they hold for the accounts of customers.[4] Memo seg enables participants, particularly broker-dealer participants, to segregate customer fully-paid and excess margin securities by creating a memo position within their free accounts. This memo position enables participants to protect themselves from unintended deliveries of customer fully-paid and excess margin securities that either are in the participant's free account or that may be received during the daily processing cycle.

One of DTC's primary risk management controls to protect DTC in the event of a participant's failure to settle is DTC's collateralization procedures. These procedures are designed to assure that a participant's net debit does not exceed the total collateral available in its account. One of the methods available to a participant to collateralize its account is to give DTC a standing instruction that designates as collateral those securities in its free account at the start of the processing day. Currently, this instruction would apply to all securities in the participant's free account, including securities for which a memo seg position has been created.

Accordingly, the proposed rule change will amend DTC's participant collateralization procedures to exclude start-of-day memo seg positions from classification as collateral even if the participant has given DTC a standing instruction to designate as collateral all securities in its free account. If a participant subsequently wishes to utilize memo seg positions as collateral, it will be permitted to do so by giving DTC the appropriate instructions. DTC believes that the proposed rule change will assist participants in retaining the protections of memo seg from one day to the next which should reduce the potential for unintended deliveries of customer fully paid or excess margin securities.

DTC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(A) of the Act[5] and the rules and regulations thereunder because it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC perceives no impact on competition by reason of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments from DTC participants or others have not been solicited or received on the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[6] and Rule 19b–4(e)(4) thereunder[7] because it effects a change in an existing service of DTC that (i) does not adversely affect the safeguarding of securities or funds in the custody or control of DTC or for which it is responsible and (ii) does not significantly affect the respective rights or obligations of DTC or persons using the service. At any time within sixty days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors,

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by DTC.

[3] For a detailed description of memo seg, refer to Securities Exchange Act Release No. 26250 (November 3, 1988), 53 FR 45638 (File No. SR–DTC–88–16) (order permanently approving DTC's proposed rule change).

[4] 17 CFR 240.15c3–3.

[5] 15 U.S.C. 78q–1(b)(3)(A).

[6] 15 U.S.C. 78s(b)(3)(A).

[7] 17 CFR 240.19b–4(e).

or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR–DTC–97–08 and should be submitted by October 16, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25465 Filed 9–24–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39099; File No. SR–GSCC–97–08]

Self-Regulatory Organizations; Government Securities Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change to Extend the Maximum Term for Repurchase Agreements

September 19, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 6, 1997, the Government Securities Clearing Corporation (''GSCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–GSCC–97–08) as described in Items I and II below, which items have been prepared primarily by GSCC. The Commission is publishing this notice and order to solicit comments on the proposed rule change from interested persons and to grant accelerated approval of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

GSCC proposes to amend the time frame for the maximum allowable number of calendar days that the term of a repurchase agreement (''repo'') may span.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, GSCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. GSCC has prepared summaries, set forth in section (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

GSCC proposes to extend the maximum number of calendar days that a repo's term may span and still be eligible for netting services from 360 calendar days to two calendar years. GSCC Rule 11 states the requirements that a repo must meet in order to be eligible for netting services and provides that the number of calendar days between the scheduled settlement date for the close leg and the business day on which trade data is submitted may not be greater than the ''maximum number of business days established by the Corporation for such purpose and published in a schedule made available to members. * * *'' When GSCC introduced its repo netting service in November 1995, it set the maximum number of days allowable between scheduled settlement and data submission at 195 calendar days.[3] Last year, it received Commission approval to extend this maximum time period to 360 calendar days.[4]

In response to rising repo volumes and at the request of GSCC's members that engage in repos with a term of greater than one year, GSCC proposes to extend the time period that a repo term may span and still be eligible for netting services to two years. Members will benefit from the inclusion of longer term repos in the netting service because clearing and settlement risks and costs will be further reduced by encompassing more repo transactions into the net. GSCC believes that its risk management procedures currently in place are sufficient to protect against any exposure created by longer repo terms. GSCC will continue to monitor and to evaluate all aspects of its repo netting services.

GSCC believes that the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F)[5] of the Act and the rules and regulations thereunder because it promotes the prompt and accurate clearance and settlement of securities transactions and safeguards securities and funds in GSCC's custody or control.

(B) Self-Regulatory Organization's Statement on Burden on Competition

GSCC does not believe that the proposed rule change will have an impact or impose a burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments relating to the proposed rule change have not yet been solicited or received. Members will be notified of the rule change filing and comments will be solicited by an Important Notice. GSCC will notify the Commission of any written comments received by GSCC.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act requires that the rules of a clearing agency must be designed to promote the prompt and accurate clearance and settlement of securities transactions and to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible.[6] The Commission believes that the proposed

[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries submitted by GSCC.

[3] Securities Exchange Act Release No. 36491 (November 17, 1995), 60 FR 61577 [File No. SR–GSCC–95–02] (order approving proposed rule change implementing netting services for certain repo transactions).

[4] Securities Exchange Act Release No. 37996 (November 27, 1996), 61 FR 64778 [File No. SR–GSCC–96–11].

[5] 15 U.S.C. 78q–1(b)(3)(F).

[6] *Id.*

rule change is consistent with GSCC's obligations under the Act because the proposal permits GSCC to provide the benefits of centralized, automated settlement to a broader segment of repos involving government securities. Thus, the proposal should assist in the prompt and accurate clearance and settlement of securities transactions.

As discussed in the order approving GSCC's repo netting system, the Commission believes that GSCC has put into place adequate risk management procedures to limit the settlement risk associated with repo transactions.[7] The Commission also believes that GSCC has adequately analyzed the application of these risk management procedures to the risks associated with longer term repo transactions and therefore will be able to adequately safeguard itself and its participants from the risk associated with the inclusion of longer term repo transactions in the netting system. Thus the proposal is consistent with GSCC's obligation to assure the safeguarding of securities and funds which are in its custody or control or for which it is responsible.

GSCC requests that the Commission find good cause for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing. The Commission finds good cause exists for approving the proposed rule change prior to the thirtieth day after the date of publication of notice of the filing because accelerated approval will allow GSCC to immediately expand its netting services to include repos with terms between 360 calendar days and two years. This will permit more participants that conduct repo transactions to benefit from the positive effects of netting.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing will also be available for inspection and copying at the principal office of GSCC. All submissions should refer to the file number SR–GSCC–97–08 and should be submitted by October 16, 1997.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–GSCC–97–08) be and hereby is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25462 Filed 9–24–97; 8:45 am]

BILLING CODE 8010–01–M

[7] *Supra* note 3.

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39096; File No. SR–NSCC–96–21]

Self-Regulatory Organizations; National Securities Clearing Corporation; Order Approving a Proposed Rule Change Relating to the Establishment of the Annuities Processing Service

September 19, 1997.

On December 26, 1996, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change (File No. SR–NSCC–96–21) pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'').[1] On February 27, 1997, and May 12, 1997, NSCC amended the proposed rule change. Notice of the proposal was published in the **Federal Register** on August 6, 1997.[2] For the reasons discussed below, the Commission is approving the proposed rule change.

I. Description

The proposed rule change amends NSCC's rules to establish the Annuities Processing Service (''APS''). APS will be a centralized communication link that connects participating insurance carriers with broker-dealers, banks, and the broker-dealers' or banks' affiliated life insurance agencies where appropriate. Only those annuity plans[3] that are purchased by individuals from insurance carriers through broker-dealers, banks, or their affiliated insurance agencies will be eligible for processing through APS.

NSCC will implement APS in phases. Phase I will provide NSCC's participants with the ability to send and receive daily information regarding annuity contract positions, the value of a contract's underlying assets, and settlement of commission monies.[4] This information will be transmitted through the ''position and valuation,'' and ''commission and charge back'' components of Phase I.

The position and valuation component will permit insurance carriers to transmit information regarding the value of individual annuity contracts and the value of the assets underlying the contracts to broker-dealers and insurance agencies. Insurance carriers will submit position and valuation information to NSCC, which NSCC will forward to the party designated as recipient by the insurance carrier.

The commission and charge back component will permit insurance carriers and agencies to communicate concerning periodic trail or asset-based compensation and transaction-based commission payments, each paid by an insurance carrier to an agency, as well as charge backs paid by an agency to an insurance carrier. Insurance carriers and agencies will settle these payments through NSCC's money settlement system.

Insurance carriers will be able to initiate commission and charge back transactions by submitting instructions to NSCC. On any day prior to settlement, an annuities agency or annuities carrier member may submit a cancel instruction if the member does not recognize the transaction or an exit instruction if the member recognizes the transaction but wants that transaction to be processed outside of APS.[5] A

[1] 15 U.S.C. 78s(b)(1).

[2] Securities Exchange Act Release No. 38889 (July 30, 1997), 62 FR 42274.

[3] APS will process variable rate and fixed rate annuity products. Letter from Julie Beyers, Associate Counsel, NSCC (February 26, 1997).

[4] NSCC intends to implement additional phases in the future to include the processing of annuity contract applications and the settlement of premium payments. In addition, the scope of information included in APS may be expanded beyond position and valuation information. NSCC will be required to make the appropriate rule filings with the Commission at such times as NSCC is ready to implement these additional components.

[5] According to NSCC, this feature will not be available when the APS becomes operational; it will be added at a later date. Until the exit and cancel features are added, an annuities agency or annuities carrier member must go outside of APS to arrange for the reversal of a commission and charge back transaction that was erroneously entered into APS.

properly submitted exit or cancellation will cause the payment transaction to which it relates to be deleted from APS. Unless NSCC receives a cancellation or exit instruction, the commission and charge back transaction will settle in the three-day settlement cycle following their completion unless the parties have agreed that the transaction will settle on an extended basis. However, no transaction will be allowed to settle more than five business days after the day on which the last instruction pertaining to the transaction was submitted to NSCC.

NSCC will not be responsible for the completeness or accuracy of any APS data or for any errors, omissions, or delays that may occur relating to the APS data. The proposed rule change states that the processing of any transaction through APS will not relieve a party from its legal or regulatory rights or its obligations relating to a transaction.

The proposed rule change will amend NSCC's Rule 2 to permit a corporation, partnership, or agency, including a registered broker-dealer, bank, or trust company, that is licensed to sell insurance products and is subject to supervision or regulation pursuant to the provisions of state insurance laws to become a member of the NSCC. If the entity agrees to limit their activities to APS services only, the entity would be classified as an ''annuities agency member.''

The proposed rule change permits broker-dealers to join NSCC as annuities agency members regardless of whether they conduct their insurance business in-house or through an affiliated or subsidiary insurance agency. The proposed rule change provides that NSCC may restrict the activities of the broker-dealers' insurance agency affiliates and subsidiaries that become annuities agency members and require them to enter into agreements for operational support services with an entity that is acceptable to NSCC. The entity can be, but is not required to be, another annuities agency member and cannot be replaced without the prior approval of NSCC. In addition, broker-dealers and banks that are not currently NSCC members that sell annuity products also will be permitted to join NSCC for the purpose of using APS.

The proposed rule change amends NSCC's rules to establish the annuities carrier member category. As proposed, NSCC Rule 2 will define annuities carrier member as a company, partnership, limited liability corporation, or other organization or entity that is not a member of NSCC but is subject to the supervision or regulation pursuant to state insurance laws. Annuities carrier members will not be required to make a deposit to the clearing fund.[6]

The proposed rule change also will create NSCC Rule 56 to establish the financial and operational standards for annuities carrier members. Annuities carrier members will be required to have an A.M. Best rating of ''A−.'' If rated by (i) Standard & Poor's, the annuities carrier member must have a claims paying ability rating of not less than ''AAA;'' (ii) Moody's the annuities carrier member must have a long-term debt rating of not less than ''Aaa;'' or (iii) Duff & Phelps, the annuities carrier member must have a long-term debt rating of not less than ''A−.''[7]

Alternatively, if the annuities carrier member does not satisfy the above-mentioned criteria, Rule 56 will require that the annuities carrier member have an A.M. Best rating of not less than ''B+.'' If rated by (i) Standard & Poor's, the annuities carrier member must have a claims-paying ability rating of not less than ''BBB;'' (ii) Moody's, the annuities carrier member must have a long-term debt rating of not less than ''A;'' or (iii) Duff & Phelps, the annuities carrier member must have a long-term debt rating of not less than ''BBB−.'' In this case, Rule 56 also will require that the annuities carrier member demonstrate to NSCC's Board of Directors that its business and capabilities are such that it could reasonably expect material benefit from access to APS, and NSCC must determine that the financial condition of such annuities carrier member does not pose an undue risk to NSCC or its members.

The proposed rule change will amend NSCC Rule 15 to require that all annuities agency members and annuities carrier members file certain financial information with NSCC. In addition to some of the financial information required of full NSCC members, Rule 15 will require annuities agency members and annuities carrier members to file with NSCC reports filed with relevant state insurance departments as may be determined by NSCC from time to time.

The proposed rule change amends Addendum B of NSCC's rules (Standards of Financial Responsibility & Operational Capability) to include membership standards for applicants that will use only APS. The proposed rule change will require a broker-dealer whose membership is limited to the use of APS to have $25,000 in excess net capital over the minimum net capital requirement imposed by the Commission or such higher minimum capital requirement imposed by the broker-dealer's designated examining authority. In addition, the broker-dealer must have a capital ratio or percentage that would not require it to be placed on immediate surveillance at NSCC and must not be on ''closer-than-normal'' surveillance by its designated examining authority. If the applicant is a bank or trust company, it must have $100,000 minimum excess capital over the capital requirement imposed by its state or federal regulatory authority. A bank or trust company must not be operating at a loss at the time of its application and must not have operated at a loss in any of its previous three fiscal quarters. All others which apply for use of APS must only have the operational capability for membership or have an agreement concerning the provision of operational support services to such applicant with an entity acceptable to NSCC and which may not be replaced without prior approval by NSCC and must agree to restrict its business activities as NSCC may require.

Addendum B also will require that all annuities agency members file certain prescribed information annually. Such information includes, among other things, general information concerning the member's corporate organizational structure and licensing, the nature of its business, bonding, pending investigations, and litigation.

The proposed rule change explicitly sets forth that, like NSCC's Mutual Fund Services and New York Window Service, APS will not be a guaranteed service. An additional paragraph has been added to Addendum K Interpretation of the Board of Directors—Application of Clearing Fund to make it clear that APS is not a guaranteed service.[8]

Telephone conversation between Julie Beyers, Associate Counsel, NSCC, and Jeffrey Mooney, Attorney, Division of Market Regulation, Commission (September 8, 1997).

[6] Although no clearing fund deposit will be required from annuities agency members and annuities carrier members, NSCC has amended Rule 4 of its rules to state that an annuities agency member or annuities carrier member may be required to make a deposit in the clearing fund in the event that in the future NSCC determines that a clearing fund deposit should be required.

[7] It should be noted that applicants will not be required to be rated by any rating agency other than A.M. Best in order to qualify as annuities carrier members. The standards set forth for the other rating agencies apply only if a annuities carrier member determines to utilize a rating agency in addition to A.M. Best.

[8] Furthermore, NSCC states that it has not yet determined the fees for APS. NSCC will make the appropriate rule filing pursuant to Section

Continued

The proposed rule change amends NSCC's Rule 3 (Lists to be Maintained) to indicate that NSCC will maintain a list of annuity plans that may be the subject of orders processed through APS. The proposed rule change amends NSCC's Rule 57 (Annuities Processing Service) to clarify what governs these Phase I aspects of APS.

The proposed rule change also makes technical amendments to the following NSCC rules to accommodate the APS service, annuities agency members, and annuities carrier members: Rule 1 (Definitions and Descriptions), Rule 5 (General Provisions), Rule 6 (Distribution Facilities), Rule 12 (Settlement), Rule 17 (Fine Payments), Rule 18 (Procedures For When the Corporation Declines or Ceases to Act), Rule 20 (Insolvency), Rule 22 (Suspension of Rules), Rule 24 (Charges for Services Rendered), Rule 26 (Bills Rendered), Rule 27 (Admission to Premises of the Corporation—Powers of Attorney, Etc.), Rule 29 (Qualified Securities Depositories), Rule 32 (Facsimile Signatures), Rule 33 (Procedures), Rule 34 (Insurance), Rule 35 (Financial Reports), Rule 36 (Rule Changes), Rule 37 (Hearing Procedures), Rule 39 (Special Representative/Index Receipt Agent), Rule 45 (Notices), Rule 46 (Restrictions on Access to Services), Rule 48 (Disciplinary Proceedings), Rule 55 (Settling Banks), Procedure VIII (Money Settlement Service), Procedure XV (Clearing Fund Formula and Others Matters), Addendum D (Statement of Policy—Envelope Settlement Service), and Addendum F (Statement of Policy—In Relation to Same Day Funds Settlement).[9]

II. Discussion

Section 17A(b)(3)(F)[10] of the Act requires that the rules of a clearing agency be designed to facilitate the prompt and accurate clearance and settlement of securities transactions. The Commission believes that NSCC's proposed rule change is consistent with its obligations under the Act because APS will provide centralized communication between insurance carriers and broker-dealers, banks, and their affiliated insurance agencies. APS also permits commission and charge back transactions to be processed in a standardized and automated environment. Because the activities will be handled through NSCC, the time and cost associated with processing should be reduced. Thus, the proposal promotes the prompt and accurate clearance and settlement of securities transactions.

III. Conclusion

On the basis of the foregoing, the Commission finds that the proposal is consistent with the requirements of the Act and in particular with the requirements of Section 17A of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–NSCC–96–21) be, and hereby is, approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[11]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25447 Filed 9–24–97; 8:45 am]

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19(b)(3)(A) of the Act at such time as NSCC determines the fees to be charged for APS services.

[9] The full text of each of these technical rule changes is set forth in Exhibit A of NSCC's filing and subsequent amendments thereto, each of which is available for inspection and copying at the Commission's Public Reference Room or through NSCC.

[10] 15 U.S.C. 78q–1(b)(3)(F).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39088; International Series Release No. 1102; File No. SR–OCC–97–10]

Self-Regulatory Organizations, the Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change Seeking Approval to Issue, Clear, and Settle Flexibly Structured Options on the Mexican Peso

September 17, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on June 24, 1997, The Options Clearing Corp. (''OCC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval, conditioned as described below, of the proposal.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change will allow OCC to issue, clear, and settle option transactions where the Mexican peso is either the trading currency or the underlying currency.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Under the proposed rule change, OCC will issue, clear, and settle flexibly structured option contracts where the Mexican peso is either the trading currency or the underlying currency. The Philadelphia Stock Exchange (''PHLX'') has proposed to list and trade such foreign currency options through its customized options facility.[3] The PHLX rule filing proposes to enable its members to trade customized contracts between the peso and United States dollar. The PHLX rule filing further proposed to offer cross-rate contracts for the Mexican peso against the Canadian dollar.

Currently, OCC has approval to list and clear flexibly structured option contracts on any combination of the following currencies: (1) Australian dollars, (2) British pounds, (3) Canadian dollars, (4) German deutsche marks, (5) European Economic Community currency units, (6) French francs, (7) Italian lire, (8) Japanese yen, (9) Spanish pesetas, (10) Swiss francs, and (11) United States dollars. OCC is now proposing to add the Mexican peso to that list of approved currencies.

Options on the peso will be cleared and settled in accordance with the clearance and settlement mechanisms already in place for flexibly structured foreign currency options and for cross-rate foreign currency options. In addition, options on the peso will be

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

[3] For a discussion of the PHLX proposal, refer to Securities Exchange Act Release No. 38867 (May 22, 1997), 62 FR 29385 [File No. SR–PHLX–97–22] (notice of proposed rule change to list and trade options on the Mexican peso). The PHLX proposal has not received final approval from the Commission.

margined like OCC's existing foreign currency and cross-rate foreign currency option contracts. Accordingly, OCC has determined that no changes to its by-laws or rules are necessary to accommodate these new contracts.

OCC believes the proposed rule change is consistent with the requirements of Section 17A(b)(3)(F) of the Act[4] and the rules and regulations thereunder because it promotes efficiencies in the clearance and settlement of securities transactions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change would impose any burden on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none were received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F) of the Act[5] requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody and control of the clearing agency or for which it is responsible. OCC's proposal will allow the clearance and settlement of flexibly structured option contracts where the peso is either the trading currency or the underlying currency by using existing OCC systems, rules, and procedures already in place for flexibly structured foreign currency options and for cross-rate foreign currency options. Due to the similarity of these option contracts to the option contracts currently cleared and settled in OCC's existing system, OCC should be able to implement the clearance and settlement of such options safely and in a manner consistent with its obligations under Section 17A. Thus, the Commission is approving OCC's proposal, subject to the Commission's approval of the proposed rule change contained in File No. SR–PHLX–97–22.[6]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after the publication of notice of the filing. Approving prior to the thirtieth day after publication of notice will allow OCC to issue, clear, and settle flexibly structured options and cross-rate foreign currency options on the Mexican peso as soon as the Commission approves PHLX's trading of such options.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filing also will be available for inspection and copying at the principal office of OCC. All submissions should refer to File No. SR–OCC–97–10 and should be submitted by October 16, 1997.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[7] that the proposed rule change (File No. SR–OCC–97–10) be and hereby is approved, subject to the Commission's final approval of the proposed rule change contained in File No. SR–PHLX–97–22.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25375 Filed 9–24–97; 8:45 am]

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[4] 15 U.S.C. 78q–1(b)(3)(F).

[5] *Id.*

[6] *Supra* note 3.

[7] 15 U.S.C. 78s(b)(2).

[8] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39094; File No. SR–OCC–97–06]

Self-Regulatory Organizations, The Options Clearing Corporation; Notice of Filing and Order Granting Accelerated Approval of a Proposed Rule Change to Issue, Clear, and Settle Packaged Spread Options

September 19, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on May 15, 1997, The Options Clearing Corporation (''OCC'') filed with the Securities and Exchange Commission (''Commission'') and on July 1, 1997, amended the proposed rule change as described in Items I and II below, which Items have been prepared primarily by OCC. The Commission is publishing this notice and order to solicit comments from interested persons and to grant accelerated approval, conditioned as described below, of the proposed rule change.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The purpose of the proposed rule change is to amend OCC's by-laws and rules to permit OCC to issue, clear, and settle packaged spread options, which have been proposed for trading by the Chicago Board Options Exchange (''CBOE'').

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, OCC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. OCC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[2]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. *Description of Packaged Spreads*

The purpose of the proposed rule change is to amend OCC's by-laws and rules to permit OCC to issue, clear, and

[1] 15 U.S.C. 78s(b)(1).

[2] The Commission has modified the text of the summaries prepared by OCC.

settle packaged spread options, which have been proposed for trading by the CBOE.[3] A packaged spread option is a cash-settled option that upon exercise calls for the payment by the assigned writer (*i.e,* seller) to the exercising holder (*i.e.,* buyer) of an amount equal to the net exercise settlement values of all of the component options in a specified spread position (''exercise settlement amount''). A spread position is the position resulting from the purchase and sale of more than one option of the same type (*i.e.,* put or call) on the same underlying interest. A packaged spread option permits an investor to create the entire spread position in a single transaction thereby avoiding the difficulty of simultaneous executions and potentially reducing transaction costs.

The proposed packaged spread options will be European-style, cash settled index options which will synthetically create a butterfly spread or a vertical spread position. A butterfly spread strategy is a neutral strategy where the holder of the spread typically seeks to profit from a market in which the underlying interest does not significantly rise or decline in value. A packaged butterfly spread option is a single security that replicates the behavior of a butterfly spread strategy by combining four options of the same type on the same underlying interest with the same expiration date. Two of the options have the same exercise price, the third option has an exercise price above the exercise price of the first two by a stated amount (''spread interval''), and the fourth has an exercise price below the first two by the same spread interval. Because a butterfly spread strategy has precisely the same settlement value whether it consists of all puts or all calls, packaged butterfly spreads will not be identified as either puts or calls except that, as noted below, they will be counted as calls for purposes of determining the number of calls issued by OCC and registered under the Securities Act of 1933 (''Securities Act'') and the Act.

A packaged vertical spread option is a single security that upon exercise calls for the payment of an exercise settlement amount equal to the net exercise settlement amounts of the component options in a vertical spread position. A vertical spread position consists of a combination of two options of the same type at different exercise prices expiring on the same date. The difference between the exercise prices is the vertical spread interval. The holder of a vertical call spread is long the call having the lower exercise price and is short the call having the higher exercise price. The holder of a vertical put spread is long the put having the higher exercise price and short the put having the lower exercise price. The holder of a vertical spread option typically seeks to profit from an increase (*i.e.,* in the case of a vertical call spread) or decrease (*i.e.,* in the case of a vertical put spread) in the value of the underlying index, with the maximum potential gain in either case being the amount of the vertical spread interval times the multiplier for the index.

2. Organization of Proposed Rule Change

The proposed rule change consists of four sections: (i) amendments to OCC's existing by-laws; (ii) a new Article XXVI of the by-laws applicable only to packaged spread options, (iii) amendments to OCC's existing rules; and (iv) a new Chapter XXVII of the rules applicable only to packaged spread options.

3. Proposed Amendments to Existing By-Laws

The proposed rule changes will amend certain defined terms in Article I of the by-laws to indicate how those terms will apply to packaged spread options. The definitions of the terms ''call'' and ''put'' will be amended to state that for purposes of determining the number of calls and puts registered under the Securities Act and the Act a packaged vertical call spread option will be deemed to be a single call option, a packaged butterfly spread options will be deemed to be a single call option, and a packaged vertical put spread option will be deemed to be a single put option. Otherwise, for purposes of OCC's by-laws and rules, packaged vertical call spread options, packaged vertical put spread options, and packaged butterfly spread option will be separate ''types'' of options. Accordingly, the proposed rule change will amend the term ''type of option'' set forth in article I, Section I.T. (4) to include packaged butterfly spread options, packaged vertical call spread options, and packaged vertical put spread options as distinct types of options.

OCC also proposes to amend the definition of ''cleared security'' set forth in Article I, Section I.C.(5). According to OCC, the change is intended merely to eliminate unnecessary words and has no specific relationship to packaged spread options although a packaged spread option will be defined as an ''option contract'' and therefore is within OCC's definition of ''cleared security.''

The amendments in Sections 6 and 7 of Article VI regarding the issuance of securities and the reporting of matched trades, respectively, are intended merely to adapt those sections to apply to packaged spread options. Similarly, the changes in Interpretations and Policies .01 of OCC's rules following Article VI, Section 9, are intended merely to make clear that the general rights and obligations of holders and writers of packaged spread options will be set forth in new Article XXVI of OCC's by-laws and not in Article VI, Section 9. Article VI, Section 10 will be amended to identify the terms of packaged spread options that must be determined by the exchange on which these options trade prior to opening of trading in a series of packaged spread options. Additionally, Article VI, Section 18(b)(2) will be amended to use more general language that can apply to packaged spread options as well as other non-stock option products without referencing the particular chapter of OCC's rules that applies to each.

4. Proposed New By-laws

The proposed rule change will adopt Article XXVI of the by-laws which will pertain only to packaged spread options. Section 1 will define additional terms and will supplement existing defined terms in Article I with respect to packaged spread options. Most of these are self-explanatory and do not require discussion.[4] The term ''base exercise price'' will be used for packaged spread options rather than simply ''exercise price'' to avoid confusion between the exercise price of the packaged spread option itself and the exercise prices of the component positions in puts and calls that the packaged spread options are designed to replicate. For packaged butterfly spread options, the ''base exercise price'' will be the exercise price of the two options that have the same exercise price in the spread. For packaged vertical call spread options, the base exercise price will be the lower exercise price of the spread. For packaged vertical put spread options, it will be the higher exercise price of the spread. Except as described above, packaged spread options will otherwise

[3] For a description of CBOE's proposal, refer to Securities Exchange Release Nos. 38214 (January 28, 1997), 62 FR 5266 [File No. SR–CBOE–96–76] (notice of filing of proposed rule change relating to the listing and trading of packaged vertical spread options) and 38213 (January 28, 1997), 62 FR 5265 [File No. SR–CBOE–96–75] (notice of filing of proposed rule change relating to the listing and trading of packaged butterfly spread options).

[4] The text of OCC's proposed rule changes is included in OCC's filing which is available for inspection and copying at the Commission's Public Reference Room or through OCC.

be subject to the provisions governing index options found in Article XVII of OCC's Rules and Chapter XVIII of OCC's by-laws.

Article XXVI, Section 2 regarding the general rights and obligations of holders and writers of packaged spread options is similar to corresponding provisions in other Articles. Provisions in Sections 3, 4, and 5 relating to adjustments, unavailability or inaccuracy of index values, and time for determination of index values merely incorporate corresponding provisions of Article XVII of the index option by-laws.

5. Proposed Amendments to Existing Rules

Provisions in existing Rules 207 and 401 regarding records and reporting of matched trades, respectively, will be modified in order to accommodate the unique attributes of packaged spread options. Rule 602, which sets forth the margin requirements for non-equity options does not require substantive modification in order to provide for the margining of packaged spread options. The existing margin rules calculate margin for an account that contains options in a spread position based upon the net risk of that position. Consequently, the margin requirement for a short position in packaged spread options and the margin credit, if any, for a long position will be precisely the same as if margin was calculated based upon the corresponding spread position consisting of separate European-style puts or calls. Accordingly, the margin rule will apply to packaged spreads without modification except that Interpretations and Policies .06 to Rule 602 will be modified to make clear that packaged spreads will never be treated as ''unpaired'' because short and long option positions are synthetically paired within the packaged spread option itself.

6. Proposed New Rules

OCC proposes to add Chapter XXVII to its rules which will relate only to packaged spread options. Rule 2701 sets forth that OCC will not accept escrow deposits in lieu of margin on packaged spread options. Rules 2702 and 2703 set forth the exercise and assignment procedures for packaged spread options. These procedures essentially parallel the procedures in OCC Rules 805 and 1802–1804 that are applicable to European-style index options. OCC will follow its usual expiration date exercise procedures in identifying to clearing members those options that are in the money by at least $1 and will afford the clearing member an opportunity to negate an exercise if it chooses to do so. As is the case with most other options, Interpretations and Policies .01 to proposed Rule 2702 states that these procedures are for administrative convenience only and are not intended to override a clearing member's agreement with its customers as to whether an option will be exercised. Rule 2704 will provide that the exercise settlement date will ordinarily be the business day following the expiration date as is the case for index options.

Rule 2705 will specify that the exercise settlement amount for a packaged spread option will be the settlement value of the synthetically created spread position as calculated by OCC utilizing a settlement value furnished to OCC by the exchange on which the packaged spread option is traded. Rule 2706 is needed to integrate the packaged spread rules with those in Chapter XI relating to clearing member suspensions. It is parallel to similar provisions in other product-specific chapters of the OCC's rules.

OCC believes that the proposed rule change is consistent with the purposes and requirements of Section 17A of the Act[5] because it applies to packaged spread options the same procedures and safeguards that have been and are successfully employed by OCC for other options products. OCC believes that these procedures have proven effective in promoting the prompt and accurate clearance and settlement of securities transactions and to safeguard funds and securities in its custody or control for which it is responsible.

(B) Self-Regulatory Organization's Statement on Burden on Competition

OCC does not believe that the proposed rule change will have any material adverse impact on competition.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Written comments were not and are not intended to be solicited with respect to the proposed rule change, and none have been received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Section 17A(b)(3)(F)[6] of the Act requires that the rules of a clearing agency be designed to assure the safeguarding of securities and funds which are in the custody or control of the clearing agency or for which it is responsible and to promote the prompt and accurate clearance and settlement of securities transactions. OCC's proposal will allow OCC to clear and settle packaged spread options using existing OCC systems, rules, and procedures. Thus, due to the similarity of packaged spreads to other option products currently cleared and settled by OCC, OCC should be able to implement the clearance and settlement of packaged spread options safely and in a manner consistent with its safeguarding obligations under Section 17A. In addition, the packaging of a strategy that synthetically creates two option positions (as with vertical spread options) and four option positions (as with the packaged butterfly spread options) into one security should reduce the number of transactions processed because a clearing member will only have to enter into one transaction and because OCC will only have to process one transaction rather than multiple transactions to achieve the same option strategy. In this way, the Commission believes that the proposal is consistent with OCC's obligation under Section 17A to promote the prompt and accurate clearance and settlement of securities transactions.

The Commission finds good cause for approving the proposed rule change prior to the thirtieth day after publication of notice of the filing because accelerated approval will allow OCC to coordinate the issuance, clearance, and settlement of packaged spread options with the CBOE's listing of packaged spread options. The Commission believes that because OCC will be applying procedures which have proved to be efficient and safe in the past, accelerated approval is justified. Furthermore, no negative comments were received upon publication of the notice of filing of the CBOE's proposed rule changes, and the Commission does not expect to receive any adverse comments on the present proposed rule change.[7] However, the Commission's approval of OCC's proposed rule change is subject to the Commission's approval of CBOE's proposed rule changes.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submission should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington D.C. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule

[5] 15 U.S.C. 78q–1

[6] 15 U.S.C. 78q–1(b)(3)(F).

[7] *Supra* note 3.

change that are filed with the Commission, and all written communications relating to the proposed rule change between the commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of such filings will also be available for inspection and copying at the principal office of OCC. All submissions should refer to the file number SR–OCC–97–06 and should be submitted by October 16, 1997.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (File No. SR–OCC–97–06) be and hereby is approved on an accelerated basis.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[8]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25446 Filed 9–24–97; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39087; File No. SR–PCX–97–29]

Self-Regulatory Organizations; Order Approving Proposed Rule Change and Amendment No. 1 Thereto and Notice of Filing and Order Granting Accelerated Approval of Amendment No. 2 Thereto by the Pacific Exchange, Inc. Relating to the Listing and Trading of Options on the Morgan Stanley Emerging Growth Index

September 17, 1997.

I. Introduction

On July 8, 1997, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change to list and trade options on the Morgan Stanley Emerging Growth Index (''Index''). On July 29, 1997, the Exchange submitted an amendment to the proposal.[3] Notice of the proposed rule change and Amendment No. 1 appeared in the **Federal Register** on August 5, 1997.[4] No comment letters were received concerning the proposed rule change. On September 17, 1997, the Exchange submitted Amendment No. 2.[5] This order approves the PCX's proposal, as amended.

II. Description of the Proposal

The purpose of the proposed rule change is to permit the Exchange to list and trade European-style, cash-settled options on the Index, a market capitalization-weighted, broad-based index developed by Morgan Stanley & Co. Incorporated (''Morgan Stanley'') comprised of the common stocks of 50 domestic emerging growth securities representing 26 different industry groups.

A. Design of the Index

The Index is comprised of 50 representative stocks[6] traded on the New York Stock Exchange, Incorporated (''NYSE''), the American Stock Exchange, Incorporated (''Amex'') and through the facilities of the National Association of Securities Dealers, Incorporated (''NASD'') automated quotation system and are reported national market system securities.

The Index was designed by Morgan Stanley to reflect the emerging growth equity market. The component securities were selected for their market capitalization, price per share, longterm debt as a percentage of total capital, mean estimated longterm (three year) earnings per share growth rate, net sales and return on average total equity. Specifically, stocks were selected based on whether they are ''emerging'' stocks (in general, having current sales figures of between $25 million and $2 billion annually) and ''growth'' stocks (in general, having a high mean I/B/E/S[7] anticipated earnings growth rate). A primary consideration in determining ''growth'' is whether a stock's expected growth rate is significantly higher than that of other stocks. In addition, currently all of the issues are traded in the United States and there are no foreign issues or American Depositary Receipts (''ADRs'') included in the Index.[8]

The Exchange represents that the Index currently is representative of the domestic emerging growth stock market as a whole, and therefore, believes it is a broad-based index. In support of this, the PCX notes that the Index is comprised of companies in 26 different industry groups, which range from apparel (.76%) to auto parts (.63%) to restaurants (1.79%).[9] Although

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[8] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX to James T. McHale, Special Counsel, Division of Market Regulation (''Division''), SEC, dated July 29, 1997 (''Amendment No. 1''). Amendment No. 1, among other issues, addressed maintenance standards and revised the Exchange's limitation of liability rule, PCX Rule 7.13.

[4] *See* Securities Exchange Act Release No. 38884 (July 29, 1997), 62 FR 42150 (August 5, 1997).

[5] *See* Letter from Michael D. Pierson, Senior Attorney, Regulatory Policy, PCX to Marianne H. Duffy, Special Counsel, Division, SEC, dated September 17, 1997 (''Amendment No. 2''). Amendment No. 2 proposed an additional maintenance standard regarding options eligibility of the Index components.

[6] The 50 stocks comprising the Index are: BMC Software Inc. (BMCS), Parametric Technology Corp. (PMTC), Diamond Offshore Drilling, Inc. (DO), Ascend Communications Inc. (ASND), Cabletron Systems (CS), Altera Corp. (ALTR), Ciena Corp. (CIEN), Linear Technology Inc. (LLTC), Paychex Inc. (PAYX), Compuware Corp. (CPWR), XILINX Inc. (XLNX), Maxim Integrated Products (MXIM), Health Management Assoc. (HMA), McAfee Associates Inc. (MCAF), Sterling Commerce Inc. (SE), Iomega Corp. (IOM), Robert Half Intl. Inc. (RHI), ATMEL Corp. (ATML), Bed Bath & Beyond Inc. (BBBY), American Power Conversion (APCC), Planet Hollywood Intl. Inc. (PHII), Synopsys Inc. (SNPS), Reading and Bates Corp. (RB), Viking Office Prods. Inc. (VKNG), Micron Electronics Inc. (MUEI), Cambridge Technology Partners (CAPT), Blyth Industries Inc. (BTH), Jabil Circuit Inc. (JBIL), Novellus Systems Inc. (NVLS), Dollar Tree Stores Inc. (DLTR), Jones Medical Inds. Inc. (JMED), Pairgain Technologies Inc. (PAIR), Rexall Sundown Inc. (RXSD), CDW Computer Centers Inc. (CDWC), Titanium Metals Corp. (TIMT), Remedy Corp. (RMDY), Aspect Telecommunications (ASPT), Delta & Pine Land Co. (DLP), Telco Communications Grp. Inc. (TCGX), APAC Teleservices Inc. (APAC), Learning Tree Intl. Inc. (LTRE), Visio Corp. (VSIO), Catalina Marketing Corp. (POS), Nautica Enterprises Inc. (NAUT), Boston Technology Inc. (BSN), ETEC Systems Inc. (ETEC), Mentor Corp. (MNTR), Gentex Corp. (GNTX), Veritas Software Co. (VRTS), and Bio Technology General Corp. (BTGS).

[7] The term I/B/E/S refers to the Institutional Broker's Estimate System, a source of analysts' earnings expectation data that is obtained from over 7,000 analysts working for approximately 750 research organizations.

[8] In the future, should the Index include non-U.S. registered securities, such securities will not in the aggregate comprise more than 10% of the Index weight and will not represent more than 3 Index components. Prior to reaching these limits, PCX will notify the Commission to determine if a new filing under Rule 19b–4 is required.

[9] The industry groupings and their Index weight are as follows: apparel (0.76%); auto parts (0.63%); biotechnology (0.56%); catalog/specialty distribution (2.55%); computer communications (5.66%); computer local area networks (4.52%); computer software (20.45%); contract drilling (6.29%); discount stores (1.14%); diversified commercial services (8.37%); electronic data processing peripherals (2.55%); electronic data processing services (4.06%); electrical products (1.82%); electronic data processing (1.53%); electronic production equipment (3.18%); farming/seeds/milling (0.86%); hospital/nursing management (2.88%); medical specialties (0.64%); other metals/minerals (0.91%); other pharmaceuticals (2.15%); other speciality stores (1.89%); other telephone/communications (0.84%); packaged goods/cosmetics (1.35%); restaurants (1.79%); semiconductors (16.99%); and telecommunications equipment (5.63%). The industry groupings are based upon the classifications used by FactSet Research Systems, Inc., an electronic market data provider of information that is available by subscription in the securities industry.

technology issues comprise 61% of the market capitalization of the Index, these companies are included in nine different industries ranging from computer software to semiconductors to computer services.

The Index is weighted by the market capitalization of the component stocks. As of June 18, 1997, the total market capitalization of the Index was $112.7 billion, and the average market capitalization of the component stocks was $2.3 billion. The individual market capitalization of the stocks ranged from $629 million (Bio Technology General Corp.) to $5.9 billion (BMC Software, Inc.) on the same date. The largest component stock accounted for 5.20% of the Index, while the smallest accounted for 0.56%. The top five stocks in the Index by weight accounted for 24.05% of the Index. The average daily trading volume in the component securities for the period from December 18, 1996 through June 18, 1997, ranged from a low of 94,688 shares to a high of 6,291,777 shares, with an average daily trading volume for all the component stocks of approximately 926,131 shares per day.

B. Maintenance of the Index

The Index will be maintained by PCX in conjunction with Morgan Stanley. Index maintenance includes monitoring Index criteria and completing the adjustments for company additions and deletions, share changes, stock splits, stock dividends and stock price adjustments due to events such as company restructurings or spin-offs, as well as a semi-annual rebalancing and quarterly review.[10] In order to ensure that the Index continues to represent the overall character of the emerging growth equity market, any changes made to the Index, including those made at the time of semi-annual rebalancing and quarterly review, will be in compliance with the following initial inclusion and maintenance criteria: (a) the number of component stocks in the Index will be no less than 42 and no greater than 58; (b) the top weighted component stock will not account for more than 25% of the weight of the Index; (c) the top five weighted component stocks will not account for more than 50% of the weight of the Index; (d) no component stock will have a market capitalization of below $75 million; (e) no component issue will have an average trading volume of less than 20,000 shares per day; (f) no component issue will have an average trading value of less than $100,000 per day; (g) no component will have a price per share of less than $3; (h) at least 80% of the issues comprising the Index and at least 90% of the Index weight will meet the initial listing requirements for options trading pursuant to PCX Rule 3.6; and (i) the minimum market capitalization for all of the issues included in the Index, collectively, will be $60 billion.

In the event that the Index does not comply with any of these criteria at the time of semi-annual rebalancing and quarterly review, the Exchange either will: (i) make adjustments to the composition of the Index to place it in compliance with such criteria; or (ii) notify Commission staff to determine the appropriate regulatory response, which could include, but is not limited to, the removal of securities from the Index, prohibiting opening transactions, or discontinuing the listing of new series of Index options.

C. Calculation and Dissemination of Index Value

The value of the Index is determined by multiplying the price of each stock by the number of shares outstanding, adding those sums and dividing by a divisor which resulted in an Index value of 300.00 on its base date of February 7, 1997. The Index value will be calculated by Bridge Data Corporation and will be disseminated at 15-second intervals during regular PCX trading hours to market information vendors via the Consolidated Tape Authority. Notice of component changes will be disseminated to vendors and Member Firms via facsimile and over the Options News Network.

D. Trading of the Index Options

The Exchange proposes to base trading in options on the Index on the full value of the Index as expressed in U.S. dollars. The Exchange also may provide for the listing of long-term index option series (''LEAPS'') and for FLEX options on the Index. The Exchange will list expiration months for Index options and Index LEAPS in accordance with PCX Rule 7.8. Strike prices will be set to bracket the Index in 5 point increments. The minimum tick size for series trading below $3 will be 1/16th and the minimum tick size for all other series will be 1/8th.[11]

E. Position Limits

The Exchange is proposing to establish position limits for Index options equal to 37,500 contracts on the same side of the market, with no more than 22,500 contracts in the series with the nearest expiration date. These limits are roughly equivalent, in dollar terms, to the limits applicable to options on other indices.[12] Furthermore, the hedge exemption rule applicable to broad-based index options, Commentary .02 to PCX Rule 7.6, will apply to Index options. With regard to FLEX Index options, the Exchange is proposing to establish position limits of 200,000 contracts on the same side of the market pursuant to PCX Rule 8.107(a). The PCX also represents that it has the necessary systems capacity to support new series that would result from the introduction of the Index options.[13]

F. Exercise and Settlement

The proposed options on the Index will expire on the Saturday following the third Friday of the expiration month and trading in the expiring contract month on the PCX will normally cease at 1:15 p.m. (Pacific Time) on the business day preceding the last day of trading in the component securities of the Index (ordinarily the Thursday before expiration Saturday, unless there is an intervening holiday). The exercise settlement value of Index options at expiration will be determined from opening prices established at the open of the regular Friday trading sessions at the appropriate exchange or market system. If a stock does not trade during

[10] Routine corporate actions, such as stock splits and stock dividends that require simple changes in the common shares outstanding and the stock prices of the companies in the Index will be handled by PCX through a contract with Bridge Data. Non-routine corporate actions and other material changes such as share issuances that change the market value of the Index and require an Index divisor adjustment are performed by Morgan Stanley. In addition, Morgan Stanley will select all of the stocks that are added to the Index at the time of the semi-annual rebalancing and quarterly review.

[11] *See* PCX Rule 6.72.

[12] For example, on June 18, 1997, a position of 37,500 contracts would have a dollar value of $1,168,800,000 (37,500 times the Index value of 311.68 times the Index multiplier of 100). For a comparison of position limits on similar indices, *see* Securities Exchange Act Release No. 32554 (June 29, 1993) 58 FR 36492 (July 7, 1993) (order approving increase in position and exercise limits on the Wilshire Small Cap Index to 37,500 contracts on the same side of the market with no more than 22,500 of such contracts in the series with the nearest expiration date) and Securities Exchange Act Release No. 36504 (November 22, 1995) 60 FR 61275 (November 29, 1995) (order approving increase in position and exercise limits on the PSE Technology Index to 37,500 contracts on the same side of the market with no more than 22,500 on such contracts in the series with the nearest expiration date).

[13] In addition, the Options Price Reporting Authority (''OPRA'') has represented that it has the necessary systems capacity to support those new series of index options that would result from the introduction of Index options and long-term Index options. *See* letter from Joe Corrigan, Executive Director, OPRA, to Kim Koppien, Vice President-Operations, Options Division, PCX, dated August 18, 1997.

this interval or if it fails to open for trading, the last available price of the stock will be used in the calculation of the Index.[14] When the last trading day is moved in accordance with Exchange holidays (such as when the PCX is closed on the Friday before expiration), the last trading day for expiring options will be Wednesday and the exercise settlement value of Index options at expiration will be determined at the open of the regular Thursday trading sessions.

G. Surveillance

The Exchange will apply its existing index option surveillance procedures to Index options. These procedures include complete access to trading activity in the underlying securities. Further, the Intermarket Surveillance Group (''ISG'') Agreement, dated July 14, 1983, as amended on January 29, 1990, will be applicable to the trading of options on the Index.[15]

H. Other Exchange Matters

Finally, the Exchange proposes to amend PCX Rule 7.13 regarding limitation of liability in order to be consistent with the limitation of liability rules of other self-regulatory organizations (''SROs'').[16]

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5).[17] Further, the trading of options on the Index will allow investors holding positions in some or all of the securities underlying the Index to hedge the risk associated with their portfolios. Specifically, the Commission finds that the listing and trading of options on the Index, including LEAPS and FLEX Index options, will serve to promote the public interest and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with the emerging growth equity market[18] and promote efficiency, competition, and capital formation.[19]

Nevertheless, the trading of options on the Index raises several concerns related to the design and maintenance of the Index, customer protection, surveillance and market impact. The Commission believes, however, for the reasons discussed below, that the PCX has adequately addressed these concerns.

A. Design and Maintenance of the Index

The Commission finds that it is appropriate and consistent with the Act for the PCX to designate the Index as broad-based for purposes of index options trading. First, the Index is composed of 50 companies from 26 industry groups including: computer software; semiconductors; consumer goods; energy; capital equipment; basic materials; agriculture/food and financial services.[20] Second, no particular stock or group of stocks dominates the Index. Specifically, as of June 18, 1997, the largest stock accounted for 5.20% of the Index weight, while the smallest accounted for 0.56%. The top five stocks in the Index by weight accounted for 24.05%. Accordingly, the Commission believes that it is appropriate for the PCX to apply its rules governing broad-based index options to trading in the proposed Index options. The Commission notes that with respect to the maintenance of the Index, Morgan Stanley has implemented several safeguards in connection with the listing and trading of the Index options that will serve to ensure that the Index components are highly capitalized, diversified and actively-traded. In this regard, Morgan Stanley will maintain the Index so that: (a) the number of component stocks in the Index will be no less than 42 and no greater than 58; (b) the top weighted component stock will not account for more than 25% of the weight of the Index; (c) the top five weighted component stocks will not account for more than 50% of the weight of the Index; (d) no component stock will have a market capitalization of below $75 million; (e) no component issue will have an average trading volume of less than 20,000 shares per day; (f) no component issue will have an average trading value of less than $100,000 per day; (g) no component will have a price per share of less than $3; (h) at least 80% of the issues comprising the Index and 90% of the Index weight will meet the initial listing requirements for options trading pursuant to PCX Rule 3.6; and (i) the minimum market capitalization for all of the issues included in the Index, collectively, will be $60 billion.

In addition, the Commission notes that Morgan Stanley has adopted appropriate procedures to be followed by those responsible for maintaining the Index in order to help to prevent and to deter the misuse of any informational advantages with respect to changes in the composition of the Index.[21] Such procedures include, for example, informational barriers.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as Index

[14] If a stock does not trade during the opening of the regular Friday trading session at the appropriate exchange or market system, or if it fails to open for trading, then pursuant to PCX Rule 7.8(e), the last reported sale price of stock will be used in the calculation of the Index, unless the exercise settlement amount is fixed in accordance with the Rules and By-Laws of The Options Clearing Corporation.

[15] ISG was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the Chicago Board Options Exchange, Inc. (''CBOE''); the Chicago Stock Exchange, Inc.; the NASD; the NYSE; the PCX; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock, and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (e.g., the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

[16] *See* Amendment No. 1, *supra* note 3. The Commission notes that the text of new Rule 7.13 is substantially similar to the limitation of liability provisions of other SROs. *See* CBOE Rule 24.14.

[17] 15 U.S.C. 78f(b)(5).

[18] Pursuant to Section 6(b)(5) of the Act, the Commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a product that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns. In this regard, the trading of listed options on the Index will provide investors with a hedging vehicle that should reflect the overall movement of the stocks representing companies in the emerging growth sector in the U.S. stock markets.

[19] 15 U.S.C. 78c(f).

[20] Although technology issues comprise 61% of the market capitalization of the Index, these companies are included in nine different industries ranging from computer software to semiconductors to computer services. in addition, the Commission previously has approved the listing and trading of options on a broad-based index designed to measure the performance of high capitalization technology stocks. *See e.g.,* Securities Exchange Act Release No. 37693 (September 17, 1996) 61 FR 50362 (September 25, 1996) (order approving the listing and trading of options on the Goldman Sachs Technology Composite Index).

[21] *See* Letter from Carol Shahmoon, Counsel, Morgan Stanley, to Sharon Lawson, Senior Special Counsel, Division of Market Regulations, Commission, dated August 7, 1997.

options, can commence on a national securities exchange. The Commission notes that the trading of standardized exchange-traded options occurs in an environment that is designed to ensure, among other things, that (1) the special risks of options are disclosed to public customers; (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because the Index options will be subject to the same regulatory regime as the other standardized options currently traded on the PCX, the Commission believes that adequate safeguards are in place to ensure the protection of investors in Index options. In addition, the PCX plans to distribute a circular to its membership calling attention to specific risks associated with options on the Index.

C. Surveillance

In evaluating new derivative instruments, the Commission, consistent with the protection of investors, considers the degree to which the derivative instrument is susceptible to manipulation. The ability to obtain information necessary to detect and deter market manipulation and other trading abuses is a critical factor in the Commission's evaluation. It is for this reason that the Commission requires that there be a comprehensive surveillance sharing agreement (''CSSA'') in place between an exchange listing or trading a derivative product and the exchanges trading the stocks underlying the derivative contract that specifically enables officials to surveil trading in the derivative product and its underlying stocks.[22] Such agreements provide a necessary deterrent to manipulation because they facilitate the availability of information needed to fully investigate a potential manipulation if it were to occur. For foreign stock index derivative products, these agreements are especially important to facilitate the collection of necessary regulatory, surveillance and other information from foreign jurisdictions.[23]

In order to address the above noted concerns, the Exchange will apply its existing index option surveillance procedures to Index options. In addition, as previously discussed, the markets on which all component stocks trade are members of the ISG which provides for the exchange of all necessary surveillance information.[24]

D. Market Impact

The Commission believes that the listing and trading of Index options on the PCX should not adversely impact the securities markets in the United States.[25] First, the existing index option surveillance procedures of the PCX will apply to options based on the Index. Second, the Commission notes that the Index is broadbased and diversified and includes highly capitalized securities that are actively traded. Third, the position limit of 37,500 contracts on the same side of the market, provided no more than 22,500 of such contracts are in series in the nearest expiration month, will serve to minimize potential manipulation and market impact concerns. Fourth, the risk to investors of contra-party non-performance will be minimized because Index and regular and long-term options will be issued and guaranteed by the Options Clearing Corporation just like any other standardized option traded into the United States. Accordingly, the Commission does not believe that the introduction of Index options on the PCX will have a significant effect on the underlying securities markets.

E. Other Exchange Matters

The Commission finds that the proposed limitation of liability language will provide the PCX with protection that is substantively similar to protection already afforded other SROs.[26] The Commission believes that by amending the Exchange's limitation of liability rule, entities will not be discouraged from creating new products or calculating and disseminating settlement values.[27] Therefore, derivative products, that provide hedging or other economic functions, should remain available to investors.

For the reasons described above, the Commission finds good cause to approve Amendment No. 2 prior to the thirtieth day after the date of publication of notice of filing thereof in the **Federal Register.** Specifically, Amendment No. 2 provides, 90% of the Index weight will meet the initial listing requirements for options trading pursuant to PCX Rule 3.6.

Accordingly, the Commission believes that it is consistent with Sections 6(b)(5) and 19(b)(2)[28] of the Act, to find that good cause exists to approve Amendment No. 2 on an accelerated basis.

IV. Solicitation of Comments and Conclusion

Interested persons are invited to submit written data, views and arguments concerning Amendments No. 2. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room in Washington, D.C. Copies of such filing will also be available for inspection and copying at the principal office of the PCX. All submissions should refer to the File No. SR–PCX–97–29 and should be submitted by October 16, 1997.

For the foregoing reasons, the Commission finds that the PCX's proposal to list and trade options based on the Morgan Stanley Emerging Growth Index is consistent with the requirements of the Act and the rules and regulations thereunder.

It Is Therefore Ordered, pursuant to Section 19(b)(2) of the Act, that the proposed rule change (SR–PCX–97–29), as amended, is approved.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[29]

[22] The Commission believes that a CSSA should provide the parties thereto with the ability to obtain information necessary to detect and deter market manipulation and other trading abuses. Consequently, the Commission generally requires that a CSSA require that the parties to the agreement provide each other, upon request, information about market trading activity, clearing activity, and the identity of the ultimate purchasers and sellers of securities. *See* Securities Exchange Act Release No. 31529 (November 27, 1992).

[23] As noted above, presently there are no stocks of foreign issuers in the Index.

[24] *See supra* note 14.

[25] The Commission notes that both the Exchange and OPRA have represented that they have the necessary systems capacity to support those new series of index options that would result from the introduction of options on the Index. *See supra* note 13 and accompanying text.

[26] *See e.g.*, CBOE Rule 24.14, *supra* note 15. In order to conform its limitation of liability provisions to those of other SROs, the PSE will not rely on this rule to limit its liability for intentional misconduct or for any violation of the federal securities laws.

[27] *See e.g.*, Securities Exchange Act Release No. 34125 (May 27, 1994) 59 FR 29307 (June 6, 1994).

[28] 15 U.S.C. 78s(b)(2).

[29] 17 CFR 200.30–3(a)(12).

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–25376 Filed 9–24–97; 8:45 am]

BILLING CODE 8010–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Generalized System of Preferences (GSP); Schedule of Hearings and Deadlines for Submitting Comments on One Additional Petition for the GSP 1997 Product Review

AGENCY: Office of the United States Trade Representative (USTR).

ACTION: Notice.

SUMMARY: This is to notify that one product has been added to the 1997 GSP Product Review and to set forth the timetable for hearings, and for providing public comments on a petition to waive the GSP competitive need limit on imports of sugar from Brazil.

FOR FURTHER INFORMATION CONTACT: GSP Subcommittee, Office of the United States Trade Representative, 600 17th Street, NW, Room 518, Washington, DC 20508 (Tel. 202/395–6971). Public versions of all documents relating to this review may be seen by appointment in the USTR public Reading Room between 9:30–12 a.m. and 1–4 p.m. (Tel. 202/395–6186).

SUPPLEMENTARY INFORMATION: The GSP program is authorized pursuant to Title V of the Trade Act of 1974, as amended (''the Trade Act'') (19 U.S.C. 2461 et seq.). The GSP program grants duty-free treatment to designated eligible articles that are imported from designated beneficiary developing countries. In a **Federal Register** notice dated August 13, 1997 (62 FR 43408), USTR announced the acceptance of product petitions for review and in a subsequent notice dated September 4, 1997 (62 FR 46792) USTR announced deadlines for hearings and submissions related to them.

I. Subject of reviews

USTR has accepted one petition for a waiver of the competitive need limit for the following article in addition to those petitions described in part C of the Annex to the **Federal Register** notice dated August 13, 1997 (62 FR 43408).

PETITION FOR WAIVER OF COMPETITIVE NEED LIMIT FOR A PRODUCT ON THE LIST OF ELIGIBLE PRODUCTS FOR THE GENERALIZED SYSTEM OF PREFERENCES

Case No.	HTS subheading	Article	Petitioner
97–26	1701.11.10 (Brazil)	Cane or beet sugar and chemically pure sucrose, in solid form: Raw sugar not containing added flavoring or coloring matter Cane sugar: Described in additional U.S. note 5 to this chapter and entered pursuant to its provisions.	Sindicato da Industria do Azucar e do alcool do Estado de Pernambuco, Brazil.

II. Opportunities For Public Comment And Inspection Of Comments And Notice Of Public Hearings

The GSP Subcommittee of the Trade Policy Staff Committee (TPSC) invites comments in support of, or in opposition to, any petition which is the subject of this notice. Submissions should comply with 15 CFR Part 2007, including sections 2007.0, and 2007.1. Instructions and dates for submitting statements, schedule of public hearings and requests to make statements at the public hearings should, with one exception, conform to the instructions in the **Federal Register** notice of September 4, 1997 (62 FR 46792). The one exception to these **Federal Register** instructions, and the final date of submitting statements on the product that is the subject of this notice and for requesting permission to make a statement on this product at the public hearing is not September 30, 1997, but has been set at 5:00 p.m. on October 10, 1997.

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 97–25370 Filed 9–24–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under Office of Management and Budget Review

AGENCY: Office of the Secretary, (DOT).

ACTION: Notice.

SUMMARY: The Department of Transportation, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public, grantee organizations, and State, local and other Federal agencies to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995 944, U.S.C. 3506(c)(2)(A). The Act requires Federal agencies to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection, and to allow 60 days for public comment in response to the notice. The Department is currently seeking comments concerning collection requirements for grants to State and local governments, and for grants to institutions of higher learning, hospitals, and other nonprofit institutions.

DATES: Written comments should be received on or before November 24, 1997 to be assured of consideration.

ADDRESSES: Submit written comments to Mr. Ladd Hakes, U.S. Department of Transportation (M–62), 400 Seventh Street SW., Washington, DC 20590. Written comments may be faxed to (202) 366–7510. Identify comments regarding collection requirements for grants to State and local governments by the OMB Control Number 2105–0520. Identify comments regarding requirements for grants to institutions of higher learning, hospitals, and other nonprofit institutions by the OMB Control Number 2105–0531.

FOR FURTHER INFORMATION CONTACT: Mr. Ladd Hakes, (202) 366–4268; refer to the control numbers above.

ADDITIONAL SUPPLEMENTARY INFORMATION:

Title: Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Forms: SF 269, SF 270, SF 271, SF 272, and SF 424.

OMB Control Number: 2105–0520.

Affected Public: State and local governments receiving Federal financial assistance from the Department of Transportation (DOT).

Abstract: Requirements for Federal administration of financial assistance to State and Local governments is

provided to affected Executive agencies via a common grant management rule, codified by DOT at 49 CFR part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to States and Local governments. The Office of Management and Budget (OMB) provides management and oversight of the common rule. OMB also provides for a standard figure of seventy (70) annual burden hours per grantee for completion of required forms. This action initiates reinstatement of an existing paperwork clearance approval (OMB Number 2105–0520), which has expired.

Annual Existing Burden: The annual burden is 68,250 hours. *Number of respondents:* 975. *Total hours per respondent:* 70. This is a reduction from the existing 199,500 hours. DOT financial assistance programs requiring different, or additional reporting requirements from that of the common rule now report separately, and have their own separate OMB approval numbers.

Title: Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations

Forms: SF 269, SF 270, SF 271, SF 272, and SF 424.

OMB Control Number: 2105–0531.

Expiration Date: October 31, 1997. The Department has submitted a request to OMB for an emergency extension to January 31, 1998.

Affected Public: Schools, hospitals, and other nonprofit organizations receiving Federal financial assistance from DOT.

Abstract: Requirements for Federal administration of financial assistance to schools, hospitals, and other nonprofit organizations is provided to affected Executive agencies via OMB Circular A–110, Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-Profit Organizations, with the Department has codified at 49 CFR part 19. OMB provides management and oversight of the circular. OMB also provides for a standard figure of seventy (70) annual burden hours per grantee for completion of required forms. This action initiates extension of an existing paperwork clearance approval (OMB Number 2105–0531).

These information collections are available for inspection at the Grants Management Division (M–62), Office of Acquisition and Grant Management, Department of Transportation, at the address above. Copies of 49 CFR parts 18 and 19 can be obtained from Mr. Ladd Hakes at the address and phone number shown above.

Comments regarding both information collections are invited on: (a) ways to enhance the quality, utility and clarity of the information to be collected; and (b) ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

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

Issued in Washington, DC on September 18, 1997.

Robert G. Taylor,

Chief, Grants Management Division.

[FR Doc. 97–25433 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

[CGD 97–062]

Navigation Safety Advisory Council

AGENCY: Coast Guard, DOT.

ACTION: Notice of meetings.

SUMMARY: The Navigation Safety Advisory Council (NAVSAC) and its Committees on Human Factors, Navigation Equipment, Navigation Information, and Rules of the Road will meet to discuss various issues relating to commercial and recreational boat safety. The meetings are open to the public.

DATES: NAVSAC Committees will meet on Wednesday, October 22, 1997, from 8 a.m. to 5 p.m. NAVSAC will meet on Thursday, October 23, 1997, from 8 a.m. to 5 p.m. and on Friday, October 24, 1997, from 8 a.m. to 4 p.m. Written material and requests to make oral presentations should reach the Coast Guard on or before October 10, 1997.

ADDRESSES: NAVSAC will meet at the Queen and Crescent Hotel, 344 Camp Street, New Orleans, LA 70130. The Committees will meet at the same address. Send written material and requests to make oral presentations to Margie G. Hegy, Commandant (G–MOV–3), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001.

FOR FURTHER INFORMATION CONTACT: Margie G. Hegy, Executive Director of NAVSAC, telephone (202) 267–0415, fax (202) 267–4826, or Diane Schneider, NAVSAC Executive Secretary, telephone (202) 267–0352.

SUPPLEMENTARY INFORMATION: Notice of these meetings is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2.

Agendas of Meetings

Navigation Safety Advisory Council (NAVSAC). The agenda includes the following:

(1) Reports from Navigation Equipment, Human Factors, Navigation Information and Rules of the Road Committees.

(2) Update on the Coast Guard's Vessel Traffic Services program and Ports and Waterways Safety Systems (PAWSS) initiative.

(3) Merchant mariner licensing and training program changes.

(4) Facilitated discussion on mandatory recreational boater education and personal flotation device (PFD) wear.

(5) Update on Coast Guard Customer Satisfaction Survey.

(6) Update on National Waterways Management Plan development.

Navigational Equipment Committee. The agenda includes:

—Vessels that lose propulsion or experience steering problems during transit.

Human Factors Committee. The agenda includes:

—Master/pilot communication.

Navigation Information Committee. The agenda includes:

—Underkeel clearance.

Rules of the Road Committee. The agenda includes:

—Inland Rule 23(c)—Small boat compliance with vertical positioning and spacing of lights as specified in Annex I, § 84.03(d) of Inland Rules.

Procedural

All sessions are open to the public. At the Chairs' discretion, members of the public may make oral presentations during the meetings. If you would like to make an oral presentation at a meeting, please notify the Executive Director no later than October 10, 1997. If you would like a copy of your material distributed to each member of the Council or Committee in advance of the meeting, please submit 25 copies to the Executive Director no later than October 10, 1997.

Information on Services for the Handicapped

For information on facilities or services for individuals with disabilities or request special assistance at the meetings, contact the Executive Director as soon as possible.

Dated: September 19, 1997.

R.C. North,

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

[FR Doc. 97–25372 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Lawton-Fort Sill Regional Airport, Lawton, Oklahoma

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Lawton-Fort Sill Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

DATES: Comments must be received on or before October 27, 1997.

ADDRESSES: Comments on this application may be mailed or delivered in triplicate copies to the FAA at the following address: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, TX 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Barbara McNally, Manager of Lawton-Fort Sill Regional Airport at the following address: Ms. Barbara McNally, Lawton-Fort Sill Regional Airport, Lawton Metro Area Airport Authority, P.O. Box 531, Lawton, OK 73502.

Air carriers and foreign air carriers may submit copies of the written comments previously provided to the Airport under Section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Guttery, Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, Fort Worth, TX 76193–0610, (817) 222–5614.

The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Lawton-Fort Sill Regional Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On September 9, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Airport was substantially complete within the requirements of Section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than January 6, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 1998.

Proposed charge expiration date: February 28, 2000.

Total estimated PFC revenue: $393,200.00.

PFC application number: 97–02–C–00–LAW.

Brief description of proposed projects:

Projects To Impose and Use PFC's

Relocate Guidance Signs, Correct Ponding of Water on Runway 17/35, Purchase the Commute a Walk System, Conduct Minimal Ecological Study, and Correct Structural Problems with ARFF Station and Snow Plow Bay.

Proposed class or classes of air carriers to be exempted from collecting PFC's:

None.

Any person may inspect the application in person at the FAA office listed above from **FOR FURTHER INFORMATION CONTACT** and at the FAA regional airports office located at: Federal Aviation Administration, Southwest Region, Airports Division, Planning and Programming Branch, ASW–610D, 2601 Meacham Boulevard, Forth Worth, TX 76137–4298.

In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at Lawton-Fort Sill Regional Airport.

Issued in Forth Worth, Texas on September 10, 1997.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 97–25436 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Clark County, Nevada and Mohave County, Arizona

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement (EIS) will be prepared for a proposed highway project in Clark County, Nevada and Mohave County, Arizona.

FOR FURTHER INFORMATION CONTACT: Terry K. Haussler, Project Manager, Federal Highway Administration, 555 Zang Street, Lakewood, Colorado 80228, telephone 303–969–5916.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Bureau of Reclamation (Reclamation), National Park Service, Nevada Department of Transportation, and Arizona Department of Transportation, will prepare an EIS on a proposal to construct a bridge across the Colorado River near Hoover Dam. The FHWA is resuming work on the EIS that Reclamation initiated in 1989. Reclamation published a notice of intent in the **Federal Register** to prepare a draft EIS (NOI Citation: 55 FR 19364, May 9, 1990). Reclamation stopped work on the project and subsequently canceled the notice of intent to prepare a draft EIS (60 FR 54382, October 23, 1995).

The purpose of the proposal is to remove through-traffic and trucks from the Hoover Dam crossing. Alternatives under consideration include: (1) The ''no build'' alternative; (2) construction of a bridge approximately 0.2 mile upstream from Hoover Dam; (3) construction of a bridge approximately 0.3 mile downstream from Hoover Dam; and (4) construction of a bridge approximately 1.0 mile downstream from Hoover Dam. Alternatives 2, 3, and 4 also require approximately three miles of associated new roadway construction.

Notices describing the proposed action and soliciting comments will be sent to appropriate Federal, State, and local agencies, and to private organizations and citizens who have expressed interest in this proposal. Interagency meetings, public scoping meetings and public hearings will be held in the project area and in other appropriate areas. Information on the time and place of public scoping meetings and public hearings will be provided in the local news media. The

draft EIS will be available for public and agency review and comment prior to the hearings.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues are identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Issued on: September 10, 1997.

Larry C. Smith, P.E.,

Division Engineer, FHWA, Lakewood, CO.

[FR Doc. 97–25404 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Fremont County, Wyoming

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an environmental impact statement will be prepared for a proposed highway project in Fremont County, Wyoming.

FOR FURTHER INFORMATION CONTACT: B.J. McCauley, Environmental Project Manager, Federal Highway Administration, P.O. Box 25246, Denver, Colorado 80225, telephone 303–969–5924.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Shoshone National Forest, the Wyoming Department of Transportation, and Fremont County, Wyoming will prepare an environmental Impact statement (EIS) on a proposed improvement of Wyoming Forest Highway (FH) 23, Louis Lake Road. The proposed Wyoming FH 23 project begins at the end of the pavement approximately 1.5 miles from the terminus of State Highway 131 at the National Forest boundary and continues southerly a distance of approximately 7.1 miles to the Worthen Meadows Reservoir Road.

The roadway may be reconstructed to a minimum width two-lane, asphalt or gravel with shoulders. In order to minimize impacts to environmentally sensitive areas, the reconstruction may take place largely along the existing corridor utilizing design speeds ranging from 25 miles-per-hour to 35 miles-per-hour. However, other alternatives will be investigated during preparation of the EIS, including: (1) No action; (2) reconstructing the entire 7.1 miles along the existing corridor; and (3) various realignment, surfacing type and roadway width alternative combinations that may be developed during the project development process through public or agency input.

Interagency scoping meetings, public scoping meetings, and public hearings will be held in the project area. Information on the time and place of public scoping meetings and public hearings will be provided in the local news media. The draft EIS will be available for public and agency review and comment at the time of the public hearing.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments and questions concerning the proposed action should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program)

Authority: 23 U.S.C. 315; 49 CFR 1.48.

Larry C. Smith, P.E.,

Division Engineer, FHWA, Denver, CO.

[FR Doc. 97–25403 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Contract DTRS–56–96–C–0010]

Fifth Quarterly Performance Review Meeting on the Contract ''Detection of Mechanical Damage in Pipelines''

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

ACTION: Notice of meeting.

SUMMARY: RSPA invites the pipeline industry, in-line inspection (''smart pig'') vendors, and the general public to the fifth quarterly performance review meeting of progress on the contract ''Detection of Mechanical Damage in Pipelines.'' The meeting is open to anyone, and no registration is required. This contract is being performed by Battelle Memorial Institute (Battelle), along with the Southwest Research Institute, and Iowa State University. The contract is a research and development contract to develop electromagnetic in-line inspection technologies to detect and characterize mechanical damage and stress corrosion cracking. The first hour of the meeting will be devoted to reviewing the overall project plan. The remainder of the meeting will cover the status of the contract tasks, progress made during the past quarter, and projected activity for the next quarter.

DATES: The fifth quarterly performance review meeting will be held on October 9, 1997, beginning at 1:00 p.m. and ending around 5:00 p.m.

ADDRESSES: The quarterly review meeting will be held at the Sheraton at Fisherman's Wharf, 2500 Mason Street, San Francisco, CA 94133. The hotel's telephone number is (415) 362–5500.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, Contracting Officer's Technical Representative, Office of Pipeline Safety, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: lloyd.ulrich @ rspa.dot.gov.

SUPPLEMENTARY INFORMATION:

I. Background

RSPA is conducting quarterly public meetings on the status of its contract ''Detection of Mechanical Damage in Pipelines'' (Contract DTRS–56–96–C–0010) because in-line inspection research is of immediate interest to the pipeline industry and in-line inspection vendors. RSPA will continue this practice throughout the contract, which may be three years. The research contract with Battelle is a cooperative effort between GRI and DOT, with GRI providing technical guidance. The meetings allow disclosure of the results to all interested parties and provide an opportunity for interested parties to ask Battelle questions concerning the research. Attendance is open to all and does not require advanced registration nor advanced notification to RSPA.

An objective is to hold alternate meetings in Washington, DC. The first meeting was conducted on October 22, 1996, in Washington, DC. Another objective is to conduct the alternate meetings held outside Washington immediately after meetings of the Gas Research Institute's (GRI) Nondestructive Evaluation Technical Advisory Group to enable participation by pipeline technical personnel involved with nondestructive evaluation. However, future meetings may also be held at other locations. This meeting is being held in San Francisco as a dovetail to a meeting of the GRI Nondestructive Technical Advisory

Group. Each of the future meetings will be announced in the **Federal Register** at least two weeks prior to the meeting.

We specifically want that segment of the pipeline industry involved with in-line inspection to be aware of the status of this contract. To assure that a cross section of industry is well represented at these meetings, we have invited the major domestic in-line inspection company (Tuboscope-Vetco Pipeline Services) and the following pipeline industry trade associations: American Petroleum Institute, Interstate Natural Gas Association of America, and the American Gas Association. Each has named an engineering/technical representative.

The first hour of the meeting will be devoted to reviewing the overall project plan. This review will assist those attending a quarterly meeting for the first time to better understand the overall project. The remainder of this meeting will be devoted to a review of progress made during the past quarter and plans for the next quarter.

II. The Contract

The Battelle contract is a research and development contract to evaluate and develop in-line inspection technologies for detecting mechanical damage and cracking, such as stress-corrosion cracking (SCC), in natural gas transmission and hazardous liquid pipelines. Third-party mechanical damage is one of the largest causes of pipeline failure, but existing in-line inspection tools cannot always detect or accurately characterize the severity of some types of third-party damage that can threaten pipeline integrity. Although SCC is not very common on pipelines, it usually appears in high-stressed, low-population-density areas and only when a limited set of environmental conditions are met. Several attempts have been made to develop an in-line inspection tool for SCC, but there is no commercially successful tool on the market.

Under the contract, Battelle will evaluate and advance magnetic flux leakage (MFL) inspection technology for detecting mechanical damage and two electromagnetic technologies for detecting SCC. The focus is on MFL for mechanical damage because experience shows MFL can characterize some types of mechanical damage and can be successfully used for metal-loss corrosion under a wide variety of conditions. The focus for SCC is on electromagnetic technologies that can be used in conjunction with, or as a modification to, MFL tools. The technologies to be evaluated take advantage of the MFL magnetizer either by enhancing signals or using electrical currents that are generated by the passage of an inspection tool through a pipeline.

The contract includes two major tasks during the base two years of the contract. Task 1 is to evaluate existing MFL signal generation and analysis methods to establish a baseline from which today's tools can be evaluated and tomorrow's advances measured. Then, it will develop improvements to signal analysis methods and verify them through testing under realistic pipeline conditions. Finally, it will build an experience base and defect sets to generalize the results from individual tools and analysis methods to the full range of practical applications.

Task 2 is to evaluate two inspection technologies for detecting stress corrosion cracks. The focus in Task 2 is on electromagnetic techniques that have been developed in recent years and that could be used on or as a modification to existing MFL tools. Three subtasks will evaluate velocity-induced remote-field techniques, remote-field eddy-current techniques, and external techniques for sizing stress corrosion cracks.

A Task 3 is being considered for an option year to the contract. Task 3, if done, will verify the results from Tasks 1 and 2 by tests under realistic pipeline conditions. Task 3 will: (1) Extend the mechanical damage detection, signal decoupling, and sizing algorithms developed in the basic program to include the effects of pressure, (2) verify the algorithms under pressurized conditions in GRI's 4,700 foot, 24-inch diameter Pipeline Simulation Facility (PSF) flow loop, and (3) evaluate the use of eddy-current techniques for characterizing cold working within mechanical damage.

A drawback of present pig technology is the lack of a reliable pig performance verification procedure that is generally accepted by the pipeline industry and RSPA. The experience gained by the pipeline industry and RSPA with the use of the PSF flow loop in this project will provide a framework to develop procedures for evaluating pig performance. Defect detection reliability is critical if instrumented pigging is to be used as an in-line inspection tool in pipeline industry risk management programs.

The ultimate benefits of the project could be more efficient and cost-effective operations, maintenance programs to monitor and enhance the safety of gas transmission and hazardous liquid pipelines. Pipeline companies will benefit from having access to inspection technologies for detecting critical mechanical damage and stress-corrosion cracks. Inspection tool vendors will benefit by understanding where improvements are beneficial and needed. These benefits will support RSPA's long-range objective of ensuring the safety and reliability of the gas transmission and hazardous liquid pipeline infrastructure.

Issued in Washington, D.C., on September 19, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–25434 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 97–10]

Notice of Information Collection Approval

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

ACTION: Notice of information collection approval.

SUMMARY: This notice announces OMB approval of information collection requests (ICRs), for OMB No. 2137–0014, entitled Cargo Tank Specification Requirements, OMB No. 2137–0051, entitled Rulemaking, Exemption and Preemption Requirements, and OMB No. 2137–0059, entitled Requirements for Rail Tank Car Tanks, Transportation of Hazardous Materials by Rail. These information collections have been extended until September 30, 2000.

DATES: The expiration date for these ICRs is September 30, 2000.

ADDRESSES: Requests for a copy of an information collection should be directed to Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001.

FOR FURTHER INFORMATION CONTACT: Deborah Boothe, Office of Hazardous Materials Standards (DHM–10), Research and Special Programs Administration, Room 8102, 400 Seventh Street, SW, Washington, DC 20590–0001, Telephone (202) 366–8553.

SUPPLEMENTARY INFORMATION: Office of Management and Budget (OMB) regulations (5 CFR 1320) implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13) require that interested members of the public and affected agencies have an opportunity to

comment on information collection and recordkeeping activities (see 5 CFR 1320.8(s)) and specify that no person is required to respond to an information collection unless it displays a valid OMB control number. In accordance with the Paperwork Reduction Act of 1995, RSPA has received OMB approval of the following ICRs:

Title: Cargo Tank Specification Requirements.

OMB Control Number: 2137–0014.

Title: Rulemaking, Exemption and Preemption Requirements.

OMB Control Number: 2137–0051.

Title: Requirements for Rail Tank Car Tanks, Transportation of Hazardous Materials by Rail.

OMB Control Number: 2137–0059.

These information collection approvals expire on September 30, 2000.

Issued in Washington, DC on September 19, 1997.

Edward T. Mazzullo,

Director, Office of Hazardous Materials Standards.

[FR Doc. 97–25435 Filed 9–24–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB No. MC–F–20906]

Capital Motor Lines, et al.—Pooling—Greyhound Lines, Inc.

AGENCY: Surface Transportation Board; DOT.

ACTION: Notice of approval in part of pooling application and supplemental notice of proposed pooling application.

SUMMARY: Applicants, Capital Motor Lines, d/b/a Capital Trailways, of Montgomery, AL, and Colonial Trailways, of Mobile, AL, and Greyhound Lines, Inc., of Dallas, TX, jointly seek approval under 49 U.S.C. 14302 of an operations and revenue pooling agreement to govern their motor passenger and express transportation services between described points in Alabama, Florida, Georgia, Louisiana, and Mississippi. Notice of the application was published in the **Federal Register** on April 23, 1997 (62 FR 19853). We have approved the application in part and have tentatively approved the remainder of the application in a decision served concurrently with this notice. The original notice did not completely describe the scope of the pooling agreement, necessitating this republication to describe more fully the transportation services governed by applicants' agreement and to provide additional opportunity for comment as to that part of the application for which approval has not been finally given.

DATES: Comments are due by October 27, 1997 and, if comments are filed, applicants' rebuttal is due by November 14, 1997.

ADDRESSES: Send an original and 10 copies of comments referring to STB No. MC–F–20906 to: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. Also, send one copy of comments to applicants' representatives: Dennis N. Barnes, 1800 M Street, N.W. (#600N), Washington, DC 20036–5869; and Fritz R. Kahn, Suite 750 West, 1100 New York Avenue, N.W., Washington, DC 20005–3934.

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

SUPPLEMENTARY INFORMATION: The prior notice of the application stated that applicants' operations and revenue pooling agreement governs their motor passenger and express transportation services between Mobile and Birmingham, AL, and between Mobile and New Orleans, LA. No comments were received. However, in addition to the described routes, the pooling agreement also governs routes between Mobile and Montgomery, AL, and between Mobile and Jackson, MS, and between Montgomery and Birmingham, between Montgomery and Tallahassee, FL, between Montgomery and Meridian, MS, and between Montgomery and Columbus, GA. We have reviewed the application and have granted final approval for the proposed pooling of services that were specifically covered by our prior notice, and have tentatively approved the remainder of the application in a decision served September 25, 1997. Because the scope of the application is broader than the notice originally published, our approval for the broader portion is contingent upon publication of this notice and the opportunity for public comment. If no comments are received by the due date, our tentative approval of that part of the application will become final.

Copies of the application may be obtained free of charge by contacting applicants' representatives. Copies of our decision tentatively approving the application may be purchased from DC News & Data, Inc., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone: (202) 289–4357. (Assistance for the hearing impaired is available through TDD services (202) 565–1695.) A copy of this notice will be served on the Department of Justice, Antitrust Division, 10th Street & Pennsylvania Avenue, N.W., Washington, DC 20530.

Decided: September 17, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–25480 Filed 9–24–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33459]

Rio Valley Railroad, Inc. and Rio Valley Switching Company—Lease and Operation Exemption—Southern Pacific Transportation Company

Rio Valley Railroad, Inc. (RVRI) and Rio Valley Switching Company (RVSC), Class III rail carriers, have filed a joint verified notice of exemption under 49 CFR 1150.41 for RVRI to lease a total of 12.79 miles of rail lines owned by Southern Pacific Transportation Company, and for RVSC to operate these lines pursuant to an operating agreement with RVRI. The transaction was expected to be consummated on or shortly after September 11, 1997, the effective date of the exemption.

The lines involved in the lease and operation are described as follows: (1) A portion of the Brownsville branch at or near Edinburg, TX, between milepost 142.65 at the west leg of the wye track and milepost 145.0, a short distance east of the plant of Inland Paperbox Packaging, a distance of 2.35 miles; and, (2) a portion of the McAllen branch between milepost 141.52 at the end of the Edinburg line at or near Edinburg, TX, and milepost 151.96 at the point of connection of that line with the line of Union Pacific Railroad Company at or near McAllen, TX, a distance of 10.44 miles.[1]

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33459, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–

[1] In a letter received on September 9, 1997, the applicants' representative amended the notice of exemption filed on September 4, 1997, to change the milepost numbers for the McAllen branch.

0001 and served on: Thomas F. McFarland, Jr., McFarland & Herman, 20 North Wacker Drive, Suite 1330, Chicago, IL 60606–2902.

Decided: September 17, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–25481 Filed 9–24–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 18, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Bureau of the Public Debt (BPD)

OMB Number: 1535–0010.

Form Number: PD F 1782.

Type of Review: Extension.

Title: Application for Redemption at Par of United States Treasury Bonds Eligible for Payment of Federal Estate Tax.

Description: The form is used to apply for redemption at par of certain Treasury Bonds eligible for payment of Federal Estate Tax assessed against a decedent's estate.

Respondents: Individuals or households.

Estimated Number of Respondents: 2,500.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 1,250 hours.

OMB Number: 1535–0048.

Form Number: PD F 385 and PD F 385–1.

Type of Review: Extension.

Title: Certificate of Identity of Owner of Registered Securities Certificate of Identity of Owner of Savings and Retirement Securities.

Description: The form is used to establish the identity of the owner of U.S. Savings Bonds or Registered Securities.

Respondents: Individuals or households.

Estimated Number of Respondents: 177.

Estimated Burden Hours Per Response: 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 89 hours.

OMB Number: 1535–0058.

Form Number: PD F 1646.

Type of Review: Extension.

Title: Application for Disposition United States Registered Securities and Related Checks Without Administration of Deceased Owner's Estate.

Description: The form is used by person(s) entitled to a decedent's estate not being administered to request disposition of U.S. Registered Securities and related checks.

Respondents: Individuals or households.

Estimated Number of Respondents: 625.

Estimated Burden Hours Per Response: 1 hour, 30 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 938 hours.

OMB Number: 1535–0063.

Form Number: PD F 4239.

Type of Review: Extension.

Title: Request by Owner or Person Entitled To Payment or Reissue of United States Savings Bonds/Notes Deposited in Safekeeping When Original Custody Receipts Are Not Available.

Description: The form is used by owner or persons entitled to request reissue or payment of U.S. Savings Bonds/Notes deposited in safekeeping when original custody receipts are not available.

Respondents: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 84 hours.

OMB Number: 1535–0100.

Form Number: PD F 4094.

Type of Review: Extension.

Title: Affidavit by Individual Surety.

Description: The form serves as an affidavit from individuals who agree to act as surety for an indemnification agreement on a Bond of Indemnity submitted in support of a claim for lost, stolen or destroyed U.S. Registered Securities.

Respondents: Individuals or households.

Estimated Number of Respondents: 500.

Estimated Burden Hours Per Response: 55 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 460 hours.

OMB Number: 1535–0120.

Form Number: PD F 5366, PD F 5354, and PD F 5367.

Type of Review: Extension.

Title: FHA New Account Request (PD F 5366); FHA Transaction Request (PD F 5354); and FHA Debenture Transfer Request (PD F 5367).

Description: These forms are used to (1) establish a book-entry account; (2) change information on a book-entry account; and (3) transfer ownership of book-entry account.

Respondents: Individuals or households, Business or other for-profit.

Estimated Number of Respondents: 600.

Estimated Burden Hours Per Response: 10 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 102 hours.

Clearance Officer: Vicki S. Thorpe (304) 480–6553, Bureau of the Public Debt, 200 Third Street, Parkersburg, West VA 26106–1328.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–25453 Filed 9–24–97; 8:45 am]

BILLING CODE 4810–40–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 18, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0028.

Form Number: IRS Forms 940 and 940–PR.

Type of Review: Extension.

Title: Employer's Annual Federal Unemployment (FUTA) Tax Return (Form 940) Planilla Para La Declaracion Anual Del Patrono—La Contribucion Federal Para El Desempleo (FUTA) (Form 940–PR).

Description: Internal Revenue Code (IRC) section 3301 imposes a tax on employers based on the first $700 of taxable annual wages paid to each employee. IRS uses the information reported on Forms 940 and 940–PR (Puerto Rico) to ensure that employers have reported and figured the correct FUTA wages and tax.

Respondents: Bureau or other for-profit, Individuals or households, Farms.

Estimated Number of Respondents/ Recordkeepers: 1,367,000.

Estimated Burden Hours Per Respondent/Recordkeeper:

Form	Recordkeeping	Learning about the law or the form	Preparing and sending the form to the IRS (minutes)
940	11 hours, 29 minutes	24	36
940–PR	12 hours, 12 minutes	18	31

Frequency of Response: On occasion.

Estimated Total Reporting/ Recordkeeping Burden: 5,040 hours.

Clearance Officer: Garrick Shear, (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt, (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–25454 Filed 9–24–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission to OMB for Review; Comment Request

September 19, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Internal Revenue Service (IRS)

OMB Number: 1545–0212.

Form Number: IRS Forms 5558.

Type of Review: Revision.

Title: Application for Extension of Time to File Certain Employee Plan Returns.

Description: This form is used by employers to request an extension of time to file the employee plan excise tax return (Form 5330). The data supplied is used to determine if such extension is warranted.

Respondents: Bureau or other for-profit, Not-for-profit institutions.

Estimated Number of Respondents: 305,000.

Estimated Burden Hours Per Respondent: 26 minutes.

Frequency of Response: On occasion.

Estimated Total Reporting Burden: 131,749 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, NW, Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports Management Officer.

[FR Doc. 97–25455 Filed 9–24–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

September 19, 1997.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2110, 1425 New York Avenue, NW., Washington, DC 20220.

Special Request: In order to conduct the opinion survey described below in October 1997, the Department of the Treasury is requesting that the Office of Management and Budget (OMB) review and approve this information collection by October 9, 1997. To obtain a copy of this study, please contact the Internal Revenue Service Clearance Officer at the address listed below.

Internal Revenue Service (IRS)

OMB Number: 1545–1349.

Project Number: SOI–37.

Type of Review: Revision.

Title: 1998 TeleFile Automated Customer Satisfaction Survey.

Description: The IRS is planning to conduct a single automated TeleFile customer satisfaction survey in 1998 administered to a sample of taxpayers who successfully use TeleFile. This survey will build on the 1997 data.

Respondents: Individuals or households.

Estimated Number of Respondents: 4,675.

Estimated Burden Hours Per Response: 2 minutes.

Frequency of Response: Other (one time only).

Estimated Total Reporting Burden: 156 hours.

Clearance Officer: Garrick Shear (202) 622–3869, Internal Revenue Service, Room 5571, 1111 Constitution Avenue, N.W., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7860, Office of Management and Budget, Room 10226, New Executive Office Building, Washington, DC 20503.

Lois K. Holland,

Departmental Reports, Management Officer.

[FR Doc. 97–25456 Filed 9–24–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Delegation Order No. 113 (Rev. 14)]

Delegation of Authority

AGENCY: Internal Revenue Service.

ACTION: Delegation of authority.

SUMMARY: In light of the centralization of the determination letter activity for Employee Plans and Exempt Organizations, the specification of which key district directors have the authority to sign determination letters is adjusted to allow for gradual centralization. The text of the delegation order appears below.

FOR FURTHER INFORMATION CONTACT: Barbara Kastl, CP:E:EO:FC, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224, telephone: 202–622–7488, 8 a.m. to 3 p.m., Eastern Time (not a toll-free call).

Delegation Order No. 113 (Rev. 14)

Authority to Issue Exempt Organization Determination Letters

Authority: To issue determination letters based on the provisions of the Code, Regulations, Treasury decisions, or on a ruling, opinion, or court decision and pertaining to the following:

a. the exempt status of organizations under section 501(a) and 521 except in the case of an organization under the jurisdiction of Regional Counsel or Appeals as explained in this delegation order.

b. an organization's status under IRC 170(c)(2), 507, 508, 509, 4942(j)(3), 4945(f), 4947, 4948, and 6033.

c. withholding of information from public inspection under IRC 6104(a)(1)(D).

d. the imposition of tax under IRC 11, 511 through 514, 527(f), 641, 1381 and Chapters 41 and 42.

Delegated to: Employee Plans and Exempt Organizations (EP/EO) Key District Directors.

Redelegation: This authority may be redelegated no lower than to Exempt Organizations Specialist, Grade-11.

Authority: To issue modifications or revocations of rulings or determination letters in accordance with currently applicable appeal procedures. The Assistant Commissioner (EP/EO), with the concurrence of the Chief Counsel, is authorized to require pre-issuance review, by Counsel, of final adverse determination letters.

Delegated to: Employee Plans and Exempt Organizations (EP/EO) Key District Directors, except, that in the case of letters and rulings issued by the National Office, the Directors will notify the National Office of the proposed revocations prior to proposing revocation to the organization.

Redelegation: This authority may be redelegated no lower than the Chief, Technical/Review Staff.

Authority: To determine that any trust described in section 501(c)(17) or 501(c)(18) has engaged in a prohibited transaction and to notify such entity in writing of the revocation of exemption and of the requalification for exemption after the trust establishes that it will not knowingly again engage in a prohibited transaction and that it also satisfies all other requirements under section 501(c)(17) or 501(c)(18).

Delegated to: Employee Plans and Exempt Organizations (EP/EO) Key District Directors.

Redelegation: This authority may be redelegated no lower than Chief, Technical/Review Staff.

Authority: To issue final determination letters to organizations which have appealed proposed adverse determinations and proposed revocations issued by key district directors under this delegation.

Delegated to: Regional Counsels, Regional Directors of Appeals, Chiefs and Associate Chiefs of Appeals Offices, and Appeals Team Chiefs and Team Managers as to their respective cases.

Redelegation: This authority may not be redelegated.

Source of Authority: Treasury Order 150–10.

To the extent that authority previously exercised consistent with this Order may require ratification, it is hereby approved and ratified. This order supersedes Delegation Order No. 113 (Rev. 13), effective September 28, 1990.

Dated: September 5, 1997.

Approved:

James E. Donelson,

Acting Chief Compliance Officer.

[FR Doc. 97–25491 Filed 9–24–97; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Former Prisoners of War, Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Pub. L. 92–463 that a meeting of the Advisory Committee on Former Prisoners of War will be held at the Department of Veterans Affairs, Employee Education System, Birmingham Center, Suite 500, 950 North 22nd Street, Birmingham, AL 35203, from October 15, through October 17, 1997. Each day the meeting will convene at 9 a.m. and end at 5 p.m. The meeting is open to the public.

The purpose of the meeting is to advise the Secretary of Veterans Affairs on the administration of benefits under title 38, United States Code, for veterans who are former prisoners of war, and to make recommendations on the need of such veterans for compensation, health care and rehabilitation.

The agenda for October 15 will begin with a review of committee reports and an update of activities since the last meeting. The agenda for October 16 will include a presentation of POW issues and general business. The issues will include medical research being done related to former prisoners of war. On October 17, the Acting Under Secretary of Benefits will provide comments to the Committee. Subcommittee work will also be completed including the educational subcommittee and preparations for the next meeting.

Members of the public may direct questions or submit prepared statements for review by the Committee in advance of the meeting, in writing only, to Ms. Kristine Moffitt, Director, Compensation and Pension Service (21), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. Submitted material must be received at least five business days prior to the meeting. Members of the public may be asked to clarify submitted material prior to consideration by the Committee.

A report of the meeting and roster of Committee members may be obtained from Ms. Moffitt.

By Direction of the Secretary.

Dated: September 18, 1997.

Heyward Bannister,

Committee Management Officer.

[FR Doc. 97–25394 Filed 9–24–97; 8:45 am]

BILLING CODE 8320–01–M

Corrections

Federal Register

Vol. 62, No. 186

Thursday, September 25, 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 EDUCATION

34 CFR Parts 300, 301, and 303

IDEA Agreements of 1997

Correction

In proposed rule document 97–24703, beginning on page 48924, in the issue of Wednesday, September 17, 1997, make the following correction:

On page 48925, in the second column, the third line ''24'' should read ''21''.

BILLING CODE 1505-01-D

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-428-001]

Tuscarora Gas Transmission Company; Notice of Compliance Filing

Correction

In notice document 97–24873, appearing on page 49214, in the issue of Friday, September 19, 1997, make the following correction:

On page 49214, in the second column, the docket number is corrected to read as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 214

[INS 1427-93]

RIN 1115-AC51

Nonimmigrant Classes; Treaty Aliens; E Classification

Correction

In rule document 97–22314, beginning on page 48138, in the issue of Friday, September 12, 1997, make the following corrections:

1. On page 48138, in the first column, in the **''Background''** section, in the third line ''101(a)(15(E)'' should read ''101(a)(15)(E)''.

§ 214.2 [Corrected]

2. On page 48146, in the third column, in § 214.2(e)(8), the paragraph designated ''8.'' should read ''(8)''.

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 551

RIN 3206-AG70

Pay Administration Under the Fair Labor Standards Act

Correction

In proposed rule document 97–22390, beginning on page 45064, in the issue of Monday, August 25, 1997 make the following correction:

§ 551.601 [Corrected]

On page 45073, in the third column, in §551.601(a), in the second line ''section 3(l)'' should read ''section 3(1)''.

BILLING CODE 1505-01-D

OFFICE OF PERSONNEL MANAGEMENT

48 CFR Parts 1602, 1603, 1604, 1615, 1616, 1629, 1631, 1643, 1644,1645, 1649, 1652, and 1653

RIN 3206-AH45

Federal Employees Health Benefits Program Acquisition Regulation; Truth in Negotiations Act and Related Changes

Correction

In rule document 97–23883, beginning on page 47569, in the issue of Wednesday, September 10, 1997, make the following corrections:

1. On page 47582, in the table, in the third column, the fourth line ''Disability'' should read ''Disabled.''

2. On page 47582, under the Title Clause No. FAR 52.242-1, in the sixth column, in the fourth line from the bottom, remove the ''T''.

3. On page 47583, in the table, in the third column, the third line down, add ''Air'' after '' Flag''.

4. On page 47583, in the fourth column, the seventh line down ''M'' should read ''A''.

5. On page 47583, in the fourth column, the eighth line down, ''M'' should read ''A''.

BILLING CODE 1505-01-D

Federal Register

Thursday
September 25, 1997

Part II

Department of Agriculture

Cooperative State Research, Education, and Extension Service

1890 Institution Teaching and Research Capacity Building Grants Program for Fiscal Year 1998; Solicitation of Applications; Notice

DEPARTMENT OF AGRICULTURE

Cooperative State Research, Education, and Extension Service

1890 Institution Teaching and Research Capacity Building Grants Program for Fiscal Year 1998; Solicitation of Applications

AGENCY: Cooperative State Research, Education, and Extension Service, USDA.

ACTION: Notice of application.

SUMMARY: The Cooperative State Research, Education, and Extension Service (CSREES) is announcing the 1890 Institution Teaching and Research Capacity Building Grants Program for Fiscal Year (FY) 1998. Proposals are hereby requested from eligible institutions as identified herein, for competitive consideration of capacity building awards.

The authority for this program is contained in section 1417(b)(4) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (NARETPA)(7 U.S.C. 3152(b)(4)). Under this authority, the U.S. Department of Agriculture (USDA) through the Higher Education Programs (HEP) of CSREES will award competitive grants of eighteen months to three-years duration, subject to the availability of funds. These grants will be made to the historically black 1890 Land-Grant Institutions and Tuskegee University to strengthen their programs in the food and agricultural sciences in the targeted need areas as described herein. The Capacity Building Grants Program is designed specifically to build the institutional capacities of the eligible colleges and universities through cooperative initiatives with Federal and non-Federal entities. This program addresses the need to (1) Attract more minority students into the food and agricultural sciences, (2) expand the linkages among the 1890 Institutions and with other colleges and universities, and (3) strengthen the teaching and research capacity of the 1890 Institutions to more firmly establish them as full partners in the food and agricultural science and education system. In addition, through this program, USDA will strive to increase the overall pool of qualified applicants for the Department to make significant progress toward achievement of the Department's goal of increasing participation of under represented groups in Departmental programs.

DATES: Project grant applications must be received on or before January 26, 1998. Proposals received after January 26, 1998 will not be considered for funding.

FOR FURTHER INFORMATION CONTACT: Richard M. Hood, Cooperative State Research, Education, and Extension Service, U.S. Department of Agriculture, STOP 2251, 1400 Independence Avenue, S.W., Washington, D.C. 20250–2251; Telephone: (202) 720–1973; E-mail: rhood@reeusda.gov.

SUPPLEMENTARY INFORMATION: This program is subject to the provisions found at 7 CFR part 3406, 62 FR 39330, July 22, 1997. These provisions set forth procedures to be followed when submitting grant proposals, rules governing the evaluation of proposals and the awarding of grants, and regulations relating to the post-award administration of grant projects.

This program is listed in the Catalog of Federal Domestic Assistance under No. 10.216, 1890 Institution Capacity Building Grants Program.

Eligibility

Proposals may be submitted by any of the sixteen historically black 1890 Land-Grant Institutions and Tuskegee University. The 1890 Land-Grant Institutions are: Alabama A&M University; University of Arkansas—Pine Bluff; Delaware State University; Florida A&M University; Fort Valley State University; Kentucky State University; Southern University and A&M College; University of Maryland—Eastern Shore; Alcorn State University; Lincoln University (MO); North Carolina A&T State University; Langston University; South Carolina State University; Tennessee State University; Prairie View A&M University; and Virginia State University. An institution eligible to receive an award under this program includes a research foundation maintained by an 1890 land-grant institution or Tuskegee University.

Available Funds

The amount available for this program in FY 1998 is $9.2 million. After administrative and other deductions of approximately 4 percent (including peer panel and related costs), it is anticipated that $8.8 million will be available for project grants. Of this amount, approximately $4.45 million will be used to support teaching projects and $4.35 million will be used to support research projects. Awards will be based upon peer review panel recommendations; however, up to ten percent of the funds allocated for teaching and up to ten percent of the funds allocated for research may be used to support projects in either area based upon administrative decision by CSREES.

Program Areas

In FY 1998, the Capacity Building Grants Program will support both teaching and research projects.

Targeted Areas

The targeted need areas to be supported by capacity building grants in FY 1998 are:

For teaching project grants—curricula design and materials development, faculty preparation and enhancement for teaching, instruction delivery systems, scientific instrumentation for teaching, student experiential learning, and student recruitment and retention.

For research project grants—studies and experimentation in food and agricultural sciences, centralized research support systems, technology delivery systems, and other creative projects designed to provide needed enhancement of the Nation's food and agricultural research system.

In FY 1998, eligible institutions may propose projects in any discipline(s) of the food and agricultural sciences; there are no limits on the specific subject matter/emphasis areas to be supported.

Degree Levels Supported

In FY 1998, proposals may be directed to the undergraduate or graduate level of study leading to a baccalaureate or higher degree in the food and agricultural sciences.

Proposal Submission Limitations

In FY 1998, there is no limit on the number of proposals an eligible institution may submit. However, there are funding limitations in FY 1998 that will affect the number of awards eligible institutions and individuals may receive. Therefore, institutions are encouraged to establish on-campus quality control panels to ensure that only high quality proposals having the greatest potential for improving academic and research programs are submitted for consideration. Eligible institutions may submit grant applications for either category of grants (teaching or research); however, each application must be limited to either a teaching project grant proposal or a research project grant proposal.

Maximum Grant Size

In FY 1998, the following limitations apply: A teaching proposal may request a grant for up to $200,000. A research proposal may request a grant for up to $300,000.

Note: These maximums are for the duration of the project, not per year.

Project Duration

A regular, complementary, or joint project proposal may request funding for a period of eighteen months to three-years duration.

Funding Limitations per Institution

In FY 1998, the following two limitations will apply to the institutional maximum: (1) No institution may receive more than four grants, and (2) no institution may receive more than 10 percent of the total funds available for grant awards (approximately $880,000).

For a Joint Project Proposal (submitted by an eligible institution and involving two or more other colleges or universities assuming major roles in the conduct of the project), only that portion of the award to be retained by the grantee will be counted against the grantee's institutional maximum. Those funds to be transferred to the other colleges and universities participating in the joint project will not be applied toward the maximum funds allowed the grantee institution. However, if any of the other colleges and universities participating in the joint project are 1890 Institutions or Tuskegee University, the amount transferred from the grantee institution to such institutions will be counted toward their institutional maximums. For Complementary Project Proposals, only those funds to be retained by the grantee institution will be counted against the grantee's institutional maximum.

Funding Limitation per Individual

In FY 1998, the maximum number of new awards that an individual (Project Director or Principal Investigator) may receive is two grants. This restriction does not apply to joint projects.

Funding Limitation per Targeted Need Area

In FY 1998, the maximum number of new awards that an individual may receive in a given fiscal year, in any one targeted need area, that focuses on a single subject matter area or discipline, is one grant. This restriction would not apply to proposals that address multiple targeted need areas and/or multiple subject matter areas.

Matching Funds

The Department strongly encourages non-Federal matching support for the program. For FY 1998, the following incentive is offered to applicants for committing their own institutional resources or securing third-party contributions in support of capacity building projects:

Tie Breaker—The amount of cash and non-cash matching support for each proposal, will be used as the primary criterion to break any ties (cases where proposals are equally rated in merit) resulting from the proposal review process conducted by the peer review panels. A grant awarded on this basis will contain language requiring such matching commitments as a condition of the grant.

Please Note: Proposals *must* include *written verification* from the donor(s) of any actual commitments of matching support (including both cash and non-cash contributions) derived from the university community, business and industry, professional societies, the States, or other non-Federal sources.

The cash contributions towards matching from the institution should be identified in the column ''Applicant Contributions to Matching Funds'' of the Higher Education Budget, Form CSREES–713. The cash contributions of the institution and third parties as well as non-cash contributions should be identified on Line N., as appropriate, of Form CSREES–713.

Evaluation Criteria

The evaluation criteria as provided in the Administrative Provisions, 7 CFR part 3406, will be used to evaluate proposals for the FY 1998 competition.

Program Application Materials

An Application Kit containing program application materials will be made available to eligible institutions upon request. These materials include the Administrative Provisions, forms, instructions, and other relevant information needed to prepare and submit grant applications. Copies of the Application Kit may be requested from the Proposal Services Unit; Grants Management Branch; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2245. The telephone number is (202) 401–5048. When contacting the Proposal Services Unit, please indicate that you are requesting forms for the FY 1998 1890 Institution Capacity Building Grants Program.

Application materials may also be requested via Internet by sending a message with your name, mailing address (not e-mail) and telephone number to psb@reeusda.gov that states that you wish to receive a copy of the application materials for the FY 1998 1890 Institution Capacity Building Grants Program. The materials will then be mailed to you (not e-mailed) as quickly as possible.

When and Where to Submit Proposals

An original and seven (7) copies of a proposal must be submitted. Each copy of the proposal must be stapled securely in the upper left-hand corner (DO NOT BIND). All copies of the proposal must be submitted in one package. Proposals submitted through the mail must be received on or before January 26, 1998. Proposals submitted through the U.S. mail should be sent to the following address: 1890 Institution Capacity Building Grants Program; c/o Proposal Services Unit; Grants Management Branch; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; STOP 2245; 1400 Independence Avenue, S.W.; Washington, D.C. 20250–2245. The telephone number is (202) 401–5048. Hand-delivered proposals (brought in person by the applicant or through a courier service) must be received on or before January 26, 1998 at the following address: 1890 Institution Capacity Building Grants Program; c/o Proposal Services Unit; Grants Management Branch; Office of Extramural Programs; Cooperative State Research, Education, and Extension Service; U.S. Department of Agriculture; Room 303, Aerospace Center; 901 D Street, S.W.; Washington, D.C. 20024. Proposals transmitted via a facsimile (fax) machine will not be accepted.

Note that in FY 1998, Form CSREES–711, ''Intent to Submit a Proposal,'' is not requested nor required for the 1890 Institution Capacity Building Grants Program.

Program Contacts

The 1890 Institution Capacity Building Grants Program is managed by the CSREES Higher Education Programs. For further information concerning the FY 1998 program, contact Mr. Richard Hood, National Program Leader, Higher Education Programs, CSREES, USDA, at (202) 720–1973; or via the Internet: rhood@reeusda.gov. Dr. McKinley Mayes, 1890 College Program Coordinator, CSREES, USDA is also available to assist you. He can be reached at (202) 720–3511; or via the Internet: mmayes@reeusda.gov.

Done at Washington, D.C., this 19th day of September 1997.

Colien Hefferan,

Associate Administrator, Cooperative State Research, Education, and Extension Service.

[FR Doc. 97–25408 Filed 9–24–97; 8:45 am]

BILLING CODE 3410–22–P

Federal Register

Thursday
September 25, 1997

Part III

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5895–8]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

This rule adds 6 new sites to the NPL, all to the General Superfund Section.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be October 27, 1997.

ADDRESSES: For addresses for the Headquarters and Regional dockets, as well as further details on what these dockets contain, see Section II, ''Availability of Information to the Public'' in the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, State and Site Identification Center, Office of Emergency and Remedial Response (mail code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, (703) 603–8852, or the Superfund Hotline, phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

Contents

I. Background

What Are CERCLA and SARA

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Pub. L. No. 99–499, 100, Stat. 1613 *et seq.*

What Is the NCP

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under Section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action.'' (''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases 42 U.S.C 9601(23).)

What Is the National Priorities List (NPL)

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is Appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. However, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), 48 FR 40659 (September 8, 1983).

The NPL includes two sections, one of sites that are evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites being addressed generally by other Federal agencies (the ''Federal Facilities Section''). Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

How Are Sites Listed on the NPL

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP):

(1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as Appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL.

(2) Each State may designate a single site as its top priority to be listed on the NPL, regardless of the HRS score. This mechanism, provided by the NCP at 40 CFR 300.425(c)(2) requires that, to the extent practicable, the NPL include within the 100 highest priorities, one facility designated by each State representing the greatest danger to public health, welfare, or the environment among known facilities in the State (see 42 U.S.C. 9605(a)(8)(B)).

(3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

EPA promulgated an original NPL of 406 sites on September 8, 1983 (48 FR 40658). The NPL has been expanded since then, most recently on April 1, 1997 (62 FR 15572).

What Happens to Sites on the NPL

A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions. * * *'' 42 U.S.C. 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

How Are Site Boundaries Defined

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, the approach generally used to describe the relevant release(s) is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which that contamination has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the threat presented by a release'' will be determined by a Remedial Investigation/Feasibility Study (RI/FS) as more information is developed on site contamination (40 CFR 300.430(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the known boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

How Are Sites Removed From the NPL

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

To date, the Agency has deleted 149 sites from the NPL.

Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of September 1997, EPA has deleted portions of 6 sites.

What Is the Construction Completion List (CCL)

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when:

(1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) The site qualifies for deletion from the NPL.

In addition to the 142 sites that have been deleted from the NPL because they have been cleaned up (7 sites have been deleted based on deferral to other authorities and are not considered cleaned up), an additional 305 sites are also on the NPL CCL. Thus, as of September 1997, the CCL consists of 447 sites.

II. Availability of Information to the Public

Can I Review the Documents Relevant to This Final Rule

Yes, the documents relating to the evaluation and scoring of the sites in this final rule are contained in dockets located both at EPA Headquarters and in the appropriate Regional offices.

What Documents Are Available for Review at the Headquarters Docket

The Headquarters docket for this rule contains HRS score sheets for five of the final sites that were added to the NPL based on HRS scores, Documentation Records for those sites describing the information used to compute the scores, pertinent information regarding statutory requirements or EPA listing policies that affect those sites, and a list of documents referenced in each of the Documentation Records. For the site added to the NPL based on ATSDR Health Advisory criteria, the Headquarters docket contains the nomination package which includes the ATSDR Health Advisory for the site. For all sites, the Headquarters docket also contains comments received, and the Agency's responses to those comments. The Agency's responses are contained in the ''Support Document for the Revised National Priorities List Final Rule—September 1997.''

A general discussion of the statutory requirements affecting NPL listing, the purpose and implementation of the NPL, the economic impacts of NPL listing, and the analysis required under the Regulatory Flexibility Act is included as part of the Headquarters rulemaking docket in the **ADDITIONAL INFORMATION** document.

What Documents Are Available for Review at the Regional Dockets

The Regional dockets contain all the information in the Headquarters docket, plus, for sites added to the NPL based on HRS scores, the actual reference documents containing the data principally relied upon by EPA in calculating or evaluating the HRS scores for the sites. These reference documents are available only in the Regional dockets.

How Do I Access the Documents

You may view the documents, by appointment only, after the appearance of this document. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday, excluding Federal holidays. Please contact the Regional Docket for hours.

You may also request copies from the Headquarters or appropriate Regional docket. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

Following is the contact information for the EPA Headquarters and Regional dockets:

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA, 703/603–8917

Jim Kyed, Region 1, U.S. EPA Waste Management Records Center, HRC–CAN–7, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–9656

Ben Conetta, Region 2, U.S. EPA, 290 Broadway, New York, NY 10007–1866, 212/637–4435

Diane McCreary, Region 3, U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/566–5250

Kathy Piselli, Region 4, U.S. EPA, 100 Alabama Street, SW, Atlanta, GA 30303, 404/562–8190

Cathy Freeman, Region 5, U.S. EPA, Records Center, Waste Management Division, 7–J Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604 312/886–6214

Bart Canellas, Region 6, U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740

Carole Long, Region 7, U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7224

Pat Smith, Region 8, U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/312–6082

Carolyn Douglas, Region 9 U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2343

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue. Mail Stop HW–114, Seattle, WA 98101, 206/553–2103

How Can I Obtain a Current List of NPL Sites

You may obtain a current list of NPL sites via the internet at WWW.EPA.GOV/SUPERFUND and look under site information category or by contacting the Superfund Docket (see contact information above).

III. Contents of This Final Rule

Additions to the NPL

This final rule adds 6 sites to the NPL, all to the General Superfund Section. The following table presents the sites in this rule arranged alphabetically by State and identifies their rank by group number. Group numbers are determined by arranging the NPL by rank and dividing it into groups of 50 sites. For example, a site in Group 4 has an HRS score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

TABLE 1.—NATIONAL PRIORITIES LIST FINAL RULE, GENERAL SUPERFUND SECTION

State	Site name	City/county	Group
CA	Del Amo	Los Angeles	22
MD	Central Chemical	Hagerstown	5/6

TABLE 1.—NATIONAL PRIORITIES LIST FINAL RULE, GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county	Group
MD	Ordnance Products, Inc	Cecil County	21
NJ	Grand Street Mercury	Hoboken	NA
TX	Sprague Road Ground Water Plume	Odessa	10
WA	Oeser Co	Bellingham	1

Number of Sites Added to the General Superfund Section: 6

Status of NPL

With the new sites added in today's rule, the NPL now contains 1,204 sites, 1,053 in the General Superfund Section and 151 in the Federal Facilities Section. With a proposed NPL rule published elsewhere in today's **Federal Register**,there are now 52 sites proposed and awaiting final agency action, 46 in the General Superfund Section and 6 in the Federal Facilities Section. Final and proposed sites now total 1,256.

What Did EPA Do With the Public Comments It Received

EPA reviewed all comments received on sites included in this rule. Based on comments received on the proposed sites, as well as investigation by EPA and the States (generally in response to comment), EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the ''Support Document for the Revised National Priorities List Final Rule—September 1997.''

IV. Regulatory Issues

A. Executive Order 12866

What Is Executive Order 12866

Executive Order 12866 requires certain regulatory assessments for any ''economically significant regulatory action,'' defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

Is This Final Rule Subject to Executive Order 12866 Review

No, the Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

B. Unfunded Mandates

What Is the Unfunded Mandates Reform Act (UMRA)

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), P.L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them meaningful and timely opportunity to participate in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising them on compliance with the regulatory requirements.

Does UMRA Apply to This Final Rule

No, today's rule contains no Federal mandates (within the meaning of Title II of the UMRA) for State, local, or tribal governments or the private sector. Nor does it contain any regulatory requirements that might significantly or uniquely affect small governments. This is because today's listing decision does not impose any enforceable duties upon any of these governmental entities or the private sector. Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake response action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Therefore, today's rulemaking is not subject to the requirements of sections 202, 203 or 205 of the Unfunded Mandates Act.

C. Effect on Small Businesses

What is the Regulatory Flexibility Act

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

Does the Regulatory Flexibility Act Apply to This Final Rule

While this rule revises the NPL, an NPL revision is not a typical regulatory change since it does not automatically impose costs. As stated above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis.

EPA considers many factors when determining enforcement actions, including not only a firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this rule will not have a significant economic impact on a substantial number of small entities. Therefore, this regulation does not require a regulatory flexibility analysis.

Has This Rule Been Submitted to Congress and the General Accounting Office

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

V. Possible Changes to the Effective Date of the Rule

Could the Effective Date of This Final Rule Change

Provisions of the Administrative Procedure Act (APA) or section 305 of CERCLA may alter the effective date of this regulation.

Under 5 U.S.C. 801(a), before a rule can take effect the federal agency promulgating the rule must submit a report to each House of the Congress and to the Comptroller General. This report must contain a copy of the rule, a concise general statement relating to the rule (including whether it is a major rule), a copy of the cost-benefit analysis of the rule (if any), the agency's actions relevant to provisions of the Regulatory Flexibility Act (affecting small businesses) and the Unfunded Mandates Reform Act of 1995 (describing unfunded federal requirements imposed on state and local governments and the private sector), and any other relevant information or requirements under any other Act and any relevant Executive Orders.

Section 5 U.S.C. 801(a)(3) provides for a delay in the effective date of major rules after this report is submitted. Section 5 U.S.C. 801(a)(4) provides that all other rules shall take effect after submission to Congress, as otherwise provided by law.

EPA has submitted a report under the APA for this rule. The rule will take effect, as provided by law, within 30 days of publication of this document, since it is not a major rule. Section 5 U.S.C. 804(2) defines a major rule as any rule that the Administrator of the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) finds has resulted in or is likely to result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic and export markets. NPL listing is not a major rule because, as explained above, the listing, itself, imposes no monetary costs on any person. It establishes no enforceable duties, does not establish that EPA necessarily will undertake remedial action, nor does it require any action by any party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself.

What Could Cause the Effective Date of This Rule to Change

Under 5 U.S.C. 801(b)(1) a rule shall not take effect, or continue in effect, if Congress enacts (and the President signs) a joint resolution of disapproval, described under section 5 U.S.C. 802.

Another statutory provision that may affect this rule is CERCLA section 305, which provides for a legislative veto of regulations promulgated under CERCLA. Although *INS* v. *Chadha,* 462 U.S. 919,103 S. Ct. 2764 (1983) and Bd. of Regents of the *University of Washington* v. *EPA,* 86 F.3d 1214,1222 (D.C. Cir. 1996) cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives.

If action by Congress under the Small Business Regulatory Enforcement Fairness Act calls the effective date of this regulation into question, EPA will publish a notice of clarification in the **Federal Register**.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Dated: September 12, 1997.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

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

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

2. In appendix B to part 300, table 1 is amended by adding the following sites in alphabetical order to read as follows:

Appendix B to Part 300—National Priorities List

TABLE 1.—GENERAL SUPERFUND SECTION

State	Site name	City/county	Notes (a)
*	* * * * * * *		
CA	Del Amo	Los Angeles.	
*	* * * * * * *		
MD	Central Chemical	Hagerstown.	
*	* * * * * * *		
MD	Ordnance Products, Inc.	Cecil County.	

TABLE 1.—GENERAL SUPERFUND SECTION—Continued

State	Site name	City/county	Notes (a)
*	* * * * * *	*	
NJ	Grand Street Mercury	Hoboken	A
*	* * * * * *	*	
TX	Sprague Road Ground Water Plume	Odessa.	
*	* * * * * *	*	
WA	Oeser Co.	Bellingham.	
*	* * * * * *	*	

(a) A = Based on issuance of health advisory by Agency for Toxic Substances and Disease Registry (if scored, HRS score need not be ≤ 28.50).

* * * * *

[FR Doc. 97–25095 Filed 9–24–97; 8:45 am]

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federal register

Thursday
September 25, 1997

Part IV

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 23; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5895–7]

National Priorities List for Uncontrolled Hazardous Waste Sites, Proposed Rule No. 23

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (''CERCLA'' or ''the Act''), as amended, requires that the National Oil and Hazardous Substances Pollution Contingency Plan (''NCP'') include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The National Priorities List (''NPL'') constitutes this list. The NPL is intended primarily to guide the Environmental Protection Agency (''EPA'' or ''the Agency'') in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with the site and to determine what CERCLA-financed remedial action(s), if any, may be appropriate.

This rule proposes to add 9 new sites to the NPL, all to the General Superfund Section.

DATES: Comments regarding any of these proposed listings must be submitted (postmarked) on or before November 24, 1997.

ADDRESSES: *By Mail:* Mail original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; (Mail Code 5201G); 401 M Street, SW; Washington, DC 20460; 703/603–9232.

By Federal Express: Send original and three copies of comments (no facsimiles or tapes) to Docket Coordinator, Headquarters; U.S. EPA; CERCLA Docket Office; 1235 Jefferson Davis Highway; Crystal Gateway #1, First Floor; Arlington, VA 22202.

By E-Mail: Comments in ASCII format only may be mailed directly to SUPERFU-ND.DOCKET@EPAMAIL.EPA.GOV. E-mailed comments must be followed up by an original and three copies sent by mail or Federal Express.

For additional Docket addresses and further details on their contents, see Section II, ''Public Review/Public Comment,'' of the **SUPPLEMENTARY INFORMATION** portion of this preamble.

FOR FURTHER INFORMATION CONTACT: Terry Keidan, State and Site Identification Center, Office of Emergency and Remedial Response (Mail Code 5204G), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC, 20460, (703) 603–8852, or the Superfund Hotline, Phone (800) 424–9346 or (703) 412–9810 in the Washington, DC, metropolitan area.

SUPPLEMENTARY INFORMATION:

Contents

I. Background

What are CERCLA and SARA

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601–9675 (''CERCLA'' or ''the Act''), in response to the dangers of uncontrolled releases of hazardous substances. CERCLA was amended on October 17, 1986, by the Superfund Amendments and Reauthorization Act (''SARA''), Public Law 99–499, 100, Stat. 1613 *et seq.*

What is the NCP

To implement CERCLA, EPA promulgated the revised National Oil and Hazardous Substances Pollution Contingency Plan (''NCP''), 40 CFR part 300, on July 16, 1982 (47 FR 31180), pursuant to CERCLA section 105 and Executive Order 12316 (46 FR 42237, August 20, 1981). The NCP sets guidelines and procedures for responding to releases and threatened releases of hazardous substances, pollutants, or contaminants under CERCLA. EPA has revised the NCP on several occasions. The most recent comprehensive revision was on March 8, 1990 (55 FR 8666).

As required under Section 105(a)(8)(A) of CERCLA, the NCP also includes ''criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, taking into account the potential urgency of such action for the purpose of taking removal action.'' (''Removal'' actions are defined broadly and include a wide range of actions taken to study, clean up, prevent or otherwise address releases and threatened releases 42 U.S.C. 9601(23).)

What is the National Priorities List (NPL)

The NPL is a list of national priorities among the known or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States. The list, which is Appendix B of the NCP (40 CFR part 300), was required under section 105(a)(8)(B) of CERCLA, as amended by SARA. Section 105(a)(8)(B) defines the NPL as a list of ''releases'' and the highest priority ''facilities'' and requires that the NPL be revised at least annually. The NPL is intended primarily to guide EPA in determining which sites warrant further investigation to assess the nature and extent of public health and environmental risks associated with a release of hazardous substances. However, the NPL is only of limited significance, as it does not assign liability to any party or to the owner of any specific property. Neither does placing a site on the NPL mean that any remedial or removal action necessarily need be taken. See Report of the Senate Committee on Environment and Public Works, Senate Rep. No. 96–848, 96th Cong., 2d Sess. 60 (1980), 48 FR 40659 (September 8, 1983).

The NPL includes two sections, one of sites that are evaluated and cleaned up by EPA (the ''General Superfund Section''), and one of sites being

addressed generally by other Federal agencies (the ''Federal Facilities Section''). Under Executive Order 12580 (52 FR 2923, January 29, 1987) and CERCLA section 120, each Federal agency is responsible for carrying out most response actions at facilities under its own jurisdiction, custody, or control, although EPA is responsible for preparing an HRS score and determining whether the facility is placed on the NPL. EPA generally is not the lead agency at Federal Facilities Section sites, and its role at such sites is accordingly less extensive than at other sites.

How are Sites Listed on the NPL

There are three mechanisms for placing sites on the NPL for possible remedial action (see 40 CFR 300.425(c) of the NCP):

(1) A site may be included on the NPL if it scores sufficiently high on the Hazard Ranking System (''HRS''), which EPA promulgated as Appendix A of the NCP (40 CFR part 300). The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to pose a threat to human health or the environment. On December 14, 1990 (55 FR 51532), EPA promulgated revisions to the HRS partly in response to CERCLA section 105(c), added by SARA. The revised HRS evaluates four pathways: ground water, surface water, soil exposure, and air. As a matter of Agency policy, those sites that score 28.50 or greater on the HRS are eligible for the NPL.

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(3) The third mechanism for listing, included in the NCP at 40 CFR 300.425(c)(3), allows certain sites to be listed regardless of their HRS score, if all of the following conditions are met:

- The Agency for Toxic Substances and Disease Registry (ATSDR) of the U.S. Public Health Service has issued a health advisory that recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

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A site may undergo remedial action financed by the Trust Fund established under CERCLA (commonly referred to as the ''Superfund'') only after it is placed on the NPL, as provided in the NCP at 40 CFR 300.425(b)(1). (''Remedial actions'' are those ''consistent with permanent remedy, taken instead of or in addition to removal actions * * *.'' 42 USC 9601(24).) However, under 40 CFR 300.425(b)(2) placing a site on the NPL ''does not imply that monies will be expended.'' EPA may pursue other appropriate authorities to remedy the releases, including enforcement action under CERCLA and other laws.

How Are Site Boundaries Defined?

The NPL does not describe releases in precise geographical terms; it would be neither feasible nor consistent with the limited purpose of the NPL (to identify releases that are priorities for further evaluation), for it to do so.

Although a CERCLA ''facility'' is broadly defined to include any area where a hazardous substance release has ''come to be located'' (CERCLA section 101(9)), the listing process itself is not intended to define or reflect the boundaries of such facilities or releases. Of course, HRS data (if the HRS is used to list a site) upon which the NPL placement was based will, to some extent, describe the release(s) at issue. That is, the NPL site would include all releases evaluated as part of that HRS analysis.

When a site is listed, to describe the relevant release(s) the approach generally used is to delineate a geographical area (usually the area within an installation or plant boundaries) and identify the site by reference to that area. As a legal matter, the site is not coextensive with that area, and the boundaries of the installation or plant are not the ''boundaries'' of the site. Rather, the site consists of all contaminated areas within the area used to identify the site, as well as any other location to which contamination from that area has come to be located, or from which that contamination came.

In other words, while geographic terms are often used to designate the site (e.g., the ''Jones Co. plant site'') in terms of the property owned by a particular party, the site properly understood is not limited to that property (e.g., it may extend beyond the property due to contaminant migration), and conversely may not occupy the full extent of the property (e.g., where there are uncontaminated parts of the identified property, they may not be, strictly speaking, part of the ''site''). The ''site'' is thus neither equal to nor confined by the boundaries of any specific property that may give the site its name, and the name itself should not be read to imply that this site is coextensive with the entire area within the property boundary of the installation or plant. The precise nature and extent of the site are typically not known at the time of listing. Also, the site name is merely used to help identify the geographic location of the contamination. For example, the ''Jones Co. plant site,'' does not imply that the Jones company is responsible for the contamination located on the plant site.

EPA regulations provide that the ''nature and extent of the threat presented by a release'' will be determined by a Remedial Investigation/Feasibility Study (''RI/FS'') as more information is developed on site contamination (40 CFR 300.430(d)). During the RI/FS process, the release may be found to be larger or smaller than was originally thought, as more is learned about the source(s) and the migration of the contamination. However, this inquiry focuses on an evaluation of the threat posed; the boundaries of the release need not be exactly defined. Moreover, it generally is impossible to discover the full extent of where the contamination ''has come to be located'' before all necessary studies and remedial work are completed at a site. Indeed, the boundaries of the contamination can be expected to change over time. Thus, in most cases, it may be impossible to describe the boundaries of a release with absolute certainty.

Further, as noted above, NPL listing does not assign liability to any party or to the owner of any specific property. Thus, if a party does not believe it is liable for releases on discrete parcels of property, supporting information can be submitted to the Agency at any time after a party receives notice it is a potentially responsible party.

For these reasons, the NPL need not be amended as further research reveals more information about the location of the contamination or release.

How are Sites Removed From the NPL?

EPA may delete sites from the NPL where no further response is appropriate under Superfund, as

explained in the NCP at 40 CFR 300.425(e). This section also provides that EPA shall consult with states on proposed deletions and shall consider whether any of the following criteria have been met:

(i) Responsible parties or other persons have implemented all appropriate response actions required;

(ii) All appropriate Superfund-financed response has been implemented and no further response action is required; or

(iii) The remedial investigation has shown the release poses no significant threat to public health or the environment, and taking of remedial measures is not appropriate.

To date, the Agency has deleted 149 sites from the NPL.

Can Portions of Sites Be Deleted From the NPL as They Are Cleaned Up?

In November 1995, EPA initiated a new policy to delete portions of NPL sites where cleanup is complete (60 FR 55465, November 1, 1995). Total site cleanup may take many years, while portions of the site may have been cleaned up and available for productive use. As of September 1997, EPA has deleted portions of 6 sites.

What Is the Construction Completion List (CCL)

EPA also has developed an NPL construction completion list (''CCL'') to simplify its system of categorizing sites and to better communicate the successful completion of cleanup activities (58 FR 12142, March 2, 1993). Inclusion of a site on the CCL has no legal significance.

Sites qualify for the CCL when:

(1) Any necessary physical construction is complete, whether or not final cleanup levels or other requirements have been achieved;

(2) EPA has determined that the response action should be limited to measures that do not involve construction (e.g., institutional controls); or

(3) The site qualifies for deletion from the NPL.

In addition to the 142 sites that have been deleted from the NPL because they have been cleaned up (7 sites have been deleted based on deferral to other authorities and are not considered cleaned up), an additional 305 sites are also on the NPL CCL. Thus, as of September 1997, the CCL consists of 447 sites.

II. Public Review/Public Comment

Can I Review the Documents Relevant to This Proposed Rule

Yes, the documents that form the basis for EPA's evaluation and scoring of sites in this rule are contained in dockets located both at EPA Headquarters in Washington, D.C. and in the appropriate Regional offices.

How Do I Access the Documents

You may view the documents, by appointment only, in the Headquarters or the appropriate Regional docket after the appearance of this proposed rule. The hours of operation for the Headquarters docket are from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding Federal holidays. Please contact individual Regional dockets for hours.

You may also request copies from EPA Headquarters or the appropriate Regional docket. An informal request, rather than a formal written request under the Freedom of Information Act, should be the ordinary procedure for obtaining copies of any of these documents.

Following is the contact information for the EPA Headquarters docket (see ''*How do I submit my comments?*'' section below for Regional contacts):

Docket Coordinator, Headquarters, U.S. EPA CERCLA Docket Office, Crystal Gateway #1, 1st Floor, 1235 Jefferson Davis Highway, Arlington, VA 22202, 703/603–9232. (Please note this is a visiting address only. Mail comments to EPA Headquarters as detailed at the beginning of this preamble, or contact Regional offices as detailed in the ''*How do I submit my comments?*'' section below.)

What Documents Are Available for Public Review at the Headquarters Docket

The Headquarters docket for this rule contains: HRS score sheets for each proposed site; a Documentation Record for each site describing the information used to compute the score; information for any site affected by particular statutory requirements or EPA listing policies; and a list of documents referenced in the Documentation Record.

The Headquarters docket also contains an ''Additional Information'' document which provides a general discussion of the statutory requirements affecting NPL listing, the purpose and implementation of the NPL, and the economic impacts of NPL listing.

What Documents Are Available for Public Review at the Regional Dockets

Each Regional docket for this rule contains all of the information in the Headquarters docket for sites in that Region, plus, the actual reference documents containing the data principally relied upon and cited by EPA in calculating or evaluating the HRS scores for sites in that Region. These reference documents are available only in the Regional dockets.

How Do I Submit My Comments?

Comments must be submitted to EPA Headquarters as detailed at the beginning of this preamble. Regional offices may be reached at the following:

Jim Kyed, Region 1 (CT, ME, MA, NH, RI, VT), U.S. EPA Waste Management Records Center, HRC–CAN–7, J.F. Kennedy Federal Building, Boston, MA 02203–2211, 617/573–9656

Ben Conetta, Region 2 (NJ, NY, PR, VI), U.S. EPA, 290 Broadway, New York, NY 10007–1866, 212/637–4435

Diane McCreary, Region 3 (DE, DC, MD, PA, VA, WV), U.S. EPA Library, 3rd Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/566–5250

Kathy Piselli, Region 4 (AL, FL, GA, KY, MS, NC, SC, TN), U.S. EPA, 100 Alabama Street, SW, Atlanta, GA 30303, 404/562–8190

Cathy Freeman, Region 5 (IL, IN, MI, MN, OH, WI), U.S. EPA, Records Center, Waste Management Division 7–J, Metcalfe Federal Building, 77 West Jackson Boulevard, Chicago, IL 60604, 312/886–6214

Bart Canellas, Region 6 (AR, LA, NM, OK, TX), U.S. EPA, 1445 Ross Avenue, Mail Code 6H–MA, Dallas, TX 75202–2733, 214/655–6740

Carole Long, Region 7 (IA, KS, MO, NE), U.S. EPA, 726 Minnesota Avenue, Kansas City, KS 66101, 913/551–7224

Pat Smith, Region 8 (CO, MT, ND, SD, UT, WY), U.S. EPA, 999 18th Street, Suite 500, Denver, CO 80202–2466, 303/312–6082

Carolyn Douglas, Region 9 (AZ, CA, HI, NV, AS, GU), U.S. EPA, 75 Hawthorne Street, San Francisco, CA 94105, 415/744–2343

David Bennett, Region 10 (AK, ID, OR, WA), U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW–114, Seattle, WA 98101, 206/553–2103

What Happens to My Comments?

EPA considers all comments received during the comment period. Comments that include complex or voluminous reports, or materials prepared for purposes other than HRS scoring, should point out the specific

information that EPA should consider and how it affects individual HRS factor values (*Northside Sanitary Landfill* v. *Thomas*, 849 F.2d 1516 (D.C. Cir. 1988)). EPA will make final listing decisions after considering the relevant comments received during the comment period.

Can I Submit Comments After the Public Comment Period Is Over?

In past rules, EPA has attempted to respond to late comments, or when that was not practicable, to read all late comments and address those that brought to the Agency's attention a fundamental error in the scoring of a site. Although EPA intends to pursue the same policy with sites in this rule, EPA can guarantee that it will consider only those comments postmarked by the close of the formal comment period. EPA has a policy of not delaying a final listing decision solely to accommodate consideration of late comments.

Can I View Public Comments Submitted by Others?

During the comment period, comments are placed in the Headquarters docket and are available to the public on an ''as received'' basis. A complete set of comments will be available for viewing in the Regional docket approximately one week after the formal comment period closes. Comments received after the comment period closes will be available in the Headquarters docket and in the Regional docket on an ''as received'' basis.

Can I Submit Comments Regarding Sites Not Currently Proposed to the NPL?

In certain instances, interested parties have written to EPA concerning sites which were not at that time proposed to the NPL. If those sites are later proposed to the NPL, parties should review their earlier concerns and, if still appropriate, resubmit those concerns for consideration during the formal comment period. Site-specific correspondence received prior to the period of formal proposal and comment will not generally be included in the docket.

III. Contents of This Proposed Rule

Proposed Additions to the NPL

Table 1 identifies the 9 sites in the General Superfund section being proposed to the NPL in this rule. This table follows this preamble. All sites are proposed based on HRS scores of 28.50 or above. The sites in Table 1 and Table 2 are listed alphabetically by State, for ease of identification, with group number identified to provide an indication of relative ranking. To determine group number, sites on the NPL are placed in groups of 50; for example, a site in Group 4 of this proposal has an HRS score that falls within the range of scores covered by the fourth group of 50 sites on the NPL.

Status of NPL

A final rule published elsewhere in today's **Federal Register**, results in an NPL of 1,204 sites, 1,053 in the General Superfund Section and 151 in the Federal Facilities Section. With this proposal of 9 new sites, there are now 52 sites proposed and awaiting final agency action, 46 in the General Superfund Section and 6 in the Federal Facilities Section. Final and proposed sites now total 1,256.

IV. Executive Order 12866

What is Executive Order 12866?

Executive Order 12866 requires certain regulatory assessments for any ''economically significant regulatory action,'' defined as one which would result in an annual effect on the economy of $100 million or more, or have other substantial impacts.

Is This Proposed Rule Subject to Executive Order 12866 Review?

No, this is not an economically significant regulatory action; therefore, the Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866 review.

V. Unfunded Mandates

What is the Unfunded Mandates Reform Act (UMRA)?

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Pub. L. 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When a written statement is needed for an EPA rule, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, giving them 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.

Does UMRA Apply to This Proposed Rule?

No, today's rule contains no Federal mandates (within the meaning of Title II of the UMRA) for State, local, or tribal governments or the private sector. Nor does it contain any regulatory requirements that might significantly or uniquely affect small governments. This is because today's listing decision does not impose any enforceable duties upon any of these governmental entities or the private sector. Inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA necessarily will undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Therefore, today's rulemaking is not subject to the requirements of section 202, 203 or 205 of the Unfunded Mandates Reform Act.

VI. Effect on Small Businesses

What Is the Regulatory Flexibility Act?

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

Does the Regulatory Flexibility Act Apply to This Proposed Rule?

While this rule proposes to revise the NPL, an NPL revision is not a typical regulatory change since it does not automatically impose costs. As stated

above, adding sites to the NPL does not in itself require any action by any party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, impacts on any group are hard to predict. A site's inclusion on the NPL could increase the likelihood of adverse impacts on responsible parties (in the form of cleanup costs), but at this time EPA cannot identify the potentially affected businesses or estimate the number of small businesses that might also be affected.

The Agency does expect that placing the sites in this proposed rule on the NPL could significantly affect certain industries, or firms within industries, that have caused a proportionately high percentage of waste site problems. However, EPA does not expect the listing of these sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would occur only through enforcement and cost-recovery actions, which EPA takes at its discretion on a site-by-site basis. EPA considers many factors when determining enforcement actions, including not only a firm's contribution to the problem, but also its ability to pay. The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a similar case-by-case basis.

For the foregoing reasons, I hereby certify that this proposed rule, if promulgated, will not have a significant economic impact on a substantial number of small entities. Therefore, this proposed regulation does not require a regulatory flexibility analysis.

TABLE 1.—NATIONAL PRIORITIES LIST PROPOSED RULE #23, GENERAL SUPERFUND SECTION

State	Site name	City/county	Group
IN	Cam-Or Inc	Westville	2
MA	GE-Housatonic River	Pittsfield	1
NJ	Cornell Dubilier Electronics Inc	South Plainfield	5
NJ	LCP Chemicals Inc	Linden	5/6
NJ	Puchack Well Field	Pennsauken Township	5/6
NJ	Zschiegner Refining	Howell Township	5/6
NY	Fulton Avenue	North Hempstead	21
NY	Peter Cooper	Gowanda	5/6
TN	American Bemberg	Elizabethton	5/6

Number of Sites Proposed to General Superfund Section: 9.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p. 193.

Dated: September 12, 1997.

Timothy Fields, Jr.,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 97–25094 Filed 9–24–97; 8:45 am]

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Federal Register

Thursday
September 25, 1997

Part V

Environmental Protection Agency

40 CFR Part 74

Acid Rain Program: Revisions to Sulfur Dioxide Opt-Ins; Proposed Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 74

[FRL–5892–3]

RIN 2060–AH36

Acid Rain Program: Revisions to Sulfur Dioxide Opt-Ins

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: Title IV of the Clean Air Act, as amended by Clean Air Act Amendments of 1990, (''the Act'') authorizes the Environmental Protection Agency (''EPA'' or ''Agency'') to establish the Acid Rain Program. The purpose of the Acid Rain Program is to significantly reduce emissions of sulfur dioxide and nitrogen oxides from electric generating plants in order to reduce the adverse health and ecological impacts of acidic deposition (or acid rain) resulting from such emissions. This proposal is intended to promote participation in the opt-in program by clarifying existing regulations, allowing a limited exception to the general rule of one designated representative for all affected units at a source, revising the conditions under which the Agency may cancel current-year allowance allocations, and allowing thermal energy plans to be effective on a quarterly basis.

DATES: Comments on the regulations proposed by this action must be received on or before October 27, 1997, unless a hearing is requested by October 6, 1997. If a hearing is requested, written comments must be received by November 10, 1997.

Public Hearing. Anyone requesting a public hearing must contact the EPA no later than October 6, 1997. If a hearing is held it will take place October 9, 1997, beginning at 10:00 am.

ADDRESSES: *Comments.* All written comments must be identified with the appropriate docket number (Docket No. A–97–23) and must be submitted in duplicate to EPA Air Docket Section (6102), Waterside Mall, Room M1500, 1st Floor, 401 M Street, SW, Washington DC 20460.

Docket. Docket No. A–97–23, containing supporting information used to develop the proposal is available for public inspection and copying from 8:00 a.m. to 5:30 p.m., Monday through Friday, excluding legal holidays, at EPA's Air Docket Section at the above address.

FOR FURTHER INFORMATION CONTACT: Kathy Barylski at (202) 233–9074 Acid Rain Division (6204J), U.S. Environmental Protection Agency, 401 M St., S.W., Washington, DC 20460; or the Acid Rain Hotline at (202) 233–9620. Electronic copies of this rulemaking and technical support documents can be accessed through the Acid Rain Division website at http://www.epa.gov/acidrain.

SUPPLEMENTARY INFORMATION:

I. Affected Entities

Entities potentially affected by this action are fossil-fuel fired boilers or turbines that serve generators producing electricity, generate steam, or cogenerate electricity and steam. Regulated categories and entities include:

Category	Examples of regulated entities
Industry	Electric service providers, boilers from a wide range of industries.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities potentially affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be affected. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in § 74.2 of title 40 of the Code of Federal Regulations and the revised §§ 72.6, 72.7, 72.8, and 72.14 proposed on December 27, 1996 (61 FR 68340). If you have questions regarding the applicability of this action to a particular entity, consult the persons listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

II. Background

The overall goal of the Acid Rain Program is to achieve significant environmental benefits through reductions in emissions of sulfur dioxide (SO_2) and nitrogen oxides (NO_X), the primary precursors of acid rain. To achieve this goal at the lowest cost to society, the program employs both traditional and innovative, market-based approaches for controlling air pollution. In addition, the program encourages energy efficiency and promotes pollution prevention.

The Acid Rain Program departs from traditional regulatory methods by introducing an SO_2 allowance trading system that lowers the cost of reducing emissions by allowing electric utilities to seek out the least costly methods of control. Utility units affected under title IV are allocated allowances based on the product of their historic utilization and emission rates prescribed in the Clean Air Act. These units may trade allowances, provided that at the end of each year, each unit holds enough allowances to cover its annual SO_2 emissions.

Although the Acid Rain Program is mandated only for utility sources, section 410 provides opportunities for SO_2-emitting sources not otherwise affected by title IV requirements (e.g., industrial sources) to participate through the opt-in program. Entry of combustion sources into the opt-in program is voluntary. Opt-in sources are allocated allowances and, by making cost-effective emissions reductions so that their allowance allocations will exceed their emissions, will have allowances that may be sold in the SO_2 allowance trading system. These marketable allowances provide greater compliance flexibility for affected utility units.

III. Part 74: Opt-Ins

A. Designated Representative

Under the opt-in rules issued April 4, 1995 (60 FR 17100), combustion or process sources located at the same location as affected units are required to have the same designated representative as the affected units. EPA has received comment that, in some limited circumstances, the requirement for the same designated representative will inhibit entry or continued participation in the opt-in program of opt-in sources that could otherwise make cost-effective emissions reductions. The commenter described a situation where combustion sources and a process source are owned by an industrial company and Phase I units at the same affected source are partly owned by a utility. The industrial company uses electricity to operate the process sources and, for this purpose, generates electricity at its wholly-owned combustion sources and supplements the generation with electricity obtained from the utility-owned unit. The industrial company is concerned that having a single designated representative for all these facilities may result in confidential business information—particularly concerning

the process source operations and the industrial company's own generation costs—being available to the designated representative, who is an employee of the utility and would not otherwise have access to such information. According to the commenter, the industrial company's participation in the opt-in program may be jeopardized because of its concern over the potential competitive disadvantage that could result from this arrangement. The commenter raised the issue in a petition for review filed on June 5, 1995 challenging the existing opt-in regulations. On January 9, 1997, EPA and the commenter entered into a settlement of the litigation initiated by the June 5, 1995 petition.

In response to the above comment and consistent with the settlement, EPA is establishing a procedure for nonutility combustion or process sources located with affected utility units to elect an exception to the general requirement that there be only one designated representative for all affected units at a source. EPA is establishing this procedure for nonutililty opt-in sources because their participation, which Congress viewed as beneficial, in the Acid Rain Program is voluntary. Nonutility opt-in sources are part of industrial operations that are very different businesses from electric utilities. Although EPA recognizes the recent trend toward increased competition in the electricity market, the concern over confidentiality of business information and the potential adverse effect of disclosure of information on a company's competitiveness are likely to be greater for nonutility businesses. These factors are thus more likely to discourage industrial sources from opting in to the Acid Rain Program.

Under EPA's proposed new approach, the certifying official of an electing opt-in source must certify to the Administrator that the combustion or process source meets the following criteria: that the opt-in source (1) is located at the same source as one or more affected utility units and (2) is a nonutility opt-in source, i.e., has no owner or operator of which the principal business is the sale, transmission, or distribution of electricity to the public or that is a public utility under the jurisdiction of a State or local utility regulatory authority. In addition, a certificate of representation meeting the generally applicable requirements for such certificates must be submitted. The Administrator will rely on the submitted certificate, unless the Administrator determines that the opt-in source does not actually meet the election requirements.

EPA notes that its general approach has been, and continues to be, to make opt-in sources subject to the same requirements as other affected units. 60 FR 17101. In fact, EPA has previously explained that section 410 requires that combustion sources meet the same monitoring requirements as other affected units. 59 FR 50088, 50095 (1993); *see also* 42 U.S.C. 7651i(e) (requiring opt-in sources to meet the monitoring requirements of section 412 of the Clean Air Act). In deciding whether to impose on opt-in sources the same single-designated-representative requirement that other affected sources must meet, EPA must balance, on one hand, the importance of imposing consistent requirements on all affected units and, on the other hand, Congress' desire to encourage voluntary entry of opt-in sources into the Acid Rain Program. EPA believes that allowing, in a few cases in order to encourage voluntary participation, a separate designated representative for an opt-in source will not adversely affect the Acid Rain Program. EPA anticipates that there will be few opt-in sources that will qualify for the proposed election. Balancing these considerations, EPA is proposing to revise the regulations to allow for such limited exceptions.

B. Thermal Energy Plans

The opt-in rule allows combustion sources to become opt-in sources at the beginning of any calendar quarter, not only at the beginning of a calendar year. *See* 40 CFR 74.28. However, EPA notes that the thermal energy provision at § 74.47 only provides for calendar year plans. This may create a problem in cases where the replacement of thermal energy is supposed to begin some time after January 1 of the calendar year. The opt-in source would have to delay replacement of thermal energy for a period of up to almost 12 months after the replacement would otherwise begin to coordinate the replacement with the commencement of the thermal energy plan. EPA believes that allowing thermal energy plans to begin after the first calendar quarter provides additional flexibility to opt-in sources without unduly burdening the Agency because EPA anticipates that there will be few opt-in sources requesting such plans.

Therefore, EPA is proposing revisions to allow (and take account of the possibility of) the submission of thermal energy plans at the beginning of any calendar quarter. For example, certain revisions require that, where a thermal energy plan is to begin during a quarter after the first quarter, the plan must include information related to the amount of the replacement thermal energy to be provided for the first partial year of the plan. Information on the replacement thermal energy in subsequent full years of the plan must also be provided. The allowances transferred to the replacement unit are based on the amount of replacement thermal energy; for the first calendar year allowances will reflect the replacement energy provided during the partial year, and for any subsequent years, allowances will reflect the replacement energy during the full year.

C. Deduction of Allowances From ATS Accounts

The opt-in rule not only restricts transfer of future year opt-in allowances, it also allows EPA to cancel current-year opt-in allowances in the event that an opt-in source has excess emissions and has shut down. For operating opt-in sources, EPA draws upon future-year allowances in the opt-in's Allowance Tracking System (ATS) account to offset excess emissions. However, when the opt-in source shuts down, future-year allowances are eliminated and EPA retains the option of canceling opt-in allowances, even when those allowances have been transferred to other ATS accounts.

EPA has received comment that retaining such option may unduly restrict transfer of opt-in allowances and that the option is unnecessarily broad, considering EPA's other processes. This issue was raised in the June 5, 1995 petition for review of the existing opt-in regulations and is addressed in the January 9, 1997 settlement, which petition and settlement are discussed above. EPA agrees that EPA's recordation process and EPA's process regarding confirmation reports appear to generally offer sufficient protection to prevent transfer of opt-in allowances before the Agency is assured that those allowances are not needed to cover excess emissions.

Thus, in response to the comment and consistent with the settlement, EPA is proposing to provide that an opt-in allowance may not be deducted under § 74.50(a) from any ATS account, other than the account of the opt-in source allocated such allowance, (i) after EPA has completed the process of recordation as set forth in § 73.34(a) following the deduction of allowances from the opt-in source's compliance subaccount for the year for which such allowance may first be used or (ii) if the opt-in source claims under in an annual compliance certification report an estimated reduction in heat input from

improved efficiency, under § 74.44(a)(1)(B), after EPA has completed action on the confirmation report concerning such claimed reduction pursuant to §§ 74.44(c)(2)(iii)(E)(3)–(E)(5) for the year for which such allowance may first be used.

For any given compliance year and, for opt-in sources claiming reductions from improved efficiency, the recordation process and action on confirmation reports will probably be completed before the end of the year following the compliance year. For 1995, EPA actually completed the recordation process on July 2, 1996. For 1996, EPA completed the process on June 12, 1997. However, because confirmation reports are not due to EPA until July 1, EPA expects to complete action on such reports by September of the same year.

D. Miscellaneous

EPA is proposing a number of modifications and corrections to the combustion source opt-in rules to reflect changes in the Acid Rain Program and operating permits program under title V of the Clean Air Act since the publication of the final opt-in rule on April 4, 1995. In particular the Agency has finalized operating permit rules in part 71 and proposed changes to part 72.

The following types of miscellaneous changes are proposed:

1. References to part 71 are added to part 74 where appropriate.

2. References to exemptions under §§ 72.7, 72.8 and 72.14 are added where appropriate in order to reflect the proposed revisions to part 72 that provide that exempt units are not affected units. Units exempted under these sections may not become opt-in units.

3. Repetitive language concerning the effect of withdrawal of an opt-in source from the Acid Rain Program on prior violations of opt-in requirements is removed. A similar change was proposed to language in part 72 concerning the effect of exemptions under §§ 72.7, 72.8 and 72.14 on prior violations. *See* 61 FR 68369–68371 (similar language in ''Special Provisions'' for each exemption).

4. Corrections are made so that language concerning the use of improved efficiency of an opt-in source to account for reduced utilization is consistent with similar provisions in part 72 concerning reduced utilization of affected utility units. *See* 40 CFR 72.91(a)(5) and (b)(2).

5. The formula for determining how many allowances should be retained in the allowance account of an opt-in source with a thermal energy plan is revised. The revision takes into account the fact that the opt-in source's allowance account may include allowances acquired by the opt-in source as well as allowances allocated to it by EPA.

6. Incorrect references to sections in parts 74 and 75 are corrected.

IV. Administrative Requirements

A. Executive Order 12866

Under Executive Order 12866, 58 FR 51735 (October 4, 1993), the Administrator must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The 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 proposed rule is a ''significant regulatory action'' because the rule seems to raise novel legal or policy issues. As such, this action was submitted to OMB for review. Any written comments from OMB to EPA, any written EPA response to those comments, and any changes made in response to OMB suggestions or recommendations are included in the docket. The docket is available for public inspection at the EPA's Air Docket Section, which is listed in the **ADDRESSES** section of this preamble.

B. Unfunded Mandates Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act'') requires that the Agency prepare a budgetary impact statement before promulgating a rule that includes a federal mandate that may result in expenditure by State, local, and tribal governments, in aggregate, or by the private sector, of $100 million or more in any one year. Section 203 requires the Agency to establish a plan for obtaining input from and informing, educating, and advising any small governments that may be significantly or uniquely affected by the rule.

Under section 205 of the Unfunded Mandates Act, the Agency must identify and consider a reasonable number of regulatory alternatives before promulgating a rule for which a budgetary impact statement must be prepared. The Agency must select from those alternatives the least costly, most cost-effective, or least burdensome alternative that achieves the objectives of the rule, unless the Agency explains why this alternative is not selected or the selection of this alternative is inconsistent with law.

Because this proposed rule is estimated to result in the expenditure by State, local, and tribal governments or the private sector of less than $100 million in any one year, the Agency has not prepared a budgetary impact statement or specifically addressed the selection of the least costly, most cost-effective, or least burdensome alternative. Because small governments will not be significantly or uniquely affected by this rule, the Agency is not required to develop a plan with regard to small governments.

The proposed revisions to part 74 will not have a significant effect on regulated entities or State permitting authorities. The revisions potentially reduce the burden certain opt-in sources, by allowing the election of a separate designated representative and by allowing thermal energy plans to begin on the calendar quarter. Also, the revisions potentially reduce the burden on the utility sector by revising when EPA may deduct allowances from ATS accounts.

C. Paperwork Reduction Act

This action proposing revisions to the opt-in rule would not impose any new information collection burden. OMB has previously approved the information collection requirements contained in the opt-in rules, 40 CFR part 74, under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501, *et seq.* and has assigned OMB control number 2060–0258. 60 FR 17111.

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.

Copies of the ICR may be obtained from Sandy Farmer, Information Policy Branch; EPA; 401 M. St. SW (mail code 2136); Washington, DC 20460 or by calling (202) 260–2740. Include the ICR and/or OMB number in any correspondence.

D. 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. This proposed rule would not have a significant impact on a substantial number of small entities.

In the preamble of the April 4, 1995 opt-in rule, the Administrator certified that the rule, including the provisions revised by today's rule, would not have a significant economic impact on small entities. 60 FR 17111. Today's revisions are not significant enough to change the overall economic impact addressed in the April 4, 1995 preamble. Moreover, as discussed above, the revisions provide regulated entities with additional flexibility (e.g., the option to have a separate designated representative and to have a thermal energy plan that begins in the second, or later, quarter of the year). Therefore, I certify that this action will not have a significant economic impact on a substantial number of small entities.

E. Miscellaneous

In accordance with section 117 of the Act, issuance of this rule was preceded by consultation with any appropriate advisory committees, independent experts, and federal departments and agencies.

List of Subjects in 40 CFR Part 74

Environmental protection, Acid rain, Air pollution control, Reporting and recordkeeping requirements, Sulfur oxides.

Dated: September 9, 1997.

Carol M. Browner,

Administrator.

For the reasons set forth in the preamble, 40 CFR part 74 is proposed to be amended as set forth below.

PART 74—[AMENDED]

1. The authority citation for part 74 continues to read as follows:

Authority: 42 U.S.C. 7601 and 7651, *et seq.*

2. Section 74.3 is amended by:

i. In paragraph (b), revising the phrase ''parts 70 and 72'' to read ''parts 70, 71, and 72'';

ii. In paragraph (b), revising the phrase ''part 70'' to read ''parts 70 and 71''; and

iii. Adding at the end of paragraph (d) the words '', consistent with subpart E of this part.''

3. Section 74.4 is amended by adding paragraph (c) to read as follows:

§ 74.4 Designated Representative.

* * * * *

(c)(1) Notwithstanding paragraph (b) of this section, a certifying official of a combustion or process source that is located at the same source as one or more affected utility units and that has no owner of which the principal business is the sale, transmission, or distribution of electricity or that is a public utility under the jurisdiction of a State or local utility regulatory commission may elect to designate, for such combustion or process sources, a different designated representative than the designated representative for the affected utility units.

(2) In order to make such an election, the certifying official shall submit to the Administrator, in a format prescribed by the Administrator: a certification that the combustion or process source for which the election is made meets each of the requirements for election in paragraph (c)(1) of this section; and a certificate of representation for the designated representative of the combustion or process source in accordance with § 72.24 of this chapter. The Administrator will rely on such certificate of representation in accordance with § 72.25 of this chapter, unless the Administrator determines that the requirements for election in the paragraph (c)(1) are not met.

§ 74.14 [Corrected]

4. Section 74.10 is amended by removing from paragraph (a)(2) the word ''§ 74.62'' and adding in its place the words ''§ 75.20 of this chapter''.

§ 74.10 [Corrected]

5. Section 74.14 is amended by removing from paragraph (b) introductory text the words ''part 70'' and adding in their place the words ''parts 70 and 71'' and by removing from paragraph (b)(6)(ii) the word ''approved'' and adding in its place the words ''approved for operating permits''.

§ 74.16 [Corrected]

6. Section 74.16 is amended by removing from paragraph (a)(12) the word '';'' and adding in its place the words ''and does not have an exemption under § 72.7, 72.8, or 72.14 of this chapter;''.

§ 74.18 [Corrected]

7. Section 74.18 is amended by removing from paragraph (d) the words ''§ 74.46(c)'' and adding in their place ''§ 74.46(b)(2)'' and by removing the last sentence from paragraph (e).

§ 74.22 [Corrected]

8. Section 74.22 is amended by removing from paragraph (c)(2) the words ''§ 74.20(a)(2)(A)'' and adding in their place the words ''§ 74.20(a)(2)(i)''.

§ 74.26 [Corrected]

9. Section 74.26 is amended by removing from paragraph (a)(2) the words ''in which'' and adding in their place the words ''for which''.

§ 74.42 [Corrected]

10. Section 74.42 is amended by removing from paragraph (a) the word ''(a).''

§ 74.44 [Corrected]

11. Section 74.44 is amended by:

i. Removing from paragraph (a)(1)(i)(G) the words ''demand side measures that improve the efficiency of electricity or steam consumption'' and adding in their place the words ''specific measures'';

ii. Removing from paragraph (a)(2)(i) the words ''or for the first two calendar years after the effective date of a thermal energy plan governing an opt-in source in accordance with § 74.47 of this chapter'';

iii. Adding in paragraph (a)(2)(iii) the words ''of this section'' after the word ''(a)(2)(ii)'';

iv. Removing from paragraph (c)(2)(ii)(B)(1) the words ''opt-in sources.'' and adding in their place the words ''opt-in sources and Phase I units.'';

v. Removing from the formula in paragraph (c)(2)(iii)(F) the words ''= allowances allocated'' and adding in their place the words ''allowances allocated or acquired'';

vi. Removing from paragraph (c)(2)(iii)(F) the words '' 'Allowances allocated' shall be the number of

allowances allocated under section § 74.40 for the calendar year.'' and adding in their place the words '' 'Allowances allocated or acquired' shall be the number of allowances held in the source's compliance subaccount at the allowance transfer deadline plus the number of allowances transferred for the previous calendar year to all replacement units under an approved thermal energy plan in accordance with § 74.47(a)(6).'';

vii. Removing from paragraph (c)(2)(iii)(E)(*3*) the words ''allowances necessary'' and adding in their place the words ''allowances that he or she determines is necessary''.

12. Section 74.47 is amended by:

i. By adding in paragraph (a)(3)(i), after the word ''year'' in each place it appears, the word ''and quarter'';

ii. Adding in the first sentence of paragraph (a)(3)(vii), after the word ''year'', the words ''and quarter''; and

iii. Revising paragraphs (a)(1), (a)(3)(viii), (a)(3)(ix), (a)(3)(x), (a)(3)(xi), (a)(3)(xii), and (a)(4) to read as follows:

§ 74.47 Transfer of allowances from the replacement of thermal energy—combustion sources.

(a) *Thermal energy plan*. (1) *General provisions*. The designated representative of an opt-in source that seeks to qualify for the transfer of allowances based on the replacement of thermal energy by a replacement unit shall submit a thermal energy plan subject to the requirements of § 72.40(b) of this chapter for multi-unit compliance options and this section. The effective period of the thermal energy plan shall begin at the start of the calendar quarter (January 1, April 1, July 1, or October 1) for which the plan is approved and end December 31 of the last full calendar year for which the opt-in permit containing the plan is in effect.

* * * * *

(3) * * *

(viii) The estimated annual amount of total thermal energy to be reduced at the opt-in source, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy to be reduced starting April 1, July 1, or October 1 respectively and ending on December 31;

(ix) The estimated amount of total thermal energy at each replacement unit for the calendar year prior to the year for which the plan is to take effect, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy for the portion of such calendar year starting April 1, July 1, or October 1 respectively;

(x) The estimated annual amount of total thermal energy at each replacement unit after replacing thermal energy at the opt-in source, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, and, for a plan starting April 1, July 1, or October 1, such estimated amount of total thermal energy at each replacement unit after replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

(xi) The estimated annual amount of thermal energy at each replacement unit, including all energy flows (steam, gas, or hot water) used for any process or in any heating or cooling application, replacing thermal energy at the opt-in source, and, for a plan starting April 1, July 1, or October 1, such estimated amount of thermal energy replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

(xii) The estimated annual total fuel input at each replacement unit after replacing thermal energy at the opt-in source and, for a plan starting April 1, July 1, or October 1, such estimated total fuel input after replacing thermal energy at the opt-in source starting April 1, July 1, or October 1 respectively and ending December 31;

* * * * *

(4) *Submission*. The designated representative of the opt-in source seeking to qualify for the transfer of allowances based on the replacement of thermal energy shall submit a thermal energy plan to the permitting authority by no later than six months prior to the first calendar quarter for which the plan is to be in effect. The thermal energy plan shall be signed and certified by the designated representative of the opt-in source and each replacement unit covered by the plan.

* * * * *

13. Section 74.50 is amended by redesignating the introductory text paragraph (a) as paragraph (a)(1), redesignating paragraphs (a)(1) through (a)(4) as paragraphs (a)(1)(i) through (a)(1)(iv), and adding paragraph (a)(2) to read as follows:

§ 74.50 Deducting opt-in source allowances from ATS accounts.

(a) * * *

(2) An opt-in allowance may not be deducted under paragraph (a)(1) of this section from any Allowance Tracking System Account other than the account of the opt-in source allocated such allowance:

(i) After the Administrator has completed the process of recordation as set forth in § 73.34(a) of this chapter following the deduction of allowances from the opt-in source's compliance subaccount for the year for which such allowance may first be used; or

(ii) If the opt-in source includes in the annual compliance certification report estimates of any reduction in heat input resulting from improved efficiency under § 74.44(a)(1)(i), after the Administrator has completed action on the confirmation report concerning such estimated reduction pursuant to §§ 74.44(c)(2)(iii)(E)(3), (4), and (5) for the year for which such allowance may first be used.

* * * * *

[FR Doc. 97–24414 Filed 9–24–97; 8:45 am]

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September 25, 1997

Part VI

Department of Education

34 CFR Parts 682 and 685

Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program; Proposed Rule

DEPARTMENT OF EDUCATION

34 CFR Parts 682 and 685

RIN 1840–AC45

Federal Family Education Loan Program and William D. Ford Federal Direct Loan Program

AGENCY: Department of Education.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Secretary proposes to amend the Federal Family Education Loan (FFEL) Program regulations and the William D. Ford Federal Direct Loan (Direct Loan) Program regulations to modify requirements in these programs. These proposed modifications are intended to eliminate certain differences in the requirements of the FFEL and Direct Loan programs and to reduce burden.

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

ADDRESSES: All comments concerning these proposed regulations should be addressed to: Mr. Kenneth Smith, U.S. Department of Education, P.O. Box 23272, Washington, DC 20026–3272, or to the following internet address: parity@ed.gov.

To ensure that public comments have maximum effect in developing the final regulations, the Department urges that each comment clearly identify the specific section or sections of the regulations that the comment addresses and that comments be in the same order as the regulations.

Comments that concern information collection requirements should be sent to the Office of Management and Budget at the address listed in the Paperwork Reduction Act section of this preamble. A copy of those comments may also be sent to the Department representative named above.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Smith, U.S. Department of Education, 600 Independence Avenue, SW, ROB–3, Room 3045, Washington, DC 20202–5346, telephone 202–708–8242. 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.

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.

SUPPLEMENTARY INFORMATION: Section 455(a) of the Higher Education Act of 1965, as amended (HEA), provides that, unless otherwise specified in statute, Federal Direct Stafford/Ford (Direct Subsidized) Loans, Federal Direct Unsubsidized Stafford/Ford (Direct Unsubsidized) Loans, and Federal Direct PLUS (Direct PLUS) Loans shall have the same terms, conditions, and benefits, and be available in the same amounts, as Federal Stafford Loans, Federal Unsubsidized Stafford Loans, and Federal PLUS Loans.

The Direct Loan Program regulations (34 CFR part 685) provide terms, conditions, benefits, and amounts for Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct PLUS Loans. The FFEL Program regulations (34 CFR part 682) provide terms, conditions, benefits, and amounts for Federal Stafford Loans, Federal Unsubsidized Stafford Loans, and Federal PLUS Loans.

The Secretary is proposing to amend 34 CFR parts 682 and 685 to change certain requirements and procedures in the FFEL and Direct Loan programs. These proposed changes are intended to eliminate certain differences in the requirements of these programs and to reduce burden on program participants.

A summary of each proposed change is provided below, in the order of its first occurrence in the proposed regulatory text.

Sections 682.201 and 685.301 Students With Need of $200 or Less

Under FFELP regulations, at § 682.201(a)(2)(i), a student with a calculated need of $200 or less is not required to file an application for a Subsidized Stafford Loan with a lender before applying for a Federal Supplemental Loans for Students (SLS) loan. The final rule for these proposed regulations would include a technical correction to apply § 682.201(a)(2)(i) to a borrower's application for an Unsubsidized Stafford loan, because Unsubsidized Stafford loans are effectively the replacement for SLS loans. This technical correction reflects a long-standing FFEL Program policy and has been included in this NPRM so that changes to FFEL and Direct Loan program regulatory text are made simultaneously.

Essentially, this technical correction to § 682.201(a)(2)(i) clarifies a method by which a school participating in the FFEL Program may choose not to certify a Subsidized Stafford Loan for a student with a calculated need of $200 or less, and may instead certify an Unsubsidized Stafford Loan that includes the amount of $200 or less that would have been awarded in the Subsidized Stafford Loan.

This provision is necessary to avoid processing delays and increased costs in delivering funds to students. Because of the proportionally higher cost of small loans, many lenders under the FFEL Program do not make loans of $200 or less. Without this provision, a school would be required to submit an application to a lender for a Subsidized Stafford Loan amount when it is already aware that the loan will be refused by the lender.

To make the practices of schools participating in the FFEL and Direct Loan programs more consistent, the Secretary proposes to establish a provision for the Direct Loan Program similar to that described above for the FFEL Program. The proposed regulations would allow, but not require, a school to choose not to originate a Direct Subsidized Loan for a student with a calculated need of $200 or less. Instead, a school participating in the Direct Loan Program would be able to originate a Direct Unsubsidized Loan that includes the $200 or less that would have been originated as a Direct Subsidized Loan. For example, a student with a cost of attendance of $2,000, estimated financial assistance of $0, and an expected family contribution of $1,850 would have a calculated need of $150. The school could choose to originate one Direct Unsubsidized Loan for $2,000 for this student, rather than a Direct Subsidized Loan for $150 and a Direct Unsubsidized Loan for $1,850.

This proposal is consistent with guidance provided in the preamble to the Direct Loan Program final rule published in the **Federal Register** on December 1, 1994 (59 FR 61669), in which the Secretary stated that ''an institution may establish a minimum loan amount.'' The proposed regulations would provide a ceiling of $200 to the ''minimum loan amount'' allowed in that preamble language, and would provide a regulatory basis for this action by a school. It is important to note that the Department has not established a minimum Direct Loan amount that it will process, and a school participating in the Direct Loan Program may continue to originate loans of $200 or less to meet borrower needs.

The Secretary realizes that an additional interest cost is incurred by a student who is awarded an amount in an unsubsidized loan rather than in a subsidized loan, even if the loan amount is $200 or less, because the government does not charge interest on a subsidized loan if it is not in repayment status or in a deferment. The Department estimates a maximum cost to a student of $66, for interest accruing on $200 over four years. However, this provision

was established for a school participating in the FFEL Program for the reasons described above, and it is proposed for a school participating in the Direct Loan Program to provide parity with the FFEL Program and to allow a school to control its administrative costs in making loans. The Secretary expects the proposed regulations to have little actual effect on costs to borrowers for receiving FFEL or Direct Loan program funds because current FFEL Program policy would remain unchanged and current Direct Loan Program policy would only be defined in regulations. The only change to current Direct Loan Program policy in the proposed regulations is the provision of a $200 limit to replace the currently unspecified ''minimum loan amount,'' so a school would no longer be able to establish a minimum loan amount higher than $200.

Sections 682.202(c)(5), 682.401(b)(10), and 685.202(c)(4) Refund of FFEL Program Origination Fees and Insurance Premiums and of Direct Loan Program Loan Fees

Under § 682.202(c)(5), a lender must refund, by a credit against the borrower's loan balance, the applicable portion of the origination fee previously deducted from the loan if (1) the borrower repays a portion of the loan within 120 days of disbursement, (2) the funds are not delivered within 120 days of disbursement, or (3) the funds are returned by the school to the lender.[1] Similarly, under § 682.401(b)(10)(vi)(B), a lender must refund the applicable portion of the insurance premium previously deducted by application to the borrower's account if (1) the loan is paid in full within 120 days of disbursement, (2) the loan check has not been negotiated within 120 days of disbursement, or (3) the loan or a portion of a loan is returned by the school to the lender. Direct Loan Program regulations at § 685.202(c)(4) provide for the refund of the applicable portion of the loan fee previously deducted from the loan if a portion of the loan is repaid within 120 days or should have been repaid by the school within 120 days of disbursement.

The Secretary proposes to revise §§ 682.202(c)(5)(i), 682.401(b)(10)(vi)(B)(*1*), and 685.202(c)(4) to provide that the applicable portion of the origination fee, insurance premium, or loan fee is to be repaid or returned in cases in which loan funds are returned by the school in order to comply with the HEA or with applicable regulations.

For example, the applicable portion of the origination fee, insurance premium, or loan fee *would* be repaid or returned to a borrower if during a program review it was determined that a school should have paid a larger refund to a student, even if that refund should have occurred more than 120 days after the disbursement was made. On the other hand, the applicable portion of the origination fee, insurance premium, or loan fee would not be repaid or returned to a borrower if a school assists the borrower by forwarding a prepayment to the lender more than 120 days after disbursement. In this example, the school would not be returning the funds in order to comply with the HEA or with applicable regulations; it would be returning the funds to comply with the borrower's request.

This proposed revision clarifies current FFEL requirements. Further, it expands the circumstances under which the Secretary would reduce the Direct Loan Program loan fee charged to borrowers by removing the requirement that the repayment should have been made within 120 days of disbursement. Under the proposed provision, students in both the FFEL and Direct Loan programs would receive the same benefits.

Sections 682.402 and 685.212 Discharge of a Loan

Under § 682.402(c)(1), FFEL Program regulations provide for the discharge of a borrower's or endorser's obligation to repay a Consolidation Loan, due to a total and permanent disability, for a borrower who became disabled (or whose condition substantially deteriorated, so as to render the borrower totally and permanently disabled) after applying for all of the Consolidation Loan's underlying loans. This discharge is made even if a borrower's condition did not substantially deteriorate after the borrower applied for the Consolidation Loan itself. Corresponding Direct Loan Program regulations, at § 685.212(b), do not allow for a discharge of a loan obligation for a Direct Consolidation Loan if the borrower did not become disabled (or whose condition did not substantially deteriorate, so as to render the borrower totally and permanently disabled) after the Direct Consolidation Loan was made.

For example, a borrower who received several loans, then became totally and permanently disabled, and then consolidated those loans into a Direct Consolidation Loan, remains obligated to repay the loan. Under current Direct Loan Program regulations, a borrower is not considered totally and permanently disabled on the basis of a condition that existed at the time the borrower applied for the consolidation loan, unless the borrower's condition substantially deteriorated after the loan was made so as to render the borrower totally and permanently disabled. In the example above, since the borrower's condition existed at the time the borrower applied for the Direct Consolidation Loan and did not substantially deteriorate after the Direct Consolidation Loan was made, the borrower would remain obligated to repay the loan. By contrast, corresponding FFEL regulations would allow a discharge of the borrower's obligation to make further payments on the loan.

The Secretary proposes to revise Direct Loan Program regulations to provide the same discharge conditions for a Direct Consolidation Loan as are currently provided for an FFELP Consolidation Loan. Because there has been some confusion regarding the FFEL rule on this issue, the Secretary also proposes to clarify the current FFEL Program provision and to make a conforming change to regulations at § 682.402(k)(2)(iii).

Sections 682.604(g)(2) and 685.304(b)(2) Exit Counseling

Section 485(b)(1)(A)(i) of the HEA requires a school to inform a student of ''the average anticipated monthly repayments'' during exit counseling. For an FFEL borrower, under § 682.604(g)(2)(i), a school is required to base the calculation of this amount on an average indebtedness for students at that school. Direct Loan Program regulations, at § 685.304(b)(2)(i), go beyond the requirements in FFEL regulations and require a school to base its calculation of this amount on the individual student's actual indebtedness.

The Secretary proposes to revise both FFEL and Direct Loan program regulations to allow a school to base its calculation of this amount upon either the student's individual indebtedness or upon the average indebtedness of students who have obtained loans for attendance at that school or in the borrower's program of study. This change would provide more flexibility in both loan programs, would promote

[1] The introductory language for § 682.202(c)(5) is incorrect as published in the Code of Federal Regulations (CFR), revised as of July 1, 1996. The CFR reflects the final rule published in the **Federal Register** on May 17, 1994 (59 FR 25745). However, a correction to the May 17, 1994, rule was published on July 13, 1994 (59 FR 35625). The correction was not included in the current CFR. To ensure that the correct introductory language is properly reflected in regulations, it is included in this NPRM and will be included in the final rule as a technical correction.

consistency in exit counseling, and would reduce burden for schools participating in both the FFEL and the Direct Loan programs.

A Direct Loan borrower's ability to make an informed choice when selecting a repayment plan is not lessened by this change. A school participating in the Direct Loan Program may, and is encouraged to, continue to receive information regarding an individual borrower's anticipated Direct Loan Program monthly repayment amount for distribution to the borrower during exit counseling. If a borrower does not select a repayment plan by the 60th day of the loan's grace period, he or she is sent the individualized information by the Direct Loan Servicer. In addition, the individualized repayment information is always available to a borrower who calls the Direct Loan Servicer, both when the borrower is selecting an initial repayment plan and when the borrower is considering a change from one plan to another.

Under § 685.304(b)(2) (ii) and (iii), a school is required to review available repayment options with a borrower and to provide the borrower with options concerning debt-management strategies. Should these proposed regulations be included in the final rule, to comply with § 685.304(b)(2) (ii) and (iii), a school that chooses not to provide the individualized repayment information to a student would be expected to advise the student of the availability of this information at the student's Direct Loan servicer and of its usefulness in selecting the most appropriate repayment plan.

The Secretary requests specific comments on whether the timing and availability of the individualized Direct Loan Program repayment information, as described above, provides all Direct Loan Program borrowers with an adequate opportunity to select the most appropriate repayment plan. In particular, the Secretary requests comments on the ability of a borrower to make an informed choice when selecting a repayment plan if he or she does not receive individualized information until the 60th day of the loan's grace period because his or her school has chosen to supply repayment information based on average indebtedness during its exit counseling.

Executive Order 12866

1. Assessment of Costs and Benefits

These proposed regulations have been reviewed in accordance with Executive Order 12866. Under the terms of the order the Secretary has assessed the potential costs and benefits of this regulatory action.

The potential costs associated with the proposed regulations are those resulting from statutory requirements and those determined by the Secretary to be necessary for administering these programs effectively and efficiently. Burdens specifically associated with information collection requirements, if any, are identified and explained elsewhere in this preamble under the heading *Paperwork Reduction Act of 1995.*

In assessing the potential costs and benefits—both quantitative and qualitative—of these proposed regulations, the Secretary has determined that the benefits of the proposed regulations justify the costs.

The Secretary has also determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

To assist the Department in complying with the specific requirements of Executive Order 12866, the Secretary invites comments on whether there may be further opportunities to reduce any potential costs or increase potential benefits resulting from these regulations without impeding the effective and efficient administration of these programs.

Summary of Potential Costs and Benefits

Potential costs and benefits of these proposed regulations are discussed elsewhere in this preamble under the following heading: *Regulatory Flexibility Act Certification,* and in the information stated previously under Supplementary Information.

2. Clarity of Regulations

Executive Order 12866 requires each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these regulations easier to understand, including answers to questions such as the following: (1) Are the requirements in the proposed regulations clearly stated? (2) Do the regulations contain technical terms or other wording that interferes with their clarity? (3) Does the format of the regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity? Would the regulations be easier to understand if they were divided into more (but shorter) sections? (A ''section'' is preceded by the symbol ''§'' and a numbered heading; for example, § 668.24 *Records retention and examinations.*) (4) Is the description of the proposed regulations in the ''Supplementary Information'' section of this preamble helpful in understanding the proposed regulations? How could this description be more helpful in making the proposed regulations easier to understand? (5) What else could the Department do to make the regulations easier to understand?

A copy of any comments that concern how the Department could make these proposed regulations easier to understand should be sent to Mr. Stanley M. Cohen, Regulations Quality Officer, U.S. Department of Education, 600 Independence Avenue, SW, Room 5121, FOB–10, Washington, DC 20202–2241.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. Small entities affected by these proposed regulations are small schools and loan holders participating in the federal student loan programs.

The provisions of this regulation provide added flexibility to schools and loan holders, or reduce the administrative burden on schools. Thus, no significant adverse economic impacts on small entities are expected to occur.

The Secretary particularly invites comments on the effect that these proposed regulations would have on small entities.

Paperwork Reduction Act of 1995

Section 685.212 contains information collection requirements. As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Department of Education has submitted a copy of this section to the Office of Management and Budget (OMB) for its review.

Collection of Information: William D. Ford Federal Direct Loan Program—685.212—Discharge of a loan obligation. The Secretary proposes to provide for the discharge of a Direct Consolidation Loan due to a total and permanent disability for a borrower who would be eligible for the discharge of all the loans that were included in the Direct Consolidation Loan if those loans had not been consolidated. The Department may require additional certifications and information concerning the underlying loans in order to provide this benefit to the borrower. Annual public reporting burden for this collection of information is estimated to average 0.2 hours per response for 180 respondents, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and

completing and reviewing the collection of information. The total estimated annual recordkeeping and reporting burden hours equals 36 hours.

Organizations and individuals desiring to submit comments on the information collection requirements should direct them to the Office of Information and Regulatory Affairs, OMB, Room 10235, New Executive Office Building, Washington, D.C. 20503; Attention: Desk Officer for the U.S. Department of Education.

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

- Evaluating whether the proposed collection of information is necessary for the proper performance of the 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 collection of information, including the validity of the methodology and assumptions used;
- Enhancing the quality, usefulness, and clarity of the information to be collected; and
- Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology; e.g., permitting electronic submission of responses.

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

Invitation To Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 3045, Regional Office Building 3, 7th and D Streets, SW, Washington, DC, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week, except Federal holidays.

On request the Department supplies an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking docket for these proposed regulations. An individual with a disability who wants to schedule an appointment for this type of aid may call (202) 205–8113 or (202) 260–9895. An individual who uses a TDD may call the Federal Information Relay Service at 1–800–877–8339, between 8 a.m., and 8 p.m., Eastern time, Monday through Friday.

To assist the Department in complying with the specific requirements of Executive Order 12866 and its overall requirement of reducing regulatory burden, the Secretary invites comments on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

Assessment of Educational Impact

The Secretary particularly requests comments on whether the proposed regulations in this document would require transmission of information that is being gathered by or is available from any other agency or authority of the United States.

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Note: The official version of this document is the document published in the **Federal Register**.

List of Subjects in 34 CFR Parts 682 and 685

Administrative practice and procedure, Colleges and universities, Loan programs-education, Reporting and recordkeeping requirements, Student aid, Vocational education.

(Catalog of Federal Domestic Assistance Numbers: 84.032: Federal Stafford Loan Program; 84.032: Federal PLUS Program; 84.032: Federal Supplemental Loans for Students Programs; 84.033 and 84.268: Federal Direct Student Loan Program.)

Dated: September 17, 1997.

Richard W. Riley,

Secretary of Education.

The Secretary proposes to amend parts 682 and 685 of title 34 of the Code of Federal Regulations as follows:

PART 682—FEDERAL FAMILY EDUCATION LOAN (FFEL) PROGRAM

1. The authority citation for part 682 continues to read as follows:

Authority: 20 U.S.C. 1071 to 1087–2, unless otherwise noted.

§ 682.201 [Amended]

2. Section 682.201 is amended by removing the words ''receive an SLS loan'' in the introductory language of paragraph (a) and adding, in their place, ''receive an unsubsidized Stafford loan''; by removing the acronym ''SLS'' in paragraph (a)(1) and adding, in its place, ''unsubsidized Stafford''; by removing the words ''who, for a period of enrollment that begins prior to July 1, 1994, seeks an SLS'' in the introductory language to paragraph (a)(2) and adding, in their place, ''who seeks an unsubsidized Stafford''; and by removing the acronym ''SLS'' in paragraph (a)(3) and adding, in its place, ''unsubsidized Stafford''.

3. Section 682.202 is amended by revising paragraph (c)(5) to read as follows:

§ 682.202 Permissible charges by lenders to borrowers.

* * * * *

(c) * * *

(5) Shall refund by a credit against the borrower's loan balance the portion of the origination fee previously deducted from the loan that is attributable to any portion of the loan that is—

(i) Returned by a school to a lender in order to comply with the Act or with applicable regulations;

(ii) Repaid or returned within 120 days of disbursement; or

(iii) Not delivered within 120 days of disbursement.

* * * * *

4. Section 682.401 is amended by revising paragraphs (b)(10)(vi)(B)(*1*) and (b)(10)(vi)(B)(*2*) to read as follows:

§ 682.401 Basic program agreement.

* * * * *

(b) * * *

(10) * * *

(vi) * * *

(B) * * *

(*1*) The loan or a portion of the loan is returned by the school to the lender

in order to comply with the Act or with applicable regulations;

(*2*) Within 120 days of disbursement, the loan or a portion of the loan is repaid;

* * * * *

5. Section 682.402 is amended by revising paragraph (c)(1) and by removing the words ''become totally and permanently disabled since applying for the Consolidation loan'' in paragraph (k)(2)(iii) and adding, in their place, ''is determined to be totally and permanently disabled under § 682.402(c)'', to read as follows:

§ 682.402 Death, disability, closed school, false certification, and bankruptcy payments.

* * * * *

(c) *Total and permanent disability.* (1) (i) If a lender determines that an individual borrower has become totally and permanently disabled, the obligation of the borrower and any endorser to make any further payments on the loan is discharged.

(ii) Except as provided in paragraph (c)(1)(iii)(A) of this section, a borrower is not considered totally and permanently disabled based on a condition that existed at the time the borrower applied for the loan unless the borrower's condition substantially deteriorated after the loan was made so as to render the borrower totally and permanently disabled.

(iii)(A) For a Consolidation Loan, a borrower who would be considered totally and permanently disabled under paragraphs (c)(1)(i) and (ii) of this section for all loans that were included in the Consolidation Loan, if those loans had not been consolidated, is considered totally and permanently disabled.

(B) For the purposes of discharging a loan under paragraph (c)(1)(iii)(A) of this section, provisions in paragraphs (c)(1) (i) and (ii) of this section apply to all loans included in the Consolidation Loan.

(C) If requested, a borrower seeking to discharge a loan obligation under paragraph (c)(1)(iii)(A) of this section must provide the lender with the disbursement dates of the underlying loans if the lender does not possess that information.

* * * * *

6. Section 682.604 is amended by revising paragraph (g)(2)(i) to read as follows:

§ 682.604 Processing the borrower's loan proceeds and counseling borrowers.

* * * * *

(g) * * *

(2) * * *

(i) Inform the student of the average anticipated monthly repayment amount based on the student's indebtedness or on the average indebtedness of students who have obtained FFEL Program loans for attendance at that school or in the borrower's program of study.

* * * * *

PART 685—WILLIAM D. FORD FEDERAL DIRECT LOAN PROGRAM

7. The authority citation for part 685 continues to read as follows:

Authority: 20 U.S.C. 1087a *et seq.*, unless otherwise noted.

8. Section 685.202 is amended by revising paragraph (c)(4) to read as follows:

§ 685.202 Charges for which Direct Loan Program borrowers are responsible.

* * * * *

(c) * * *

(4) Applies to a borrower's loan balance the portion of the loan fee previously deducted from the loan that is attributable to a disbursement of the loan that is—

(i) Repaid or returned within 120 days of disbursement; or

(ii) Returned by a school in order to comply with the Act or with applicable regulations.

9. Section 685.212 is amended by revising paragraph (b) to read as follows:

§ 685.212 Discharge of a loan obligation.

* * * * *

(b) *Total and permanent disability.* (1) If the Secretary receives acceptable documentation that a borrower has become totally and permanently disabled, the Secretary discharges the obligation of the borrower and any endorser to make any further payments on the loan.

(2) Except as provided in paragraph (b)(3)(i) of this section, a borrower is not considered totally and permanently disabled based on a condition that existed at the time the borrower applied for the loan unless the borrower's condition substantially deteriorated after the loan was made so as to render the borrower totally and permanently disabled.

(3)(i) For a Direct Consolidation Loan, a borrower who would be considered totally and permanently disabled under paragraphs (b) (1) and (2) of this section for all loans that were included in the Direct Consolidation Loan, if those loans had not been consolidated, is considered totally and permanently disabled.

(ii) For the purposes of discharging a loan under paragraph (b)(3)(i) of this section, provisions in paragraphs (b)(1) and (2) of this section apply to all loans included in the Consolidation Loan.

(iii) If requested, a borrower seeking to discharge a loan obligation under paragraph (b)(3)(i) of this section must provide the Secretary with the disbursement dates of the underlying loans.

* * * * *

10. Section 685.301 is amended by redesignating paragraphs (a)(6) and (a)(7) as paragraphs (a)(7) and (a)(8), respectively, and by adding a new paragraph (a)(6) to read as follows:

§ 685.301 Origination of a loan by a Direct Loan Program school.

* * * * *

(a) * * *

(6) If a student has received a determination of need for a Direct Subsidized Loan that is $200 or less, a school may choose not to originate a Direct Subsidized Loan for that student and to include the amount as part of a Direct Unsubsidized Loan.

* * * * *

11. Section 685.304 is amended by revising paragraph (b)(2)(i) to read as follows:

§ 685.304 Counseling borrowers.

* * * * *

(b) * * *

(2) * * *

(i) Inform the student of the average anticipated monthly repayment amount based on the student's indebtedness or on the average indebtedness of students who have obtained Direct Subsidized or Direct Unsubsidized Loans for attendance at that school or in the borrower's program of study.

* * * * *

[FR Doc. 97–25377 Filed 9–24–97; 8:45 am]

BILLING CODE 4000–01–U

Federal Register

Thursday
September 25, 1997

Part VII

The President

Federal Register
Vol. 62, No. 186
Thursday, September 25, 1997

Presidential Documents

Title 3—

The President

Proclamation 7024 of September 19, 1997

Minority Enterprise Development Week, 1997

By the President of the United States of America

A Proclamation

The American economy today is the envy of the world. Since the beginning of my Administration, our economy has created nearly 13 million new jobs, unemployment has declined to 4.9 percent, and America has once again become the world's leading exporter.

Minority entrepreneurs have played a vital role in this success story. With their faith in our free enterprise system, their determination to overcome any barriers to success, their willingness to work long and hard and to make the most of every opportunity, they epitomize the American can-do spirit. They create jobs in communities where jobs are most needed, and they set a powerful example of achievement for young people seeking to make the most of their lives.

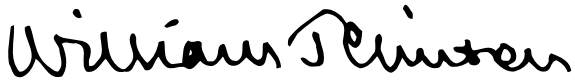
In the years ahead, these minority business men and business women will become increasingly important to our Nation's competitive edge in the global economy, which will offer great rewards to those who truly understand life beyond our borders. Because of their racial, linguistic, and cultural diversity, minority entrepreneurs are uniquely positioned to meet the needs of this dynamic international marketplace.

Recognizing the contributions that minority enterprises make to the social and economic fabric of our Nation, we must continue to remove any barriers that prevent talented men and women of every racial and ethnic background from participating fully in America's economic mainstream. Working in partnership, government and private industry must ensure that minority-owned firms have equal access to capital, technical assistance, new markets, and opportunities for growth. We must attract new entrepreneurs to the marketplace and encourage existing firms to expand. By doing so, we can ensure that America's promise will continue to shine brightly for all our people.

As we observe Minority Enterprise Development Week, let us honor the energy, determination, and optimism of our Nation's minority entrepreneurs, whose hard work has done so much to help keep America strong, prosperous, and full of hope for the future.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 21 through September 27, 1997, as Minority Enterprise Development Week. I call on all Americans to commemorate this event with appropriate ceremonies and activities in acknowledgment of the many contributions that minority entrepreneurs bring to our national life.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–25696
Filed 9–24–97; 8:59 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7025 of September 19, 1997

National Historically Black Colleges and Universities Week, 1997

By the President of the United States of America

A Proclamation

we are a few short years away from the dawn of the 21st century, yet much of the challenge and change we have been anticipating is already upon us. We are competing today in a truly global economy, an economy based on information and technology as well as agriculture and industry. We are living in the age of the information revolution, the era of the World Wide Web, of daily advances in communications technology where a universe of knowledge is only a keyboard and a modem away. We are crossing the frontier into a new world, and our only map and compass in that world will be education.

We must build an educational system that prepares our young people for the jobs of the future. We must empower them with the values, experiences, and self-confidence to succeed in our diverse society. We must provide them with the knowledge and motivation to reach their full human potential—and we must leave no one behind. In devising such an educational system, we need only look to America's Historically Black Colleges and Universities (HBCUs) for a model of excellence.

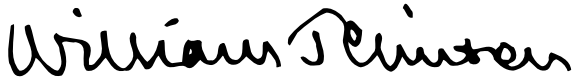
This extraordinary network of institutions, more than a century old, has created a legacy of unquestioned accomplishment in fostering student success. Founded to educate African Americans in a segregated society, these colleges and universities have flourished and built an enviable record of achievement in educating America's black scientists, doctors, teachers, lawyers, artists, entrepreneurs, community and religious leaders, and other professionals. They have provided generations of students with access to highly supportive environments for learning. The experience and expertise of HBCUs make them an invaluable resource to our Nation during this period of significant change.

America's Historically Black Colleges and Universities daily demonstrate effective leadership in a multitude of ways: they develop and practice innovative academic approaches to ensure student success; they create campus programs that offer new solutions to critical social problems; they produce cutting-edge research with practical applications; and they forge strong global relationships from a myriad of international activities. Moreover, against formidable financial odds, they have persisted in keeping education affordable for the constituencies they serve, without sacrificing quality. They have never allowed scarce funding, poor educational preparation, or societal disadvantage to get in the way of their mission to educate and nurture the intellectual potential of the black community.

Historically Black Colleges and Universities have done more to make the American Dream a reality for African Americans than has any other set of institutions in our country. These institutions are poised to enter the 21st century, ready to build on this tradition of excellence, achievement, and reverence for education. We can count on them to continue to make vital contributions to our Nation's success and to ensure that America lives up to our fundamental values of equality and opportunity.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 21 through September 27, 1997, as National Historically Black Colleges and Universities Week. I call upon the people of the United States, including government officials, educators, and administrators, to observe this week with appropriate programs, ceremonies, and activities honoring America's Historically Black Colleges and Universities and their graduates.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–25697
Filed 9–24–97; 8:59 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 7026 of September 19, 1997

National Farm Safety and Health Week, 1997

By the President of the United States of America

A Proclamation

From the earliest days of our Nation, the men and women who work the land have held a special place in America's heart, history, and economy. Many of us are no more than a few generations removed from forebears whose determination and hard work on farms and fields helped to build our Nation and shape its values. While the portion of our population directly involved in agriculture has diminished over the years, those who live and work on America's farms and ranches continue to make extraordinary contributions to the quality of our national life and the strength of our economy.

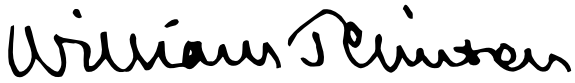
The life of a farmer or rancher has never been easy. The work is hard, physically challenging, and uniquely subject to the forces of nature; the chemicals and labor-saving machinery that have helped American farmers become so enormously productive have also brought with them new health hazards; and working with livestock can result in frequent injury to agricultural workers and their families.

Fortunately, there are measures we can take to reduce agriculture-related injuries, illnesses, and deaths. Manufacturers continue to improve the safety features of farming equipment; protective clothing and safety gear can reduce the exposure of workers to the health threats posed by chemicals, noise, dust, and sun; training in first-aid procedures and access to good health care can often mean the difference between life and death.

The key to all these safety measures is education. During National Farm Safety and Health Week, I encourage America's farmers, ranchers, and other agricultural workers to remain alert to the dangers inherent in their livelihood. By learning about and using the latest safety features of farming equipment and vehicles, wearing personal protective gear and clothing, and practicing good preventive health care, they can avoid or reduce many of the hazards they face each day. It is particularly important to teach our young people on farms and ranches about proper safety measures, to provide safe areas where children can play, and to monitor their activities. Their experience and maturity must always be considered before they are allowed to participate in farm or ranch work.

NOW, THEREFORE, I, WILLIAM J. CLINTON, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim September 21 through September 27, 1997, as National Farm Safety and Health Week. I call upon government agencies, educational institutions, businesses, and professional associations that serve our agricultural sector to strengthen efforts to promote safety and health measures among our Nation's farm and ranch workers. I ask agricultural workers to take advantage of available technology, training, and information that can help them prevent injury and illness. I also call upon all Americans to observe Wednesday, September 24, 1997, as a day to focus on the risks facing young people on our Nation's farms and ranches and to reflect during this week on the bounty that we enjoy thanks to the hard work and dedication of America's agricultural workers.

IN WITNESS WHEREOF, I have hereunto set my hand this nineteenth day of September, in the year of our Lord nineteen hundred and ninety-seven, and of the Independence of the United States of America the two hundred and twenty-second.



[FR Doc. 97–25698
Filed 9–24–97; 8:59 am]
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Federal Register

Thursday
September 25, 1997

Part VIII

The President

Notice of September 24, 1997—Continuation of Emergency With Respect to UNITA

Federal Register
Vol. 62, No. 186
Thursday, September 25, 1997

Presidential Documents

Title 3—

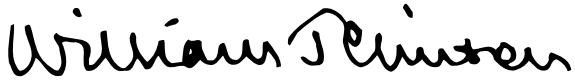
The President

Notice of September 24, 1997

Continuation of Emergency With Respect to UNITA

On September 26, 1993, by Executive Order 12865, I declared a national emergency to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of the National Union for the Total Independence of Angola (''UNITA''), prohibiting the sale or supply by United States persons or from the United States, or using U.S.-registered vessels or aircraft, of arms and related material of all types, and petroleum and petroleum products to the territory of Angola, other than through designated points of entry. The order also prohibits the sale or supply of such commodities to UNITA. Because of our continuing international obligations and because of the prejudicial effect that discontinuation of the sanctions would have on the Angolan peace process, the national emergency declared on September 26, 1993, and the measures adopted pursuant thereto to deal with that emergency, must continue in effect beyond September 26, 1997. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing the national emergency with respect to UNITA.

This notice shall be published in the Federal Register and transmitted to the Congress.



THE WHITE HOUSE,
September 24, 1997.

[FR Doc. 97–25740
Filed 9–26–97; 11:30 am]
Billing code 3195–01–P

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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