10–2–97
Vol. 62 No. 191
Pages 51593–51758

federal register

Thursday
October 2, 1997

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FARM CREDIT ADMINISTRATION

12 CFR Part 602

RIN 3052–AB77

Releasing Information; Effective Date

AGENCY: Farm Credit Administration.

ACTION: Notice of effective date.

SUMMARY: The Farm Credit Administration (FCA) published a final rule under part 602 on August 1, 1997 (62 FR 41253). The final rule amends the regulations governing the release of information. The objective of the final rule is to conform applicable FCA regulations to the requirements of the Freedom of Information Act (FOIA), 5 U.S.C. 552, as amended by the Electronic Freedom of Information Act Amendments of 1996, Pub. L. 104–231, and to clarify the address of the FCA official who receives FOIA requests for records. In accordance with 12 U.S.C. 2252, the effective date of the final rule is 30 days from the date of publication in the **Federal Register** during which either or both Houses of Congress are in session. Based on the records of the sessions of Congress, the effective date of the regulations is October 2, 1997.

EFFECTIVE DATE: The regulation amending 12 CFR part 602 published on August 1, 1997 (62 FR 41253) is effective October 2, 1997.

FOR FURTHER INFORMATION CONTACT:

John Hays, Policy Analyst, Policy Development and Risk Control, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4498;
or
Jane Virga, Senior Attorney, Office of General Counsel, Farm Credit Administration, McLean, VA 22102–5090, (703) 883–4020, TDD (703) 883–4444.

(12 U.S.C. 2252(a) (9) and (10))

Dated: September 29, 1997.

Floyd Fithian,

Secretary, Farm Credit Administration Board.

[FR Doc. 97–26162 Filed 10–1–97; 8:45 am]

BILLING CODE 6705–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 96–SW–30–AD; Amendment 39–10149; AD 97–20–12]

RIN 2120–AA64

Airworthiness Directives; McDonnell Douglas Helicopter Systems Model MD–900 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts a new airworthiness directive (AD), applicable to McDonnell Douglas Helicopter Systems (MDHS) Model MD–900 helicopters, that requires removing certain serial-numbered main rotor swashplate bearings (bearings) and replacing them with airworthy bearings. This amendment is prompted by reports that inspections of several helicopters revealed that the outer bearing race had been rotating relative to the swashplate assembly, which was evidenced by wear marks in the rotating swashplate. The actions specified by this AD are intended to prevent possible heat accumulation and resulting damage to the bearing caused by the bearing races rotating relative to the bearing seat, which could result in degraded helicopter response to pilot control input and possible loss of control of the helicopter.

EFFECTIVE DATE: November 6, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Greg DiLibero, Aerospace Engineer, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712, telephone (310) 627–5231, fax (310) 627–5210.

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 MDHS Model MD–900 helicopters was published in the **Federal Register** on January 29, 1997 (62 FR 4217). That action proposed to require, before further flight, inspecting the bearing, part number (P/N) 900C3010100–101, to determine if a bearing having serial number (S/N) 059150–E0019, S/N 059150–E0020, S/N 059150–E0021, S/N 059150–E0022, S/N 059150–E0023, S/N 059150–E0024, S/N 059150–E0025, S/N 059150–E0026, S/N 059150–E0027, S/N 059150–E0028, S/N 059150–E0029, or S/N 059150–E0030 is installed; and, if installed, removing and replacing that bearing with an airworthy bearing.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposal or the FAA's determination of the cost to the public. The FAA has determined that air safety and the public interest require the adoption of the rule as proposed, with two changes. The FAA has determined that special flight permits may be issued to operate the helicopter to a location where the requirements of this AD can be accomplished. This is now stated in paragraph (i) of the AD. Also, the FAA has determined that this AD should only apply to the Model MD–900 helicopters, not the Model MD–900 ''series'' helicopters. Therefore, the word ''series'' is removed from the applicability paragraph of this AD. The FAA has determined that these changes will neither increase the economic burden on any operator nor increase the scope of the AD.

The FAA estimates that 20 helicopters of U.S. registry will be affected by this AD, that it will take approximately 1.5 work hours per helicopter to determine the bearing's S/N, 12 work hours per helicopter to remove and replace a bearing, and that the average labor rate is $60 per work hour. Replacement bearings would cost $8,765 per helicopter, however, replacement bearings are covered by a manufacturer's warranty. Based on these figures, the total cost impact of the AD on U.S. operators is estimated to be $5,400, assuming five helicopters will require removal and replacement of the bearing.

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, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–20–12 McDonnell Douglas Helicopter Systems: Amendment 39–10149. Docket No. 96–SW–30–AD.

Applicability: Model MD–900 helicopters, certificated in any category.

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

Compliance: Required before further flight, unless accomplished previously.

To prevent possible heat accumulation and resulting damage to the main rotor swashplate bearing (bearing) caused by the bearing races rotating relative to the bearing seat, which could result in degraded helicopter response to pilot control input and possible loss of control of the helicopter, accomplish the following:

(a) Disconnect the lower end of the main rotor pitch links. Disconnecting the drive link may make the inspection easier.

(b) Cut the safety wire and remove the inner and outer labyrinth seals, part number (P/N) 900C2010194–101 and P/N 900C201190–101, respectively, and the inner and outer bearing retaining rings.

(c) Inspect the bearing, part number (P/N) 900C3010100–101, to determine if it has one of the following serial numbers (S/N): S/N 059150–E0019, S/N 059150–E0020, S/N 059150–E0021, S/N 059150–E0022, S/N 059150–E0023, S/N 059150–E0024, S/N 059150–E0025, S/N 059150–E0026, S/N 059150–E0027, S/N 059150–E0028, S/N 059150–E0029, or S/N 059150–E0030.

Note 2: S/N's similar to those above were produced without the character ''E'' in the number. This AD is only concerned with those that contain the character ''E''.

(d) Enter into the helicopter Log Book the bearing S/N.

(e) If a bearing having one of the S/N's stated in paragraph (c) of this AD is installed on the helicopter, remove the bearing and replace it with an airworthy bearing prior to further flight.

(f) Prior to the installation of a swashplate assembly, inspect the bearing in accordance with the requirements of this AD.

(g) Report the results of all inspections required by this AD within 72 hours to the Manager, Los Angeles Aircraft Certification Office, 3960 Paramount Blvd., Lakewood, California 90712. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

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

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

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

(j) This amendment becomes effective on November 6, 1997.

Issued in Fort Worth, Texas, on September 24, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–25970 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–94–AD; Amendment 39–10150; AD 97–20–14]

RIN 2120–AA64

Airworthiness Directives; Mitsubishi Heavy Industries, Ltd., MU–2B Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that applies to all Mitsubishi Heavy Industries, Ltd. (Mitsubishi) MU–2B series airplanes. This AD requires incorporating information into the Limitations Section of the Airplane Flight Manual (AFM) that would require pilot training before flight into known or forecast icing conditions after a certain date. This AD results from the Federal Aviation Administration's analysis that the current training level of the pilots-in-command (PIC) of the MU–2B series airplanes makes it difficult for pilots to recognize adverse operating conditions and operate safely while flying in icing conditions. Similar training to that required in this AD for pilots of other high performance airplanes has shown a lower accident rate over time after the training than before. The actions specified by this AD are intended to decrease the chance of icing-related incidents or accidents of the MU–2B series airplanes due to pilot error.

DATES: Effective October 17, 1997.

Comments for inclusion in the Rules Docket must be received on or before November 24, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket No. 97–CE–94–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Information related to this AD may be examined at the address above.

FOR FURTHER INFORMATION CONTACT: Mr. John Dow, Aerospace Engineer, FAA,

Small Airplane Directorate, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6934; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to This AD

Service history of the Mitsubishi MU–2B series airplanes prompted the FAA to examine the design of these airplanes and analyze the ability of the pilots of these airplanes to fly and operate in icing conditions. The FAA recently conducted a special certification review (SCR) for the Mitsubishi MU–2B series airplanes. This examination shows that several accidents have occurred, and that future accidents/incidents may be prevented by modifications to the airplane design (to be addressed in another AD action) and by additional training to enhance the pilot's ability to manage the airplane in adverse operating conditions.

The FAA believes that pilots are not properly interpreting or recognizing the performance degradation and visual ice buildup cues of the airframe that can occur during flight into icing conditions on the Mitsubishi MU–2B series airplanes. Additional pilot training will enhance the pilot's ability to recognize adverse operating conditions and properly manage the MU–2B series airplane.

The FAA's analysis of the performance capabilities of the Mitsubishi MU–2B airplane operating in icing conditions shows that this training is needed for the pilot-in-command. Correct operation of the Mitsubishi MU–2B series airplanes in adverse operating conditions (primarily icing conditions), including full knowledge of the capabilities of the airplane, is necessary in order to prevent any future incidents or accidents.

Information Developed To Help Prevent the Above Condition

Mitsubishi, working with the FAA, has developed a video tape that provides in-depth information on certain aspects of the operation of the Mitsubishi MU–2B series airplanes. This video tape, Mitsubishi Training Video No. YET–97336, is part of an eight-hour training program that includes a focus on the following aspects of the MU–2B series airplanes operational characteristics during flight in icing conditions:

—General conditions that all airplanes encounter while flying in icing or freezing precipitation conditions;

—Information on the operation of all equipment and aspects associated with operation of these airplanes in icing conditions, including, but not limited to, autopilot operation; auto-ignition relight; propeller performance; stall characteristics; and recommended modes of operation; and

—A summary of the accident reports of the Mitsubishi MU–2B airplanes operated in icing conditions; the cues to look for and methods to exit icing conditions when these cues are recognized; and the lessons learned from these accidents to use for future operation of the aircraft.

Service history from other manufacturers initiating similar training (though on a voluntary basis) reveals a lower incident and accident rate for the airplanes after the training was conducted.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above, including the relevant training program developed by Mitsubishi, the FAA has determined the following:

—Pilots experienced in flying twin-engine propeller airplanes may not be completely familiar with the operational characteristics of the Mitsubishi MU–2B series airplanes in adverse operating conditions;

—That the above-described training will provide pilots the knowledge required to safely operate Mitsubishi MU–2B series airplanes in adverse operating conditions;

—That all pilots-in-command (PIC) of Mitsubishi MU–2B series airplanes should have the above-described training no later than November 15, 1997, and thereafter every 2 years, in order to have the authority to continue to fly into known or forecast icing conditions; and

—AD action should be taken to decrease the chance of icing-related incidents or accidents of the affected airplanes due to pilot error.

Explanation of the Provisions of the AD

Since an unsafe condition has been identified that is likely to exist or develop in other Mitsubishi MU–2B series airplanes if the PIC is not proficient in the operating conditions of these airplanes, the FAA is issuing an AD. This AD requires incorporating information into the Limitations Section of the Airplane Flight Manual (AFM) that would require pilot training before further flight into known or forecast icing conditions after a certain date. This AFM limitation would consist of the following:

On or after November 15, 1997, no person may serve as pilot-in-command (PIC) of a Mitsubishi MU–2B series airplane in a flight into known or forecast icing conditions, unless the PIC has received the following training since the beginning of the 24th calendar month before the scheduled flight: FAA-approved Biennial Icing Awareness Training (IAT), Mitsubishi Training Video No. YET–97336. This eight-hour training became available September 22, 1997, and is provided by Mitsubishi Heavy Industries at no cost, as part of the Mitsubishi Systems Review (MSR) program. To sign up for the planned training schedules or to arrange training at a more convenient time and location, contact Mitsubishi at (972) 980–5001. Training is also available at the Flight Safety International (Houston) and Reese Howell Enterprises training facilities. Mitsubishi will provide pilot log book endorsements upon the completion of this training. Please note that all operators of the affected airplanes must initiate action to notify and ensure that flight crewmembers are aware of this requirement.

Reasons for AD Action Instead of Other Methods

Requiring the AFM Limitation for training the PIC of the aspects of the operation of the Mitsubishi MU–2B series airplanes is critical to safe operation of these airplanes during the upcoming icing seasons. The FAA determined that the only method of mandating this type of training before the next icing season is through an AD. Using the AD approach for this type of training is considered an interim method of addressing this subject, until the FAA determines the best method to use to mandate this type of training.

Determination of the Compliance Time of This AD

The unsafe condition described in this AD is not a direct result of airplane design or the number of hours the airplane is operated, but is attributed to the expertise and knowledge of the PIC. For this reason, the FAA has determined that a compliance time based upon calendar time (24 hours after the effective date of the AD) should be utilized instead of a certain number of hours time-in-service (TIS).

Determination of the Effective Date of the AD

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for public prior comment hereon are impracticable, and that good cause exists for making this amendment effective in less than 30 days.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and

opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–94–AD.'' The postcard will be date stamped and returned to the commenter.

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.

The FAA has determined that this regulation is an emergency regulation that must be issued immediately to correct an unsafe condition in aircraft, and is not a significant regulatory action under Executive Order 12866. It has been determined further that this action involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation will be prepared and placed in the Rules Docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained from the Rules Docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–20–14 Mitsubishi Heavy Industries, Ltd.: Amendment 39–10150; Docket No. 97–CE–94–AD.

Applicability: Models MU–2B, MU–2B–10, MU–2B–15, MU–2B–20, MU–2B–25, MU–2B–26, MU–2B–26A, MU–2B–30, MU–2B–35, MU–2B–36, MU–2B–36A, MU–2B–40, and MU–2B–60 airplanes, all serial numbers, certificated in any category.

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

Compliance: Required within the next 24 hours after the effective date of this AD, unless already accomplished.

To decrease the chance of icing-related incidents or accidents of the affected airplanes due to pilot error, accomplish the following:

(a) Incorporate the following into the Limitations Section of the FAA-approved Airplane Flight Manual (AFM):

''On or after November 15, 1997, no person may serve as pilot-in-command (PIC) of a Mitsubishi MU–2B series airplane in a flight into known or forecast icing conditions, unless the PIC has received the following training since the beginning of the 24th calendar month before the scheduled flight: FAA-approved Biennial Icing Awareness Training (IAT), Mitsubishi Training Video No. YET–97336. This eight-hour training became available September 22, 1997, and is provided by Mitsubishi Heavy Industries at no cost, as part of the Mitsubishi Systems Review (MSR) program. To sign up for the planned training schedules or to arrange training at a more convenient time and location, contact Mitsubishi at (972) 980–5001. Training is also available at the Flight Safety International (Houston) and Reese Howell Enterprises training facilities. Mitsubishi will provide pilot log book endorsements upon the completion of this training. Please note that all operators of the affected airplanes must initiate action to notify and ensure that flight crewmembers are aware of this requirement.''

(b) Inserting a copy of this AD into the Limitations Section of the AFM accomplishes the intent of this AD.

(c) Incorporating the AFM insert, as required by this AD, may be performed by the owner/operator of the affected airplane provided he/she holds at least a private pilot certificate as authorized by section 43.7 of the Federal Aviation Regulations (14 CFR 43.7). Accomplishment of this action must be entered into the aircraft records showing compliance with this AD in accordance with section 43.11 of the Federal Aviation Regulations (14 CFR 43.11).

(d) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, FAA, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Operations Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(e) Information related to this AD may be examined at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri.

(f) This amendment (39–10150) becomes effective on October 17, 1997.

Issued in Kansas City, Missouri, on September 26, 1997.

Henry A. Armstrong,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–26107 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29022; Amdt. No. 1823]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchases

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). The applicable FAA Forms are identified as FAA Forms 8260–3, 8260–4, and 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, buy refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. Some SIAP amendments may have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for some SIAP amendments may require making them effective in less than 30 days. For the remaining SIAPs, an effective date at least 30 days after publication is provided.

Further, the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standards for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 19, 1997.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44701; and 14 CFR 11.49 (b) (2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME

or TACON; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective October 9, 1997*

Frankfort, MI, City-County, VOR OR GPS–A, Amdt 3

** * * Effective November 6, 1997*

Auburn, AL, Auburn-Opelika Robert G. Pitts, GPS RWY 28, Orig
Foley, AL, Foley Muni, GPS RWY 36, Orig
Carlisle, AR, Carlisle Muni, VOR/DME RWY 9, Amdt 2
Carlisle, AR, Carlisle Muni, GPS RWY 9, Amdt 1
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, GPS RWY 16, Orig
Fayetteville/Springdale/Rogers, AR, Northwest Arkansas Regional, GPS RWY 34, Orig
Forrest City, AR, Forrest City Muni, NDB RWY 35, Amdt 4
Forrest City, AR, Forrest City Muni, GPS RWY 35, Orig
Helena/West Helena, AR, Thompson-Robbins, GPS RWY 17, Orig
Helena/West Helena, AR, Thompson-Robbins, GPS RWY 35, Admit 1
Little Rock, AR, Adams Field, ILS RWY 4R, Amdt 1
Little Rock, AR, Adams Field, ILS RWY 22L, Amdt 2
Pine Bluff, AR, Grider Field, VOR/DME RWY 35, Amdt 11
Stuttgart, AR, Stuttgart Muni, VOR/DME OR GPS–A, Amdt 1
Stuttgart, AR, Stuttgart Muni, NDB RWY 18, Amdt 10
San Diego/E1 Cajon, CA, Gillespie Field, GPS RWY 17, Orig
Alamsa, CO, San Luis Valley Regional/Bergman Field, ILS RWY 2, Orig
Alamosa, CO, San Luis Valley Regional/Bergman Field, GPS RWY 2, Amdt 2
Orlando, FL, Executive, GPS RWY 7, Orig
Orlando, FL, Executive, GPS RWY 25, Orig
Orlando, FL, Orlando Sanford, GPS RWY 27R, Orig
Tallahassee, FL, Tallahassee Regional, GPS RWY 9, Orig
Tallahssee, FL, Tallahassee Regional, GPS RWY 27, Orig
Brunswick, GA, Malcolm McKinnon, GPS RWY 4, Orig
Brunswick, GA, Malcolm McKinnon, GPS RWY 22, Orig
Brunswick, GA, Malcolm McKinnon, RNAV OR GPS RWY 22, Amdt 5, CANCELLED
Terre Haute, IN, Hulman Regional, VOR/DME RWY 5, Amdt 17
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, NDB or GPS RWY 9, Amdt 14
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, ILS RWY 9, Amdt 16
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucy Intl, ILS RWY 18L, Amdt 4
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, ILS RWY 18R, Amdt 19
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, ILS RWY 36L, Amdt 38
Covington/Cincinnati, OH/KY, Cincinnati/Northern Kentucky Intl, ILS RWY 36R, Amdt 5
Fitchburg, MA, Fitchburg Muni, NDB–A, Amdt 2
Fitchburg, MA, Fitchburg Muni, NDB RWY 20, Amdt 3
Tewksbury, MA, Tew-Mac, VOR OR GPS RWY 21, Amdt 7, CANCELLED
Tewksbury, MA, Tew Mac, NDB OR GPS–A, Amdt 4A, CANCELLED
Westfield, MA, Barnes Muni, ILS RWY 20, Amdt 4
Westfield, MA, Barnes Muni, VOR OR TACAN OR GPS RWY 2, Amdt 3
Westfield, MA, Barnes Muni, NDB RWY 20, Amdt 14
Westfield, MA, Barnes Muni, VOR OR GPS RWY 20, Amdt 19
Clarksdale, MS, Fletcher Field, NDB OR GPS–A, Amdt 1
Clarksdale, MS, Fletcher Field, NDB OR GPS RWY 36, Amdt 8
Greenwood, MS, Greenwood-LeFlore, VOR OR GPS RWY 5, Amdt 10
Greenwood, MS, Greenwood-LeFlore, ILS RWY 18, Amdt 5
Indianola, MS, Indianola Muni, VOR/DME OR GPS–B, Amdt 4
Marks, MS, Selfs, NDB OR GPS RWY 2, Amdt 4
Marks, MS, Selfs, NDB OR GPS–A, Amdt 2
Reno, NV, Reno/Stead, GPS–B, Orig
Claremont, NH, Claremont Muni, NDB–A, Amdt 1
West Milford, NJ, Greenwood Lake, VOR OR GPS–A, Amdt 3, CANCELLED
West Milford, NJ, Greenwood Lake, VOR RWY 6, Orig
Elmira, NY, Elmira/Corning Regional, NDB RWY 24, Amdt 14
Elmira, NY, Elmira/Corning Regional, ILS RWY 6, Amdt 3
Elmira, NY, Elmira/Corning Regional, ILS RWY 24, Amdt 17
Elmira, NY, Elmira/Corning Regional, GPS RWY 24, Orig
Devils Lake, ND, VOR OR GPS RWY 13, Amdt 8, CANCELLED
Devils Lake, ND, VOR OR GPS RWY 31, Amdt 5, CANCELLED
Devils Lake, ND, VOR RWY 13, Orig
Devils Lake, ND, VOR RWY 31, Orig
Batavia, OH, Clermont County, VOR OR GPS–B, Amdt 6
Philipsburg, PA, Mid-State, NDB RWY 16, Amdt 6
State College, PA, University Park, ILS RWY 24, Amdt 7
Wellsboro, PA, Grand Canyon State, VOR OR GPS–A, Amdt 5
Wellsboro, PA, Grand Canyon State, GPS RWY 28, Orig
Burlington, VT, Burlington Intl, LORAN RNAV–A, Orig, CANCELLED
Burlington, VT, Burlington Intl, LORAN RNAV RWY 15, Orig, CANCELLED
Rutland, VT, Rutland State, GPS RWY 19, Amdt 2

Note: The following procedure published effective 6 Nov 97 in **Federal Register** Vol. 62, No. 163, dated Aug 22, 1997, Docket 28992, Amdt 1813, Pg 44545 is hereby rescinded:

Wisconsin Rapids, WI, Alexander Field South Wood County, GPS RWY 20, Orig

** * * Effective January 1, 1998*

Texarkana, AR, Texarkana Regional-Webb Field, VOR OR GPS RWY 13, Amdt 15
Texarkana, AR, Texarkana Regional-Webb Field, LOC BC RWY 4, Amdt 12
Texarkana, AR, Texarkana Regional-Webb Field, NDB RWY 22, Amdt 12
Texarkana, AR, Texarkana Regional-Webb Field, ILS RWY 22, Amdt 15
Texarkana, AR, Texarkana Regional-Webb Field, GPS RWY 4, Orig
Texarkana, AR, Texarkana Regional-Webb Field, GPS RWY 22, Orig
Texarkana, AR, Texarkana Regional-Webb Field, GPS RWY 31, Orig
Flagstaff, AZ, Flagstaff Pulliam, GPS RWY 3, Orig
Gastonia, NC, Gastonia Muni, NDB RWY 3, Amdt 8
Gastonia, NC, Gastonia Muni, GPS RWY 3, Orig
Gastonia, NC, Gastonia Muni, RNAV OR GPS RWY 3, Amdt 3, CANCELLED
Reidsville, NC, Rockingham County NC Shiloh, SDF RWY 31, Amdt 3, CANCELLED
Reidsville, NC, Rockingham County NC Shiloh, GPS RWY 31, Orig
Reidsville, NC, Rockingham County NC Shiloh, VOR/DME RNAV RWY 31, Amdt 4, CANCELLED
Southern Pines, NC, Moore County, GPS RWY 23, Orig
Southern Pines, NC, Moore County, RNAV RWY 23, Amdt, CANCELLED
Kutztown, PA, Kutztown, GPS RWY 17, Orig
Luray, VA, Luray Caverns, VOR/DME–B, Amdt 2
Luray, VA, Luray Caverns, NDB OR GPS–A, Amdt 5
Luray, VA, Luray Caverns, GPS RWY 22, Amdt 1

Effective Upon Publication

Eugene, OR, VOR/DME OR TACAN OR GPS RWY 34, Amdt 3

[FR Doc. 97–26118 Filed 10–1–97; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29023; Amdt. No. 1824]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard

Instrument Approach Procedures (SIAPs) for operations at certain airports. These regulatory actions are needed because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matter incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAPs, mailed once every 2 weeks, are for sale by the Superintendent of Documents, US Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAPs). The complete regulatory description on each SIAP is contained in the appropriate FAA Form 8260 and the National Flight Data Center (FDC)/Permanent (P) Notices to Airmen (NOTAM) which are incorporated by reference in the amendment under 5 U.S.C. 552(a), 1 CFR part 51, and § 97.20 of the Federal Aviation Regulations (FAR). Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAPs, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAPs. For safety and timeliness of change considerations, this amendment incorporates only specific changes contained in the content of the following FDC/P NOTAM for each SIAP. The SIAP information in some previously designated FDC/Temporary (FDC/T) NOTAMs is of such duration as to be permanent. With conversion to FDC/P NOTAMs, the respective FDC/T NOTAMs have been cancelled.

The FDC/P NOTAMs for the SIAPs contained in this amendment are based on the criteria contained in the U.S. Standard for Terminal Instrument Approach Procedures (TERPS). In developing these chart changes to SIAPs by FDC/P NOTAMs, the TERPS criteria were applied to only these specific conditions existing at the affected airports. All SIAP amendments in this rule have been previously issued by the FAA in a National Flight Data Center (FDC) Notice to Airmen (NOTAM) as an emergency action of immediate flight safety relating directly to published aeronautical charts. The circumstances which created the need for all these SIAP amendments requires making them effective in less than 30 days.

Further, the SIAPs contained in this amendment are based on the criteria contained in the TERPS. Because of the close and immediate relationship between these SIAPs and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are impracticable and contrary to the public interest and, where applicable, that good cause exists for making these SIAPs effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 19, 1997.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended by establishing, amending, suspending, or revoking Standard Instrument Approach Procedures, effective at 0901 UTC on the dates specified, as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 is revised to read as follows:

Authority: 49 U.S.C. 40103, 40113, 40120, 44701; 49 U.S.C. 106(g); and 14 CFR 11.49(b)(2).

2. Part 97 is amended to read as follows:

§§ 97.23, 97.25, 97.27, 97.29, 97.31, 97.33, 97.35 [Amended]

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs;

§ 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
09/03/97	CA	Half Moon Bay	Half Moon Bay	7/5874	GPS Rwy 30 Orig...
09/04/97	AR	Little Rock	Adams Field	7/5881	Radar–1, Amdt 15...
09/04/97	OK	El Reno	El Reno Muni Air Park	7/5888	NDB Rwy 35, Amdt 3...
09/04/97	TX	Fort Worth	Fort Worth Alliance	7/5889	ILS Rwy 16L, Amdt 3...
09/05/97	MD	Cumberland	Greater Cumberland Regional	7/5903	LOC–A, Amdt 3A...
09/05/97	OH	Wilmington	Airborne Airpark	7/5902	ILS Rwy 22R Amdt 4A...
09/05/97	OK	Guthrie	Guthrie Muni	7/5897	NDB or GPS Rwy 16, Amdt 4...
09/05/97	WI	Manitowish Waters	Manitowish Waters	7/5899	GPS Rwy 32 Orig...
09/10/97	MA	Worcester	Worcester Regional	7/5972	ILS Rwy 11 Amdt 21...
09/10/97	MA	Worcester	Worcester Regional	7/5973	NDB or GPS Rwy 11 Amdt 20...
09/10/97	ME	Greenville	Greenville Seaplane Base	7/5970	NDB or GPS–A Amdt 4...
09/10/97	NY	Penn Yan	Penn Yan	7/5980	GPS Rwy 1 Orig...
09/10/97	NY	Penn Yan	Penn Yan	7/5981	GPS Rwy 19 Orig...
09/11/97	AK	Deadhorse	Deadhorse	7/6012	NDB or GPS–A, Amdt 2...
09/11/97	AK	Deadhorse	Deadhorse	7/6013	VOR Rwy 4, Amdt 3...
09/11/97	AK	Deadhorse	Deadhorse	7/6015	VOR Rwy 22, Amdt 5...
09/11/97	CA	Los Angeles	Los Angeles Intl	7/6002	ILS Rwy 25R Amdt 11...
09/11/97	CA	Los Angeles	Los Angeles Intl	7/6003	ILS Rwy 25L Amdt 7...
09/11/97	CA	Los Angeles	Los Angeles Intl	7/6045	ILS Rwy 25L/CAT II/, Amdt 7...
09/11/97	CA	Los Angeles	Los Angeles Intl	7/6046	ILS Rwy 25L/CAT III/Amdt 7...
09/11/97	CA	Ramona	Ramona	7/6040	VOR/DME or GPS–A Amdt 1...
09/11/97	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	7/6019	ILS PRM Rwy 29L (Simultaneous Close Parallel), Orig...
09/11/97	MN	Minneapolis	Minneapolis-St Paul Intl (Wold-Chamberlain).	7/6024	ILS PRM Rwy 29R (Simultaneous Close Parallel), Orig...
09/11/97	PA	Coatesville	Chester County G.O. Carlson	7/6044	ILS Rwy 29 Amdt 6...
09/11/97	TX	Conroe	Conroe/Montgomery County	7/6037	ILS Rwy 14, Amdt 1...
09/12/97	AR	El Dorado	South Arkansas Regional at Goodwin Field.	7/6059	VOR Rwy 22, Amdt 13B...
09/12/97	AR	El Dorado	South Arkansas Regional at Goodwin Field.	7/6060	GPS Rwy 22, Orig...
09/15/97	OR	Eugene	Mahlon Sweet Field	7/6116	NDB or GPS Rwy 16, Amdt 29...
09/16/97	NM	Grants	Grants-Milan Muni	7/6123	GPS Rwy 31, Orig...

[FR Doc. 97–26119 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29024; Amdt. No. 1825]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment establishes, amends, suspends, or revokes Standard Instrument Approach Procedures (SIAP's) for operations at certain airports. These regulatory actions are needed because of the adoption of new or revised criteria, or because of changes occurring in the National Airspace System, such as the commissioning of new navigational facilities, addition of new obstacles, or changes in air traffic requirements. These changes are designed to provide safe and efficient use of the navigable airspace and to promote safe flight operations under instrument flight rules at the affected airports.

DATES: An effective date for each SIAP is specified in the amendatory provisions.

Incorporation by reference-approved by the Director of the Federal Register on December 31, 1980, and reapproved as of January 1, 1982.

ADDRESSES: Availability of matters incorporated by reference in the amendment is as follows:

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;
2. The FAA Regional Office of the region in which the affected airport is located; or
3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or
2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

Copies of all SIAP's, mailed once every 2 weeks, are for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

FOR FURTHER INFORMATION CONTACT: Paul J. Best, Flight Procedures Standards Branch (AFS–420), Technical Programs Division, Flight Standards Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–8277.

SUPPLEMENTARY INFORMATION: This amendment to part 97 of the Federal Aviation Regulations (14 CFR part 97) establishes, amends, suspends, or revokes SIAP's. The complete regulatory description of each SIAP is contained in official FAA form documents which are incorporated by reference in this amendment under 5 U.S.C. 552(a), 1 CFR part 51, and 14 CFR 97.20 of the Federal Aviation Regulations (FAR).

The applicable FAA Forms are identified as FAA Form 8260–5. Materials incorporated by reference are available for examination or purchase as stated above.

The large number of SIAP's, their complex nature, and the need for a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction on charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents is unnecessary. The provisions of this amendment state the affected CFR sections, with the types and effective dates of the SIAPs. This amendment also identifies the airport, its location, the procedure identification and the amendment number.

This amendment to part 97 is effective upon publication of each separate SIAP as contained in the transmittal. The SIAP's contained in this amendment are based on the criteria contained in the United States Standard for Terminal Instrument Approach Procedures (TERPS). In developing these SIAPs, the TERPS criteria were applied to the conditions existing or anticipated at the affected airports.

The FAA has determined through testing that current non-localizer type, non-precision instrument approaches developed using the TERPS criteria can be flown by aircraft equipped with Global Positioning System (GPS) equipment. In consideration of the above, the applicable SIAP's will be altered to include ''or GPS'' in the title without otherwise reviewing or modifying the procedure. (Once a stand alone GPS procedure is developed, the procedure title will be altered to remove ''or GPS'' from these non-localizer, non-precision instrument approach procedure titles.)

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

Because of the close and immediate relationship between these SIAP's and safety in air commerce, I find that notice and public procedure before adopting these SIAPs are, impracticable and contrary to the public interest and, where applicable, that good cause exists for making some SIAPs effective in less than 30 days.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on September 19, 1997.

Louis C. Cusimano,

Acting Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 97 of the Federal Aviation Regulations (14 CFR part 97) is amended as follows:

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

1. The authority citation for part 97 continues to read:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113–40114, 40120, 44502, 44514, 44701, 44719, 44721–44722.

§§ 97.23, 97.27, 97.33 and 97.35 [Amended]

2. Amend 97.23, 97.27, 97.33 and 97.35, as appropriate, by adding, revising, or removing the following SIAP's effective at 0901 UTC on the dates specified:

** * * Effective Nov 6, 1997*

Bay Minette, AL, Bay Minette Muni, VOR or GPS RWY 8, Amdt 6 CANCELLED
Bay Minette, AL, Bay Minette Muni, VOR RWY 8, Amdt 6
Birmingham, AL, Birmingham Intl, NDB or GPS RWY 23, Amdt 16 CANCELLED
Birmingham, AL, Birmingham Intl, NDB RWY 23, Amdt 16
Talladega, AL, Talladega Muni, VOR/DME or GPS RWY 3, Amdt 4 CANCELLED
Talladega, AL, Talladega Muni, VOR/DME RWY 3, Amdt 4
Silver Bay, MN, Silver Bay Muni, NDB or GPS RWY 25, Orig CANCELLED
Silver Bay, MN, Silver Bay Muni, NDB RWY 25, Orig
Billings, MT, Billings Logan Intl, VOR/DME RNAV or GPS RWY 28R, Amdt 2 CANCELLED
Billings, MT, Billings Logan Intl, VOR/DME RNAV RWY 28R, Amdt 2
Billings, MT, Billings Logan Intl, NDB or GPS RWY 10L, Amdt 19 CANCELLED
Billings, MT, Billings Logan Intl, NDB RWY 10L, Amdt 19
Clinton, NC, Sampson County, NDB or GPS RWY 6, Amdt 5 CANCELLED
Clinton, NC, Sampson County, NDB RWY 6, Amdt 5
Conway, SC, Conway-Horrt County, NDB or GPS RWY 4, Amdt 1 CANCELLED
Conway, SC, Conway-Horrt County, NDB RWY 4, Amdt 1

[FR Doc. 97–26122 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF JUSTICE

Parole Commission

28 CFR Part 2

Paroling, Recommitting, and Supervising Federal Prisoners; Disclosure of Parole Commission Regional Office File

AGENCY: Parole Commission, Justice.

ACTION: Final rule.

SUMMARY: U.S. Parole Commission is amending its regulations on disclosure of Parole Commission files to provide for expedited processing of requests and a multi-track system to comply with the ''Electronic Freedom of Information Act Amendments of 1996.''

DATES: Effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Pamela A. Posch, Office of General Counsel, U.S. Parole Commission, 5550 Friendship Blvd., Chevy Chase, Maryland 20815, telephone (301) 492–5959.

SUPPLEMENTARY INFORMATION: On July 28, 1997, the Parole Commission published proposed rule changes in the **Federal Register** to implement a new law known as the ''Electronic Freedom of Information Act Amendments of 1996'' (E–FOIA). 62 FR 40316. These proposed rule changes provided for a multi-track system whereby requests for tape recordings, or for two documents or less, would be processed ahead of requests seeking numerous documents from the parole file. Further, the proposed rule provided for expedited processing of Freedom of Information Act (FOIA) requests if the requester demonstrates ''compelling need'' as defined in the regulation. Specifically, the Commission proposed adopting two categories in which compelling need could be demonstrated.

The Parole Commission received public comment from one organization, the Reporters Committee for the Freedom of the Press. The Reporters Committee recommended two changes to the Commission's proposed regulations. First, they urged that the Commission adopt a third category where compelling need could be demonstrated. That category was for cases involving ''a matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which affect public confidence.'' This third category was included in the Department of Justice's proposed regulations. Second, the Reporters Committee noted that the Parole Commission failed to include in its regulations provisions for improving the electronic availability of records. The Reporters Committee noted that it did not find in the Justice Department's proposals any indication that Justice Department rules would apply to the Commission, and similarly the Commission's proposals did not indicate that implementation of other sections of the E–FOIA would be covered by the Justice Department regulations.

In response to the Reporters Committee request that the Commission adopt the language contained in the Department's proposed regulations for expedited treatment when government integrity is questioned, the Commission finds that this is unnecessary. The Department of Justice may wish to adopt such a specific category because of its prosecutorial functions in cases involving ''possible questions about the government's integrity'', but the Parole Commission considers that a media request that is driven by concern over ''possible questions'' of government integrity would already be covered by the second category which includes expedited processing for requesters demonstrating ''urgency to inform the public concerning actual or alleged federal government activity.''

In response to the Reporters Committee's request that the Commission include the electronic availability of records in its regulations, the Commission is adding a sentence so that it is clear to the public and to requesters that the Department of Justice's regulations apply to all FOIA-processing issues not covered by the Commission's own regulations and procedures. Although the Parole Commission is not promulgating its own regulation in regard to the public reading room, the Commission maintains a public reading room and records available in the public reading room will be available electronically to FOIA requesters.

Also, the Department of Justice has revised its fee schedule in regard to FOIA requests and the Parole Commission is revising its regulations to comply with the fee revisions.

Finally, the Parole Commission has removed references to ''Regional Office'' since the Commission no longer operates regional offices.

Executive Order 12866 and Regulatory Flexibility Statement

The U.S. Parole Commission has determined that this proposed rule is not a significant rule within the meaning of Executive Order 12866, and the proposed rule has, accordingly, not been reviewed by the Office of Management and Budget. The proposed rule, if adopted, will not have a significant economic impact upon a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 605(b).

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by States, local, and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by § 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 2

Administrative practice and procedure, Probation and parole, Prisoners.

The Proposed Amendment

Accordingly, the U.S. Parole Commission adopts the following amendment to 28 CFR part 2.

PART 2—PAROLE, RELEASE, SUPERVISION AND RECOMMITMENT OF PRISONERS, YOUTH OFFENDERS, AND JUVENILE DELINQUENTS

1. The authority citation for 28 CFR Part 2 continues to read as follows:

Authority: 18 U.S.C. 4203(a)(1) and 4204(a)(6).

2. Section 2.56 is amended by removing the words ''regional office'' from the title of the section; and by amending paragraph (a) by removing ''prisoner's regional office file'' and replacing with ''subject's Parole Commission file''.

3. Section 2.56 is further amended by adding a new paragraph (b)(1); by adding and reserving paragraph (b)(2); by amending paragraph (f) to replace ''$8.00'' with ''$14.00''; by adding a new sentence to the end of paragraph (g); and by adding a new paragraph (i). These amendments read as follows:

§ 2.56 Disclosure of Parole Commission file.

* * * * *

(b) Scope of disclosure. * * *

(1) Requests that are only for a copy of the tape recording of a hearing will be processed ahead of requests seeking multiple documents from the Parole Commission file (priority processing). A requester may limit the scope of the request to a tape recording only (or to a tape recording and/or up to two documents) and thereby qualify for priority processing. For example, a request for the tape recording and the examiner's summary of a hearing qualifies for priority processing.

(2) [Reserved]

* * * * *

(g) Relation to other provisions. * * * Provisions of the Freedom of Information Act not specifically addressed by these regulations (including the reading room) are covered by 28 CFR, part 16, subpart A.

* * * * *

(i) Expedited processing of Requests. (1) The Commission will provide expedited processing of a request when a requester has demonstrated a compelling need as defined in this section and has presented a statement certified by such person to be true and correct to the best of such person's knowledge and belief. A requester may demonstrate ''compelling need'' by establishing one of the following:

(i) That failure to obtain the requested records on an expedited basis could reasonably be expected to pose an imminent threat to the life or physical safety of an individual; or

(ii) With respect to a request made by a person primarily engaged in

disseminating information, urgency to inform the public concerning actual or alleged federal government activity.

(2) A determination as to whether to provide expedited processing shall be made within ten days after the date of the request. However, the fact of lawful imprisonment in a correctional facility or revocation of parole shall not be deemed to pose an imminent threat to the life or physical safety of an individual. The Commission shall process as soon as practicable any request for records to which it has granted expedited processing. An administrative appeal of a denial of expedited processing may be made to the Chairman of the Commission within thirty days from the date of notice denying expedited processing.

Dated: September 24, 1997.

Michael J. Gaines,

Chairman, U.S. Parole Commission.

[FR Doc. 97–26057 Filed 10–1–97; 8:45 am]

BILLING CODE 4410–01–P

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 202

[Docket No. 96–6A]

''Best Edition'' of Published Copyrighted Works for the Collections of the Library of Congress

AGENCY: Copyright Office, Library of Congress.

ACTION: Final rule.

SUMMARY: This rule amends the Library of Congress's Best Edition Statement concerning motion pictures deposited under Title 17, section 407, mandatory deposit, and section 408, registration deposit. The Statement sets out the criteria to be applied in determining the best edition for each of several types of motion picture materials which are listed in descending order of format preference in an Appendix to Copyright Office Regulations. The amendment removes the previously listed ''most widely distributed gauge'' as a selection factor of the ''best edition'' and adds new video formats to the prioritized list of deposit material preferences based on current industry practices with respect to motion picture media and formats.

EFFECTIVE DATE: November 3, 1997.

FOR FURTHER INFORMATION CONTACT: Marilyn J. Kretsinger, Assistant General Counsel, Telephone: (202) 707–8380. Telefax: (202) 707–8366.

SUPPLEMENTARY INFORMATION: On November 15, 1996, the Copyright Office published in the **Federal Register**, a notice of proposed rulemaking on the revision of the best edition selection criteria for published motion pictures. (61 FR 54897). The Best Edition Statement criteria are published in 37 CFR 202.19, 202.20 and Appendix B to Part 202—''Best Edition of Published Copyrighted Works for the Collections of the Library of Congress.'' The criteria for ''Motion Pictures'' are set forth in 37 CFR 202, APP. B III.

Two comments to the proposed amendment were received. Both commenters expressed concern that, because of the proposed changes in the ranking preferences in the video formats, the Copyright Office would no longer accept ¾″ videocassette copies for registration of published television productions but would request the higher quality Betacam or D–2 formats instead. The Office will generally continue its policy of accepting ¾″ videocassettes for registration of television programs and series. Where, however, certain television programs are published in copies of a higher quality format, the Library of Congress reserves the right to request the better archival format for its collections. However, the Library will continue to be flexible in its requests and in working through the Copyright Office in granting special relief under 37 CFR 202.19 and 202.20 from the deposit requirements when compliance with the requirements would be unduly burdensome on the applicant.

The amended regulation eliminates the ''gauge in which most widely distributed'' as a criterion for the deposit format for either motion picture or video formats. The major objective in eliminating this criterion as a ranking preference for film prints is to discourage the deposit of ½″ videocassettes where a better published format exists. As stated in the Notice of Proposed Rulemaking, the ½″ gauge does not represent an acceptable archival quality medium for the Library's purposes.

The amended regulation changes the second category in the Best Edition Statement under III Motion Pictures from videotape to video format in order to reflect more accurately that the preferential list contains a format other than videotapes. The regulation also adds a second high quality format, ''Betacam SP,'' to the prioritized list.

List of Subjects in 37 CFR Part 202

Claims, Copyright.

Final Regulations

In consideration of the foregoing, the Copyright Office amends part 202 of 37 CFR in the manner set forth below:

Appendix B to Part 202—''Best Edition'' of Published Copyrighted Works for the Collections of the Library of Congress

1. The authority citation for part 202 continues to read as follows:

Authority: 17 U.S.C. 702.

2. In part 202, App. B, ''III. Motion Pictures'' is revised to read as follows:

* * * * *

III. Motion Pictures

Film medium is considered a better quality than any other medium. The formats under ''film'' and ''video formats'' are listed in descending order of preference:

A. Film
1. Preprint material with special arrangement.
2. 35mm positive prints.
3. 16mm positive prints.

B. Video Formats
1. One-inch open reel tape
2. Betacam SP
3. D–2
4. Betacam
5. Videodisc
6. Three-quarter inch cassette
7. One-half inch VHS cassette

* * * * *

Dated: September 25, 1997.

Nanette Petruzzelli,

Acting General Counsel.

Approved by:

James H. Billington,

The Librarian of Congress.

[FR Doc. 97–26061 Filed 10–1–97; 8:45 am]

BILLING CODE 1410–30–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[LA–8–1–7346; FRL–5899–4]

Approval and Promulgation of State Implementation Plans (SIP); Louisiana; Control of Volatile Organic Compound (VOC) Emissions; Reasonable Available Control Technology (RACT) Catch-Ups; Major Source Definition Corrections

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the EPA's approval action of Louisiana's RACT Catch-up SIP

revision, published on July 25, 1996. Several minor regulation citations and the date of the Governor's SIP submission letter were erroneously cited in the final approval. The EPA is correcting these citations in this action.

EFFECTIVE DATE: October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Mr. Eaton R. Weiler, (214) 665–2174

SUPPLEMENTARY INFORMATION:

I. Background

On July 25, 1996, EPA published a final approval of Louisiana's RACT Catch-up SIP revision (61 FR 38590). Several errors in the Incorporation by Reference (IBR) language were discovered subsequent to publication. The revisions to LAC 33:III.2103 included IBR to revise paragraphs G., G.1, and G.4. The correct citation should have been to revise paragraphs G., I, and I.4. The *Waste Gas Disposal* regulation was cited as Section 2215. The correct cite for *Waste Gas Disposal* is Section 2115. In addition, Section 2215's introductory paragraph, paragraphs H. and H.5 were unnecessarily adopted. The April 14, 1993, SIP submission further amended Section 2115 and alleviated the need to adopt revisions to 2115 from the December 21, 1992, submission. Finally, the second of the two SIP submissions from Louisiana was submitted to EPA from the Governor of Louisiana by letter dated April 14, 1993. The date of this letter was erroneously stated as April 13, 1993.

II. Administrative Requirements

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

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

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

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Incorporation by reference, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: September 19, 1997.

Jerry Clifford,

Acting Regional Administrator.

Part 52, chapter I, title 40 of the Code of Federal Regulations is amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart T—Louisiana

2. Section 52.970 is amended by revising paragraphs (c)(64) introductory text and (c)(64)(i) to read as follows:

§ 52.970 Identification of plan.

* * * * *

(c) * * *

(64) Revisions to the Louisiana SIP addressing VOC RACT catch-up requirements were submitted by the Governor of Louisiana by letters dated December 21, 1992, and April 14, 1993.

(i) Incorporation by reference.

(A) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2103. Storage of Volatile Organic Compounds, paragraphs G., I., I.4.; section 2109. Oil/Water Separation, paragraph B.4.; Subchapter B. Organic Solvents; section 2123. Organic Solvents, paragraph D.6.; Subchapter C. Vapor Degreasers; section 2125. Vapor Degreasers, paragraph D.; Subchapter F. Gasoline Handling; section 2131. Filling of Gasoline Storage Vessels, paragraphs D., D.1., D.3., G.; section 2135. Bulk Gasoline Terminals, paragraph A.; Subchapter H. Graphic Arts; section 2143. Graphic Arts (Printing) by Rotogravure and Flexographic Processes, paragraph B, as adopted by LDEQ on October 20, 1992.

(B) Revisions to LAC, Title 33, Environmental Quality, Part III. Air; Chapter 21. Control of Emissions of Organic Compounds, Subchapter A. General; section 2115. Waste Gas Disposal, introductory paragraph, paragraphs H., H.1., H.1.a through H.1.d, H.2, H.2.a, H.2.b, H.3, L., as adopted by LDEQ on March 20, 1993.

* * * * *

[FR Doc. 97–26181 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[NV029–0003A; FRL–5900–1]

Clean Air Act Reclassification; Nevada-Clark County Nonattainment Area; Carbon Monoxide

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: In this document EPA is making a final finding that the Clark County, Nevada carbon monoxide (CO) nonattainment area has not attained the CO national ambient air quality standard (NAAQS) under the Clean Air Act (CAA) after having received a one year extension from the mandated attainment date of December 31, 1995 for moderate nonattainment areas to December 31, 1996. This finding is based on EPA's review of monitored air quality data for compliance with the CO NAAQS. As a result of this finding, the Clark County, Nevada nonattainment area is reclassified as a serious CO nonattainment area by operation of law. The intended effect of the reclassification is to allow the State 18 months from the effective date of this action to submit a new State Implementation Plan (SIP) demonstrating attainment of the CO NAAQS as expeditiously as practical but no later than December 31, 2000, the CAA attainment date for serious areas.

EFFECTIVE DATE: This action is effective on November 3, 1997.

FOR FURTHER INFORMATION CONTACT: Larry Biland, AIR–2, Air Division, U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1227.

SUPPLEMENTARY INFORMATION:

I. Background

A. CAA Requirements and EPA Actions Concerning Designation and Classifications

The Clean Air Act Amendments of 1990 (CAA) were enacted on November 15, 1990. Under section 107(d)(1)(C) of the CAA, each carbon monoxide (CO)

area designated nonattainment prior to enactment of the 1990 Amendments, such as the Clark County area, was designated nonattainment by operation of law upon enactment of the 1990 Amendments. Under section 186(a) of the Act, each CO area designated nonattainment under section 107(d) was also classified by operation of law as either ''moderate'' or ''serious'' depending on the severity of the area's air quality problem. CO areas with design values between 9.1 and 16.4 parts per million (ppm), such as the Clark County area, were classified as moderate. These nonattainment designations and classifications were codified in 40 CFR part 81. See 56 FR 56694 (November 6, 1991).

States containing areas that were classified as moderate nonattainment by operation of law under section 107(d) were required to submit State implementation plans (SIPs) designed to attain the CO national ambient air quality standard (NAAQS) as expeditiously as practicable but no later than December 31, 1995.[1]

B. Attainment Date Extensions

If a state does not have the two consecutive years of clean data necessary to show attainment of the NAAQS, it may apply, under section 186(a)(4) of the CAA, for a one year attainment date extension. EPA may, in its discretion, grant such an extension if: (1) The state has complied with the requirements and commitments pertaining to the applicable implementation plan for the area; and (2) the area has measured no more than one exceedance of the CO NAAQS at any monitoring site in the nonattainment area in the year preceding the extension year. Under section 186(a)(4), EPA may grant up to two such extensions if these conditions have been met. EPA has granted Clark County one extension to December 31, 1996. (61 FR 575407, Wednesday, Nov. 6, 1996).

C. Effect of Reclassification

CO nonattainment areas reclassified as serious are required to submit, within 18 months of the area's reclassification, SIP revisions providing for attainment of the CO NAAQS as expeditiously as practicable but no later than December 31, 2000. In addition, the State must submit a SIP revision that includes: (1) A forecast of vehicle miles traveled (VMT) for each year before the attainment year and provisions for annual updates of these forecasts; (2) adopted contingency measures; and (3) adopted transportation control measures and strategies to offset any growth in CO emissions from growth in VMT or number of vehicle trips. See CAA sections 187(a)(7), 187(a)(2)(A), 187(a)(3), 187(b)(2), and 187(b)(1). Finally, upon the effective date of this reclassification, contingency measures in the moderate area plan for the Clark County, Nevada nonattainment area must be implemented.

D. Proposed Finding of Failure to Attain

On June 26, 1997 EPA proposed to find that the Clark County, Nevada carbon monoxide (CO) nonattainment area had failed to attain the CO NAAQS by the applicable attainment date. 62 FR 34419. This proposed finding was based on CO monitoring data collected at the East Charleston monitoring site during the years 1995 and 1996. These data demonstrate violations of the CO NAAQS in 1996. For the specific data considered by EPA in making this proposed finding, see 62 FR 34419.

E. Reclassification to a Serious Nonattainment Area

EPA has the responsibility, pursuant to sections 179(c) and 186(b)(2) of the CAA, of determining, within six months of the applicable attainment date, whether the Clark County area has attained the CO NAAQS. Under section 186(b)(2)(A), if EPA finds that the area has not attained the CO NAAQS, it is reclassified as serious by operation of law. Pursuant to section 186(b)(2)(B) of the Act, EPA must publish a document in the **Federal Register** identifying areas which failed to attain the standard and therefore must be reclassified as serious by operation of law.

EPA makes attainment determinations for CO nonattainment areas based upon whether an area has two years (or eight consecutive quarters) of clean air quality data.[2] Section 179(c)(1) of the Act states that the attainment determination must be based upon an area's ''air quality as of the attainment date.'' Consequently, where an area has received an extension, EPA will determine whether an area's air quality has met the CO NAAQS by the required date, or in the case of Clark County by the extended date of December 31, 1996, based upon the most recent two years of air quality data.

EPA determines a CO nonattainment area's air quality status in accordance with 40 CFR 50.8 and EPA policy.[3] EPA has promulgated two NAAQS for CO: an 8-hour average concentration and a 1-hour average concentration. Because there were no violations of the 1-hour standard in the Clark County area, this document addresses only the air quality status of the Clark County area with respect to the 8-hour standard. The 8-hour CO NAAQS requires that not more than one non-overlapping 8-hour average in any consecutive two-year period per monitoring site can exceed 9.0 ppm (values below 9.5 are rounded down to 9.0 and they are not considered exceedances). The second exceedance of the 8-hour CO NAAQS at a given monitoring site within the same two-year period constitutes a violation of the CO NAAQS.

II. Response to Comments on Proposed Finding

During the public comment period on EPA's proposed finding, EPA received no comments.

III. Today's Action

EPA is today taking final action to find that the Clark County CO nonattainment area did not attain the CO NAAQS by December 31, 1996, the CAA attainment date for moderate CO nonattainment areas. As a result of this finding, the Clark County CO nonattainment area is reclassified by operation of law as a serious CO nonattainment area as of the effective date of this document. This finding is based upon air quality data showing exceedances of the CO NAAQS during 1995 and 1996, resulting in two violations in 1996.

IV. Executive Order (EO) 12866

Under E.O. 12866, 58 FR 51735 (October 4, 1993), EPA is required to determine whether regulatory actions are significant and therefore should be subject to OMB review, economic analysis, and the requirements of the Executive Order. The Executive Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may meet at least one of the four criteria identified in section 3(f), including, under paragraph (1), that the rule may ''have an annual effect on the economy of $100 million or more or adversely affect, in a material way, the

[1] The moderate area SIP requirements are set forth in section 187(a) of the Act and differ depending on whether the area's design value is below or above 12.7 ppm. The Clark County area has a design value below 12.7 ppm. 40 CFR 81.303.

[2] See generally memorandum from Sally L. Shaver, Director, Air Quality Strategies and Standards Division, EPA, to Regional Air Office Directors, entitled ''Criteria for Granting Attainment Date Extensions, Making Attainment Determinations, and Determinations of Failure to Attain the NAAQS for Moderate CO Nonattainment Areas,'' October 23, 1995 (Shaver memorandum).

[3] See memorandum from William G. Laxton, Director Technical Support Division, entitled ''Ozone and Carbon Monoxide Design Value Calculations'', June 18, 1990. See also Shaver memorandum.

economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities''.

The Agency has determined that the finding of failure to attain finalized today would result in none of the effects identified in section 3(f). Under section 186(b)(2) of the CAA, findings of failure to attain and reclassification of nonattainment areas are based upon air quality considerations and must occur by operation of law in light of certain air quality conditions. They do not, in and of themselves, impose any new requirements on any sectors of the economy. In addition, because the statutory requirements are clearly defined with respect to the differently classified areas, and because those requirements are automatically triggered by classifications that, in turn, are triggered by air quality values, findings of failure to attain and reclassification cannot be said to impose a materially adverse impact on State, local, or tribal governments or communities.

V. Regulatory Flexibility Act

Under the Regulatory Flexibility Act, 5 U.S.C. 601 et seq., EPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. 5 U.S.C. 603 and 604. Alternatively, EPA may certify that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.

As discussed in section III of this document, findings of failure to attain and reclassification of nonattainment areas under section 186(b)(2) of the CAA do not in-and-of-themselves create any new requirements. Therefore, I certify that today's action does not have a significant impact on small entities.

VI. Unfunded Mandates Act

Under sections 202, 203 and 205 of the Unfunded Mandates Reform Act of 1995 (Unfunded Mandates Act), signed into law on March 22, 1995, EPA must assess whether various actions undertaken in association with proposed or final regulations include a Federal mandate that may result in estimated costs of $100 million or more to the private sector, or to state, local or tribal governments in the aggregate. EPA believes, as discussed above, that the finding of failure to attain and reclassification of the Clark County nonattainment area are factual determinations based upon air quality considerations and must occur by operation of law and, hence, do not impose any Federal intergovernmental mandate, as defined in section 101 of the Unfunded Mandates Act.

VII. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 81

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7671q.

Dated: September 18, 1997.

Harry Seraydarian,

Acting Regional Administrator.

[FR Doc. 97–26187 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 258

[F–97–FLXF–FFFFF; FRL–5900–7]

RIN 2050–AE24

Revisions to Criteria for Municipal Solid Waste Landfills

AGENCY: Environmental Protection Agency.

ACTION: Direct final rule; confirmation of effective date.

SUMMARY: On July 29, 1997, the U.S. Environmental Protection Agency (EPA) published a direct final rule (62 FR 40708) which established regulations to implement the Land Disposal Program Flexibility Act of 1996 (LDPFA). These regulations provide additional flexibility to Approved States for any municipal solid waste landfill (MSWLF) that receives 20 tons or less of municipal solid waste per day. The additional flexibility applies to alternative frequencies of daily cover, frequencies of methane monitoring, and infiltration layers for final cover. As stated in the preamble to the direct final rule, provisions contained in the Revised Criteria for Municipal Solid Waste Landfills (56 FR 51104; October 9, 1991 and 61 FR 60327; November 27, 1996) provide the additional flexibility for demonstrating financial assurance contemplated by Congress in the LDPFA. The additional flexibility will allow the owners and operators of small MSWLFs the opportunity to reduce their costs of MSWLF operation while still protecting human health and the environment. The EPA has not received an adverse comment objecting to this rule as written. Therefore, this rule will go into effect as scheduled.

DATES: The effective date of the direct final rule published at 62 FR 40708 remains October 27, 1997.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA Hotline at 800 424–9346 or TDD 800 553–7672 (hearing impaired). In the Washington, DC, metropolitan area, call 703 412–9810 or TDD 703 412–3323.

For more detailed information on specific aspects of this rulemaking, contact Mr. Allen J. Geswein, U. S. Environmental Protection Agency, Office of Solid Waste (5306W), 401 M Street, SW, Washington, D.C. 20460, 703 308–7261, [geswein.allen@epamail.epa.gov].

Elizabeth A. Cotsworth,

Acting Director, Office of Solid Waste.

[FR Doc. 97–25879 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 721

[OPPTS–50625B; FRL–5744–6]

RIN 2070–AB27

Revocation of Significant New Use Rules for Certain Acrylate Substances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is revoking significant new use rules (SNURs) promulgated under section 5(a)(2) of the Toxic Substances Control Act (TSCA) for 95 substances based on new toxicity data. Based on the new data the Agency no longer finds that activities not described in the TSCA section 5(e) consent order may result in significant changes in human exposure.

DATES: This rule is effective November 3, 1997.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Environmental Protection Agency, Rm. E–543A, 401 M St., SW.,

Washington, DC 20460, telephone: (202) 554–1404, TDD: (202) 554–0551; e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: In the **Federal Register** referenced for each substance, OPPTS–50581A, October 31, 1990 (55 FR 46001); OPPTS– 50582, August 15, 1990 (55 FR 33303); OPPTS–50583, August 9, 1990 (55 FR 32414); OPPTS–50585, September 28, 1990 (55 FR 39899); OPPTS–50587A, June 5, 1991 (56 FR 25988); OPPTS–50591, April 25, 1991 (56 FR 19238); OPPTS–50592, August 13, 1991 (56 FR 40212); OPPTS–50601, September 23, 1992 (57 FR 44070); OPPTS–50603, July 20, 1992 (57 FR 31969); OPPTS–50608, June 8, 1993 (58 FR 32236); OPPTS–50612, October 4, 1993 (58 FR 51681); OPPTS–50613, October 4, 1993 (58 FR 51706); OPPTS–50615, May 27, 1994 (59 FR 27483); and OPPTS–50620, March 1, 1995 (60 FR 11042) (FRL–4868–4); EPA issued a SNUR establishing significant new uses for certain acrylate substances. Because of additional data EPA has received for this chemical class, EPA is revoking these SNURs.

I. Background

The Agency proposed the revocation of these SNURs in the **Federal Register** of June 2, 1997 (62 FR 29688) (FRL–5595–1). The background and reasons for the revocation of the SNURs including a description of the test data results are set forth in the preamble to the proposed revocation. The comment period closed on August 14, 1997. In addition, one of the SNURs that does not pertain to an acrylate substance (40 CFR 721.7780) was inadvertently included in the proposed revocation. As the test data which is the basis for these revocations does not apply to the substance which is described in 40 CFR 721.7780 the substance will not be included in the final revocation, and EPA will take no further action until new information is received for that substance.

The Agency received four comments concerning the proposed revocation. Three comments supported revocation of the SNURs and urged final revocation as quickly as possible.

One commenter objected to revoking any SNURs for substances containing Bisphenol A; this was based on the demonstrated estrogenic properties of Bisphenol A and its potential effects at low exposure levels. EPA shares the commenter's concerns for estrogenic effects of Bisphenol A and structurally similar chemicals. The potential estrogenic effects of Bisphenol A and structurally similar chemicals is one of the toxicity concerns EPA considers when reviewing new chemicals under section 5(a) of TSCA. EPA recently required a premanufacture notice submitter to submit an estrogen screening study for their PMN substance under section 5(e)(1)(A)(ii)(II) of TSCA. The screening study demonstrated no estrogenic activity.

EPA will continue to require testing where appropriate, for substances that may demonstrate estrogenic effects, under section 5(e) of TSCA. Given the current lack of data and the uncertainty in selecting the appropriate tests to screen for estrogenic effects, the EPA at this time cannot draw any general conclusions about the potential estrogenic effects of substances of significantly higher molecular weight than Bisphenol A.

The substances cited by the commenter are all polymeric materials that utilize Bisphenol A as one of the starting materials. However, EPA's new chemical review and regulatory findings under section 5(a) of TSCA focus on the new chemical substance itself, rather than its starting components. In addition, the types of exposures cited by the commenter, leaching of Bisphenol A from food packaging or dental sealants, are not regulated by TSCA but come instead under the jurisdiction of the Federal Food, Drug, and Cosmetic Act.

Based on the acrylate test data cited in the proposal and the comments received, EPA is still unable to conclude that the activities defined as ''significant new uses'' in these SNURS may result in significant changes in human exposure. Therefore, EPA is revoking these rules.

II. Rationale for Revocation of the Rule

During review of the PMNs submitted for the chemical substances that are the subject of this revocation, EPA concluded that regulation was warranted based on the available information that indicated activities not described in the section 5(e) consent order might result in significant changes in human exposure. Based on these findings, SNURs were promulgated.

EPA will revoke the section 5(e) consent orders that are the bases for these SNURs because EPA has determined that it can no longer support a finding that activities not described in the section 5(e) consent order may result in significant changes in human exposure. The revocation of SNUR provisions for these substances designated herein is consistent with this finding.

In light of the above, EPA is revoking the SNUR provisions for these chemical substances. When this revocation becomes final, EPA will no longer require notice of any company's intent to manufacture, import, or process these substances. In addition, export notification under section 12(b) of TSCA will no longer be required.

III. Public Record

The official record for this rulemaking, as well as the public version, has been established for this rulemaking under docket number OPPTS–50625B (including comments and data submitted electronically). A public version of this record, including printed, paper versions of electronic comments, which does not include any information claimed as confidential business information (CBI), is available for inspection from 12 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official rulemaking record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

IV. Regulatory Assessment

This final rule revokes or eliminates an existing regulatory requirement and does not contain any new or amended requirements. As such, the Office of Management and Budget (OMB) has exempted these types of actions from review under Executive Order 12866, entitled Regulatory Planning and Review (58 FR 51735, October 4, 1993). Since this final rule does not impose any requirements, it does not contain any information collections subject to approval under the Paperwork Reduction Act (PRA), 44 U.S.C. 3501 *et seq.*, or require any other action under Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4). Nor does it require any prior consultation as specified by Executive Order 12875, entitled Enhancing the Intergovernmental Partnership (58 FR 58093, October 28, 1993), or special considerations as required by Executive Order 12898, entitled Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (59 FR 7629, February 16, 1994) or require OMB review in accordance with Executive Order 13045, entitled Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997).

In addition, pursuant to section 605(b) of the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 *et seq.*), the Agency has determined that SNUR revocations, which eliminate requirements without imposing any new ones, have no adverse economic impacts. The Agency's generic certification for SNUR revocations appears on June 2, 1997 (62 FR 29684) (FRL–5597–1), and was provided to the Chief Counsel for

Advocacy of the Small Business Administration.

V. Submission to Congress and the General Accounting Office

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

List of Subjects in 40 CFR Part 721

Environmental protection, Chemicals, Hazardous materials, Recordkeeping and reporting requirements.

Dated: September 24, 1997.

Charles M. Auer,

Director, Chemical Control Division, Office of Pollution Prevention and Toxics.

Therefore, 40 CFR part 721 is amended as follows:

PART 721—[AMENDED]

1. The authority citation for part 721 continues to read as follows:

Authority: 15 U.S.C. 2604, 2607, and 2625(c).

§§ 721.325, 721.370, 721.390, 721.400, 721.415, 721.460, 721.470, 721.490, 721.1175, 721.1575, 721.2050, 721.2170, 721.2650, 721.2750, 721.2930, 721.3028, 721.3120, 721.3640, 721.3870, 721.4020, 721.4220, 721.4400, 721.4780, 721.4790, 721.4800, 721.5705, 721.5910, 721.6500, 721.6580, 721.6640, 721.6700, 721.6720, 721.6740, 721.6760, 721.6780, 721.6840, 721.6880, 721.6940, 721.6960, 721.7040, 721.7080, 721.7100, 721.7140, 721.7180, 721.7240, 721.7300, 721.7320, 721.7340, 721.7370, 721.7400, 721.7420, 721.7460, 721.7540, 721.7560, 721.7580, 721.7660, 721.7680, 721.7740, 721.7760, 721.8075, 721.8265, 721.8275, 721.8290, 721.8300, 721.8325, 721.8335, 721.8375, 721.8400, 721.8425, 721.8475, 721.8525, 721.8550, 721.8575, 721.8600, 721.8650, 721.9240, 721.9320, 721.9360, 721.9420, 721.9510, 721.9525, 721.9870, 721.9940, 721.9975 [Removed]

2. By removing §§ 721.325, 721.370, 721.390, 721.400, 721.415, 721.460, 721.470, 721.490, 721.1175, 721.1575, 721.2050, 721.2170, 721.2650, 721.2750, 721.2930, 721.3028, 721.3120, 721.3640, 721.3870, 721.4020, 721.4220, 721.4400, 721.4780, 721.4790, 721.4800, 721.5705, 721.5910, 721.6500, 721.6580, 721.6640, 721.6700, 721.6720, 721.6740, 721.6760, 721.6780, 721.6840, 721.6880, 721.6940, 721.6960, 721.7040, 721.7080, 721.7100, 721.7140, 721.7180, 721.7240, 721.7300, 721.7320, 721.7340, 721.7370, 721.7400, 721.7420, 721.7460, 721.7540, 721.7560, 721.7580, 721.7660, 721.7680, 721.7740, 721.7760, 721.8075, 721.8265, 721.8275, 721.8290, 721.8300, 721.8325, 721.8335, 721.8375, 721.8400, 721.8425, 721.8475, 721.8525, 721.8550, 721.8575, 721.8600, 721.8650, 721.9240, 721.9320, 721.9360, 721.9420, 721.9510, 721.9525, 721.9870, 721.9940, and 721.9975.

[FR Doc. 97–26189 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 092697C]

Atlantic Tuna Fisheries; Adjustments

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

ACTION: Catch limit adjustment; inseason transfer.

SUMMARY: NMFS adjusts the October-December subquota for the General category Atlantic bluefin tuna (ABT) fishery by transferring 13 mt from the Reserve, 3 mt from the Incidental Longline North quota, and 54 mt from the Incidental Longline South quota, for a revised General category subquota of 141 mt for October-December. In addition, NMFS adjusts the General category effort control schedule for October. These actions are being taken to extend scientific data collection on several size classes of ABT while preventing overharvest of the adjusted subquotas for the affected fishing categories, and to ensure maximum utilization of the quota while maintaining a fair distribution of fishing opportunities. The daily catch limit for large medium and giant ABT for vessels fishing under the General category quota is reduced to zero for one day only, Wednesday October 1, effectively delaying the start of the General category October fishery, at one fish per day, until October 2, 1997.

DATES: Effective October 1, 1997, 00:01 a.m. until 11:59 p.m. EST for bag limit adjustment; effective October 1, 1997, until December 31, 1997, or until the effective date of the closure, which will be published in the **Federal Register**, for the inseason transfer.

FOR FURTHER INFORMATION CONTACT: Sarah McLaughlin, 301-713-2347, or Pat Scida, 508-281-9260.

SUPPLEMENTARY INFORMATION: Regulations implemented under the authority of the Atlantic Tunas Convention Act (16 U.S.C. 971 et seq.) governing the harvest of ABT by persons and vessels subject to U.S. jurisdiction are found at 50 CFR part 285. Section 285.22 subdivides the U.S. quota recommended by the International Commission for the Conservation of Atlantic Tunas among the various domestic fishing categories.

Under the implementing regulations at 50 CFR 285.22(f), the Assistant Administrator for Fisheries, NOAA (AA), has the authority to make adjustments to quotas involving transfers between categories after considering certain factors. The AA is authorized to make adjustments to quotas involving transfers between categories if, during a single year quota period, it is determined, based on landing statistics, present year catch rates, effort, and other available information, that any category, is not likely to take its entire quota as previously allocated for that year.

Given that determination, the AA may transfer inseason any portion of the quota of any fishing category to any other fishing category or to the reserve after considering the following factors: (1) The usefulness of information obtained from catches of the particular category of the fishery for biological sampling and monitoring the status of the stock, (2) the catches of the particular gear segment to date and the likelihood of closure of that segment of the fishery if no allocation is made, (3) the projected ability of the particular gear segment to harvest the additional amount of Atlantic bluefin tuna before the anticipated end of the fishing season, and (4) the estimated amounts by which quotas established for other gear segments of the fishery might be exceeded.

General Category Quota Adjustment

Implementing regulations for the Atlantic tuna fisheries at § . 285.22 provide for a quota of 633 mt of large medium and giant ABT to be harvested from the regulatory area by vessels fishing under the General category quota during calendar year 1997. The General category ABT quota is further subdivided into time period subquotas to provide for broad temporal and geographic distribution of scientific data collection and fishing opportunities. Approximately 71 metric tons remain available for the October-December General category fishery, including a 10 mt set aside for the traditional fall New York Bight fishery. After considering the previously cited factors for making

transfers between categories, the AA has determined that 13 mt of the Inseason Reserve of 33 mt should be transferred to the General category. In addition, the AA has determined that 3 mt of the remaining Incidental Longline North quota of approximately 9 mt, and 54 mt of the remaining Incidental Longline South quota of approximately 59 mt should be transferred to the General category. Thus, the October-December General category quota is set at 141 mt, including 10 mt reserved for the New York Bight fishery.

Once the General category quota for October - December time period has been attained, the fishery will be closed. The announcement of the closure will be filed with the Office of the Federal Register, stating the effective date of closure, and further communicated through the Highly Migratory Species (HMS) Fax Network, the HMS Information Line, NOAA weather radio, and Coast Guard Notice to Mariners. Although notification of closure will be provided as far in advance as possible, fishermen are encouraged to call the HMS Information Line to check the status of the fishery before leaving for a fishing trip. The phone numbers for the HMS Information Line are (301) 713-1279 and (508) 281-9305. Information regarding the Atlantic tuna fisheries is also available through Nextlink Interactive, Inc., at (888) USA-TUNA.

General Category Reopening

Implementing regulations for the Atlantic tuna fisheries at § 285.24 provide the AA with authority to adjust the catch limit for the General category to effect restricted fishing days. Such effort controls allow maximum utilization of the quota while maintaining a fair distribution of fishing opportunities. In the final rule that dealt with General category effort controls filed earlier this year (62 FR 38939, July 21, 1997), NMFS established restricted-fishing days reflecting days mutually agreed upon by associations representing General category fishermen and dealers. These days included Wednesdays from Mid-July through September to correspond to market closure days in Japan, the primary market for ABT. In order to ensure maximum utilization of the quota while maintaining a fair distribution of fishing opportunities, the daily catch limit of large medium and giant ABT for the General category is reduced to zero for one day only, Wednesday October 1, effectively delaying the start of the General category October fishery, at one fish per day, until October 2, 1997.

Classification

This action is taken under 50 CFR 285.22 and 50 CFR 285.24 and is exempt from review under E.O. 12866.

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

Dated: September 26, 1997.

Gary C. Matlock,

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

[FR Doc. 97–26103 Filed 9–29–97; 12:39 pm]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 961107312–7021–02; I.D. 092697A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Using Trawl Gear in the Bering Sea and Aleutian Islands

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

ACTION: Reallocation.

SUMMARY: NMFS is reallocating the projected unused amount of Pacific cod from trawl catcher/processors to trawl catcher vessels in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the 1997 total allowable catch (TAC) of Pacific cod to be harvested.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), September 29, 1997, until 2400 hrs, A.l.t., December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Andrew N. Smoker, 907–586-7228.

SUPPLEMENTARY INFORMATION: The groundfish fishery in the BSAI exclusive economic zone is managed by NMFS according to the Fishery Management Plan for the Groundfish Fishery of the Bering Sea and Aleutian Islands Area (FMP) prepared by the North Pacific Fishery Management Council under authority of the Magnuson-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 Administrator, Alaska Region, NMFS, has determined that trawl catcher/processors will not be able to harvest 2,000 metric tons (mt) of Pacific cod allocated to those vessels under § 679.20(a)(7)(i)(B).

Therefore, in accordance with § 679.20(a)(7)(ii)(A), NMFS is apportioning the projected unused amount, 2,000 mt, of Pacific cod from trawl catcher/processors to trawl catcher vessels in the BSAI.

Classification

All closures remain in full force and effect. This action responds to the best available information recently obtained from the fishery. It must be implemented immediately in order to allow full utilization of the Pacific cod TAC. A delay in the effective date is impracticable and contrary to the public interest. Further delay would only disrupt the FMP's objective of providing a portion of the Pacific cod TAC for trawl catcher vessels in the BSAI. NMFS finds for good cause that the implementation of this action can not 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 taken under 50 CFR 679.20, and is exempt from OMB review under E.O. 12866.

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

Dated: September 26, 1997.

Bruce C. Morehead,

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

[FR Doc. 97–26149 Filed 9-29-97; 11:44 am]

BILLING CODE 3510–22–F

Proposed Rules

Federal Register
Vol. 62, No. 191
Thursday, October 2, 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 ENERGY

Federal Energy Regulatory Commission

18 CFR Part 388

[Docket No. RM97–8–000]

Information and Requests

September 25, 1997.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Energy Regulatory Commission (Commission) proposes to amend its regulations governing information and requests to reflect the requirements and specifications of the Electronic Freedom of Information Act Amendments of 1996. The Commission also proposes to correct minor editorial inconsistencies in its regulations.

DATES: Written comments must be received by the Commission by November 3, 1997.

ADDRESSES: Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Charles A. Beamon, Office of the General Counsel, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, (202) 208–0780.

SUPPLEMENTARY INFORMATION: In addition to publishing the full text of this document in the **Federal Register**, the Commission also provides all interested persons an opportunity to inspect or copy the contents of this document during normal business hours in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

The Commission Issuance Posting System (CIPS), an electronic bulletin board service, provides access to the texts of formal documents issued by the Commission. CIPS is available at no charge to the user and may be accessed using a personal computer with a modem by dialing 202–208–1397 if dialing locally or 1–800–856–3920 if dialing long distance. To access CIPS, set your communications software to 19200, 14400, 12000, 9600, 7200, 4800, 2400, or 1200 bps, full duplex, no parity, 8 data bits and 1 stop bit. The full text of this order will be available on CIPS in ASCII and WordPerfect 6.1 format. CIPS user assistance is available at 202–208–2474.

CIPS is also available on the Internet. Telnet software is required. To access CIPS via the Internet, point your browser to the URL address: http://www.ferc.fed.us and select the Bulletin Board System. Read instructions on the next page, select FedWorld Dialup/Telnet. A screen will appear presenting you with several options, select option 1. There will be a welcome message from FedWorld and a log on prompt. Enter your user ID and password (if you already have an account). To establish an account, type the word NEW and answer the questions which follow. Upon establishing an account, the FedWorld Main Menu will appear. From the Main Menu, type /go ferc.

Finally, the complete text on diskette in WordPerfect format may be purchased from the Commission's copy contractor, La Dorn Systems Corporation. La Dorn Systems Corporation is located in the Public Reference Room at 888 First Street, N.E., Washington, D.C. 20426.

I. Introduction

This proposed rule amends 18 CFR part 388 to implement the provisions of the Electronic Freedom of Information Act Amendments of 1996 (the Act).[1] The Act amended the Freedom of Information Act (FOIA)[2] by imposing a number of new requirements governing the public availability of information, including electronic information. The proposed rule also clarifies minor discrepancies in part 388.

II. Background

The underlying goal of the Act is to encourage the electronic distribution of information.[3] The Act expands FOIA's definition of a record to include information maintained in electronic format; requires agencies to accommodate requesters' reasonable format preferences; and to conduct reasonable agency searches for electronic records. It also provides for the electronic availability of all ''public reading room'' materials created as of November 1, 1996.[4]

In addition, the Act requires an agency to place in its public reading room certain documents that are subject to repeated requests. Agencies must maintain a public index of such documents.[5] The Act grants agencies 20 working days to process FOIA requests instead of the current 10 days, allows extensions beyond the former 10-day deadline in limited circumstances, and expressly gives requesters the opportunity to avoid extensions by limiting the scope of their requests.[6]

Moreover, the Act allows multitrack processing of FOIA requests. Multitrack processing creates a fast track for requests capable of resolution with a limited amount of time and effort, and slower tracks for requests that demand a more intensive effort.[7] In addition to optional multitrack processing, the Act mandates expedited treatment for requesters who (1) demonstrate an imminent threat to life or safety, or (2) are engaged in disseminating information, and demonstrate an urgency to inform the public concerning Federal Government activity.[8]

The Act requires agencies to promulgate regulations to implement expedited processing. This proposed rule responds to the Act's mandate regarding expedited processing, and other changes wrought by the Act. It also makes several minor grammatical and technical changes for the sake of clarity.

[1] Pub. L. No. 104–231, 110 Stat. 3048 (1996).

[2] 5 U.S.C. 552.

[3] H.R. Rep. No. 104–795, at 11 (1996).

[4] Pub. L. No. 104–231, Secs. 3, 4 and 5, 110 Stat. 3048, 3049–50, 5 U.S.C. 552 (a)(2), (a)(3)(B), (a)(3)(C) and (f)(2), as amended.

[5] Pub. L. No. 104–231, Sec. 4, 110 Stat. 3048, 3049, 5 U.S.C. 552(a)(2)(D) and (E), as amended.

[6] Pub. L. No. 104–231, Secs. 7 and 8, 110 Stat. 3048, 3050–52, 5 U.S.C. 552(a)(6)(A)(1) and (6)(B), as amended, effective October 2, 1997.

[7] Pub. L. No. 104–231, Sec. 7, 110 Stat. 3048, 3050–51, 5 U.S.C. 552(a)(6)(D), as amended, effective October 2, 1997.

[8] *See* Pub. L. No. 104–231, Sec. 8, 110 Stat. 3048, 3051–52, 5 U.S.C. 552(a)(6)(E), as amended, effective October 2, 1997; and H.R. Rep., *supra* note 3, at 26.

III. Discussion

Part 388—Information and Requests

Authority

The proposed rule revises the Authority for Part 388 to reflect that the FOIA, 5 U.S.C. 552, should be cited ''as amended.''

Sections 388.101–388.105

No changes.

Section 388.106

This section is revised to expand the categories of information that are available in the Commission's Public Reference Room, and to inform the public of the electronic availability of information created after November 1, 1996 (proposed para. (a)(2), and (b)). In addition to making electronic records available, information will, of course, continue to remain available through ''in person'' visits or written requests.

The new categories of information to be available are copies of records released under FOIA that are likely to be requested again, an index of such records, and reference materials and guides to further enhance the public's access to Commission information. The proposed definition of the term ''Commission correspondence'' is amended to include information in electronic format, consistent with Commission practice (proposed para. (c)(1)).

The section is also revised to explicitly include statements of policy and interpretations which have been adopted by the Commission and are not published in the **Federal Register**; and administrative staff manuals and instructions to staff that affect a member of the public (proposed paras. (b)(19) and (b)(20)). These information categories were required to be made available under FOIA even before the 1996 amendments.

Section 388.107

The proposed language corrects a typographical error. The term ''natural defense'' in paragraph (a)(1) is changed to ''national defense.''

Section 388.108

The proposed revisions to this section implement multitrack processing, as allowed by the Act, and expedited processing, as required by the Act. Multitrack processing establishes a fast track for requests requiring a limited amount of time and effort, and slower tracks for requests requiring a more intensive effort. The Commission proposes to adopt a three part multitracking system that should increase efficiency (proposed para. (b)(1)). Under the proposed approach, the Director, Office of External Affairs, will place a newly received request into one of three tracks for processing: track one—records that are readily identifiable and were previously cleared for release (including those capable of multiple requests and placed in the Public Reference Room); track two—records that are readily identifiable, or are not voluminous, and require limited review; and track three—complex and/or voluminous records requiring a significant search and/or review.

Although the Commission has sometimes employed multitracking in the past, its regular use should be advantageous to the public and the Commission as simple requests are sometimes backlogged because of earlier-filed complex requests. The proposed rule specifies that each track will be processed on a first in, first out basis. Requesters are permitted to modify their requests to obtain processing on a faster track.

Pursuant to the Act, the proposed rule changes the time for processing requests from 10 to 20 working days (proposed para. (c)(1)); [9] and clarifies the Commission's obligation to specify the information that is denied under a request, including the volume of withheld materials and the extent and location of redactions in partially released materials (proposed para. (c)(3)).

The proposed rule makes expedited processing available where the requester demonstrates a compelling need: (1) Due to an imminent threat to an individual's life or physical safety, or (2) in the case of requesters who are primarily engaged in disseminating information, where the requester demonstrates an urgency to inform the public concerning Federal Government activity (proposed para. (d)(1)). The proposed rule emphasizes that a request for expedited processing must be supported with credible documentation and a statement certified to be true and correct (proposed para. (d)(2)). The proposed rule states that only the compelling circumstances indicated will qualify a requester for expedited processing. A denial of expedited processing will be subject to appeal. Accordingly, the appeal procedure for denial of records is amended to include denial of expedited treatment (proposed para. (e)).

For purposes of this proposed rule, a ''requester primarily engaged in the dissemination of information'' does not include an individual or organization engaged only incidentally in the dissemination of information.[10] The requester's main business must be the dissemination of information.[11] Thus, a bona fide member of the news media would likely qualify. An organization that periodically distributes information to its members would not likely qualify.

In addition to meeting the dissemination requirement, the requester must credibly demonstrate that expedited processing is needed to avoid a likely, significant adverse consequence to a recognized interest.[12] The public's right to know, standing alone, is not sufficient to satisfy this standard.[13]

Under the proposed rule, the Director, Office of External Affairs, will rule on a request for expedited processing within 10 calendar days from the date the request is received (proposed para. (d)(3)). A denial of expedited processing will be explained, and the requester will be provided notice of administrative appeal rights.

Other proposed revisions to the section include a formal codification of the Commission's practice of not processing a request until after fee issues have been resolved, unless the requester has provided a written statement agreeing to pay some or all applicable fees pending the resolution of fee issues (proposed para. (a)(5)). The purpose of this rule is to avoid an expenditure of Commission resources to process a request before the requester has agreed to pay all applicable processing fees. The proposed rule also makes minor revisions in terminology in the interest of clarity.

Section 388.109

Paragraph (b)(2)(iii), as currently drafted, charges some non-commercial requesters for review time. The proposed revision to this section deletes charges for review time from non-commercial requesters, consistent with 5 U.S.C. § 552(a)(4), the applicable Office of Management and Budget's (OMB) Guidelines and Fee Schedule for FOIA, and actual Commission practice. Similarly, proposed revisions to paragraph (b)(2)(iv) remove ordinary postage fees, consistent with OMB guidelines and Commission practice. Requesters remain responsible for special delivery fees such as express mail provided in accordance with their specifications.

Paragraph (b)(2)(vii), as currently drafted, authorizes the Commission to

[9] This time limit does not apply to requests for expedited processing, which are explained below.

[10] H.R. Rep., *supra* note 3, at 26.

[11] *Id.*

[12] *Id.*

[13] *Id.*

aggregate multiple requests on related topics that are subdivided to avoid an assessment of fees. As allowed by the Act, proposed paragraph (b)(2)(vii) expands the instances where the Commission may aggregate one or more requests for joint processing. The proposed language allows aggregation anytime the Commission reasonably believes that such multiple requests constitute a single request, and notes that aggregated requests may qualify for an extension of time under § 388.110(b). The proposed revisions further clarify that the Commission has no obligation to process a request under § 388.108 where there is no assurance or agreement of payment.

Section 388.110

Pursuant to the Act, the proposed rule makes the administrative appeal rights in paragraph (a)(1) applicable to a denial of expedited processing. Proposed paragraph (a)(2) provides that such appeals will be considered as expeditiously as possible within the 20 working day period specified for appeals, and that a requester denied expedited processing in an appeal will be notified of judicial review provisions.

Proposed paragraph (b)(2) allows an extension of time not to exceed 10 working days beyond the standard deadlines for processing initial requests and appeals, as permitted by the Act. As also provided by the Act, the proposed rule specifies that an extension in excess of 10 working days may be available but only where the requester is given the opportunity to limit the scope of the request to allow processing within 20 working days, or to arrange an alternative time frame.

Proposed paragraph (b)(3) specifies that requests aggregated under § 388.109(b)(2)(vii) qualify for an extension of time when they satisfy the unusual circumstances specified in this section.

Section 388.111

No changes.

Section 388.112

The proposed language merely reflects a correction of typographical errors. Paragraph (c)(1)'s references to paragraphs (b)(2) and (b)(3) are corrected to (b)(1)(ii) and (b)(1)(iii), respectively.

IV. Regulatory Flexibility Act Certification

The Regulatory Flexibility Act of 1980 (RFA)[14] generally requires a description and analysis of rules that will have significant economic impact on a substantial number of small entities. Pursuant to section 605(b) of the RFA, the Commission hereby certifies that this rule will not have a significant impact on a substantial number of small entities. The proposed changes improve the public's access to information, and impose additional obligations on the Commission to ensure the availability of such information. By comparison, the public's obligations would not significantly increase.

V. Environmental Statement

Issuance of this proposed rule would not represent a major federal action having a significant adverse effect on the human environment under the Commission regulations implementing the National Environmental Policy Act.[15] This proposed rule falls within the regulatory exemption which specifies that information gathering, analysis, and dissemination are not major federal actions that have a significant effect on the human environment.[16] Thus, neither an environmental impact statement nor an environmental assessment is required.

VI. Information Collection Statement

OMB regulations require that OMB approve certain information collection requirements imposed by agency rule.[17] This proposed rule contains no information reporting requirements, and is not subject to OMB approval.

VII. Written Comment Procedure

The Commission invites interested persons to submit written comments or other information concerning this proposed rulemaking. All comments in response to this notice should be submitted to the Office of the Secretary, Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, and should refer to Docket No. RM97–8–000. An original and fourteen (14) copies of such comments should be filed with the Commission on or before November 3, 1997.

Lists of Subjects in 18 CFR Part 388

Freedom of Information; Public Reference Materials.

By direction of the Commission.

Lois D. Cashell,

Secretary.

In consideration of the foregoing, the Commission proposes to amend Part 388, Chapter I, Title 18, *Code of Federal Regulations*, as set forth below.

PART 388—INFORMATION AND REQUESTS

1. The authority citation for Part 388 is revised to read as follows:

Authority: 5 U.S.C. 301–305, 551, 552 (as amended), 553–557; 42 U.S.C. 7101–7352.

2. In § 388.106, paragraph (a) is redesignated as (a)(1); paragraph (a)(2) is added; paragraph (b) introductory text is revised; paragraph (b)(19) is redesignated as (b)(23); new paragraphs (b)(19) through (b)(22) are added; and paragraph (c)(1) is revised to read as follows:

§ 388.106 Requests for Commission records available in the Public Reference Room.

(a)(1) * * *

(2) Documents created on or after November 1, 1996, or earlier in some instances, also are electronically available on the Commission's World Wide Web site, www.ferc.fed.us; the Commission Issuance Posting System (CIPS) (an electronic bulletin board); or the Records Information Management Systems (RIMS). These may be accessed in person using a personal computer in the Public Reference Room, or by using a personal computer with a modem at a remote location.

(b) The public records of the Commission that are available for inspection and copying upon request in the Public Reference Room, or are otherwise available under paragraph (a)(2) of this section, include:

* * * * *

(19) Statements of policy and interpretations which have been adopted by the Commission and are not published in the **Federal Register**;

(20) Administrative staff manuals and instructions to staff that affect a member of the public;

(21)(i) Copies of all records released under § 388.108, which, because of their nature and subject, the Director of the Office of External Affairs has determined are likely to be requested again, and

(ii) An index of the records so designated;

(22) Reference materials and guides for requesting Commission records as required by 5 U.S.C. 552(g), as amended; and

(23) Commission correspondence relating to the foregoing.

(c) * * *

(1) Commission correspondence includes written communications and enclosures, in hard copy or electronic format, received from others outside the

[14] 5 U.S.C. 601–602.

[15] Order No. 486, 52 FR 47897 (Dec. 17, 1987); FERC Stats. & Regs. Regs. (Preambles 1986–90) ¶ 30,783 (Dec. 10, 1987) (*codified at* 18 CFR part 380).

[16] 18 CFR 380.4(a)(5).

[17] 5 CFR part 1320.

staff and intended for the Commission or sent to others outside the staff and signed by the Chairman, a Commissioner, the Secretary, the Executive Director, or other authorized official, except those which are personal.

* * * * *

§ 388.107 [Amended]

3. In § 388.107(a)(1), remove the word ''natural'' and add, in its place, the word ''national.''

4. In § 388.108, paragraphs (a)(1) introductory text, (a)(1)(iii) and (a)(2) through (a)(4) are revised; new paragraph (a)(5) is added; paragraphs (b) and (c) are redesignated as (c) and (e) respectively and revised, and new paragraphs (b) and (d) are added, to read as follows:

§ 388.108 Requests for Commission records not available through the Public Reference Room (FOIA requests).

(a)(1) Except as provided in paragraph (a)(2), of this section, a person may request access to Commission records, including records maintained in electronic format, that are not available through the Public Reference Room, by using the following procedures:

* * * * *

(iii) The request must identify the fee category of the request, consistent with the provisions of § 388.109(b)(1) and (2).

(2) A request that fails to provide the identification required in paragraph (a)(1)(iii) of this section will not be processed until the Director, Office of External Affairs, can ascertain the requester's fee category.

(3) A request for records received by the Commission not addressed and marked as indicated in paragraph (a)(1)(i) of this section will be so addressed and marked by Commission personnel as soon as it is properly identified, and forwarded immediately to the Director, Office of External Affairs.

(4) Requests made pursuant to this section will be considered to be received upon actual receipt by the Director, Office of External Affairs, unless otherwise indicated in paragraph (a)(5) of this section.

(5) Except for the purpose of making a determination regarding expedited processing under paragraph (d)(3) of this section, no request will be deemed received while there is an unresolved fee waiver issue under § 388.109(b)(6), unless the requester has provided a written statement agreeing to pay some or all fees pending the outcome of the waiver question.

(b)(1) *Multitrack processing.* Upon receipt of a request, the Director, Office of External Affairs, will place the request in one of three tracks for processing:

(i) Track One—records that are readily identifiable and were previously cleared for release (including those subject to multiple requests and placed in the Public Reference Room);

(ii) Track Two—records that are readily identifiable, and require limited review; and

(iii) Track Three—complex and/or voluminous records requiring a significant search and/or review.

(2) Each track specified in paragraph (b)(1) of this section will be processed on a first in, first out basis, where practicable. A requester may modify a request to obtain processing on a faster track.

(c) (1) *Timing of response.* Except as provided in paragraphs (c)(4) and (d)(3) of this section, within 20 working days after receipt of the request for agency records, the Director, Office of External Affairs, will comply with the request or deny the request in whole or in part, and will notify the requester of the determination, of the reasons for a decision to withhold any part of a requested document, and of the right of the requester to appeal any adverse determination in writing to the General Counsel or General Counsel's designee.

(2) The Director, Office of External Affairs, will attempt to provide records in the form or format requested, where feasible, but will not provide more than one copy of any record to a requester.

(3) Any determination by the Director, Office of External Affairs, to withhold information will, where feasible, indicate the approximate volume of information withheld, and will indicate, for partially-released materials, where redactions have been made, unless to do so would harm an interest protected by a FOIA exemption.

(4) The time limit for the initial determination required by paragraph (c)(1) of this section may be extended as set forth in § 388.110(b).

(d)(1) *Expedited processing.* A requester may seek expedited processing on the basis of a compelling need. Expedited processing will be granted if the requester demonstrates that:

(i) Failure to obtain the records on an expedited basis can reasonably be expected to pose an imminent threat to the life or physical safety of an individual, or

(ii) In the case of a requester primarily engaged in the dissemination of information, there is an urgency to inform the public concerning Federal Government activity.

(2) A request for expedited processing under this section must be supported with detailed credible documentation, including a statement certified to be true and correct to the requester's best knowledge and belief.

(3) The Director, Office of External Affairs, will decide within 10 calendar days of receipt of the request whether it is eligible for expedited processing. The Director will notify the requester of the reasons for denial of expedited processing and of the right of the requester to appeal to the General Counsel or General Counsel's designee.

(e) The procedure for appeal of denial of a request for Commission records, or denial of a request for expedited processing, is set forth in § 388.110.

5. In § 388.109, the first sentence of paragraph (b)(2)(iii), and paragraphs(b)(2)(iv), (b)(2)(vii), and (b)(5)(ii) are revised; paragraph (b)(5)(iii) is removed; paragraph (b)(6) is redesignated as paragraph (c) and revised, and paragraphs (b)(7) and (b)(8)(i) and (ii) are redesignated as (d) and (e)(1) and (2) respectively, to read as follows:

§ 388.109 Fees for records requests.

* * * * *

(b) * * *

(2) * * *

(iii) For a request not described in paragraphs (b)(2)(i) or (ii) of this section the Commission will charge the employee's hourly pay rate plus 16 percent for benefits for document search time and 15 cents per page for duplication. * * *

(iv) The Director, Office of External Affairs, will normally provide documents by regular mail, with postage prepaid by the Commission. However, the requester may authorize special delivery, such as express mail, at the requester's own expense.

* * * * *

(vii) Requesters may not file multiple requests at the same time, each seeking portions of a document or documents, solely in order to avoid payment of fees. When the Commission reasonably believes that a requester, or a group of requesters acting in concert, is attempting to break a request down into a series of requests for the purpose of evading assessment of fees, or otherwise reasonably believes that two or more requests constitute a single request, the Commission may aggregate any such requests and charge the requester accordingly. The Commission will not aggregate multiple requests on unrelated subjects from a requester. Aggregated requests may qualify for an extension of time under § 388.110(b).

* * * * *

(5) * * *

(ii) A requester has previously failed to pay a fee charged in a timely fashion. The Commission will require the requester to pay the full amount owed plus any applicable interest, and to make an advance payment of the full amount of the estimated fee before the Commission will begin to process a new request or a pending request from that requester. When the Commission requires advance payment or an agreement to pay under this paragraph, or under § 388.108(a)(5), the administrative time limits prescribed in this part will begin only after the Commission has received the required payments, or agreements.

(c) *Fee reduction or waiver.* (1) Any fee described in this section may be reduced or waived if the requester demonstrates that disclosure of the information sought is:

(i) In the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and

(ii) Not primarily in the commercial interest of the requester.

(2) The Commission will consider the following criteria to determine the public interest standard:

(i) Whether the subject of the requested records concerns the operations or activities of the government;

(ii) Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(iii) Whether disclosure of the requested information will contribute to public understanding; and

(iv) Whether the disclosure is likely to contribute significantly to public understanding of government operations or facilities.

(3) The Commission will consider the following criteria to determine the commercial interest of the requester:

(i) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(ii) Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(4) This request for fee reduction or waiver must accompany the initial request for records and will be decided under the same procedures used for record requests.

* * * * *

6. In section 388.110 the section heading, the first sentence of paragraph (a)(1), paragraph (a)(2), and paragraph (b) are revised to read as follows:

§ 388.110 Procedure for appeal of denial of requests for Commission records not publicly available or not available through the Public Reference Room, denial of requests for fee waiver or reduction, and denial of requests for expedited processing.

(a) (1) A person whose request for records, request for fee waiver or reduction, or request for expedited processing is denied in whole or part may appeal that determination to the General Counsel or General Counsel's designee within 45 days of the determination. * * *

(2) The General Counsel or the General Counsel's designee will make a determination with respect to any appeal within 20 working days after the receipt of such appeal. An appeal of the denial of expedited processing will be considered as expeditiously as possible within the 20 working day period. If, on appeal, the denial of the request for records, fee reduction, or expedited processing is upheld in whole or in part, the General Counsel or the General Counsel's designee will notify the person making the appeal of the provisions for judicial review of that determination.

(b)(1) *Extension of time.* In unusual circumstances, the time limits prescribed for making the initial determination pursuant to § 388.108 and for deciding an appeal pursuant to this section may be extended by up to 10 working days, by the Secretary, who will send written notice to the requester setting forth the reasons for such extension and the date on which a determination or appeal is expected to be dispatched.

(2) The extension permitted by paragraph (b)(1) of this section may be made longer than 10 working days when the Commission notifies the requester within the initial response time that the request cannot be processed in the specified time, and the requester is provided an opportunity to limit the scope of the request to allow processing within 20 working days; or to arrange with the Commission an alternative time frame.

(3) Two or more requests aggregated into a single request under § 388.109(b)(2)(vii) may qualify for an extension of time if the requests, as aggregated, otherwise satisfy the unusual circumstances specified in this section.

(4) *Unusual circumstances* means:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the requests;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which will be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

7. In § 388.112, paragraph(c)(1)(i)'s reference to ''paragraph (b)(2)'' is revised to read ''paragraph (b)(1)(ii),'' and paragraph (c)(1)(ii)'s reference to ''paragraph (b)(3)'' is revised to read ''paragraph (b)(1)(iii).''

[FR Doc. 97–26065 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 250

RIN 1010–AC39

Oil and Gas and Sulphur Operations in the Outer Continental Shelf

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Proposed rule.

SUMMARY: This proposed rule would implement a provision of the December 10, 1996, Memorandum of Understanding (MOU) between the Department of the Interior (DOI) and the Department of Transportation (DOT) Regarding Outer Continental Shelf (OCS) Pipelines. Under this MOU, the two departments jointly regulate OCS pipelines. As specified in the MOU, MMS regulations would pertain to all OCS oil or gas pipelines located upstream of the points at which operating responsibility for the pipelines transfer from a producing operator to a transporting operator.

DATES: MMS will consider all comments we receive by December 1, 1997. We will begin reviewing comments then and may not fully consider comments we receive after December 1, 1997.

ADDRESSES: Mail or hand-carry comments to the Department of the Interior; Minerals Management Service; Mail Stop 4020; 381 Elden Street; Herndon, Virginia 20170–4817; Attention: Rules Processing Team.

FOR FURTHER INFORMATION CONTACT: Carl W. Anderson, Operations Analysis Branch, at (703) 787–1608; e-mail Carl__Anderson@mms.gov.

SUPPLEMENTARY INFORMATION:

Background

MMS, through delegations from the Secretary of the Interior, has authority to promulgate and enforce regulations for the promotion of safe operations, protection of the environment, and conservation of the natural resources of the OCS, as that area is defined in the OCS Lands Act (43 U.S.C. 1331 *et seq.*). The scope of this authority includes the pipeline transportation of mineral production and the approval and granting of rights-of-way for the construction of pipelines and associated facilities on the OCS. MMS also administers the following laws as they relate to OCS pipelines: (1) the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) for oil and gas production measurement, and (2) the Federal Water Pollution Control Act, as amended by the Oil Pollution Act of 1990 (OPA) and implemented under Executive Order 12777. (Under a February 3, 1994, MOU to implement OPA, DOI, DOT, and the U.S. Environmental Protection Agency divided their respective responsibilities for oil spill prevention and response according to the definition of ''coast line'' contained in the Submerged Lands Act, 43 U.S.C. 1301(c) (59 FR 9494–9495).) Nothing in this proposed regulation will affect MMS' authority under either FOGRMA or OPA.

Under an MOU between DOI and DOT dated May 6, 1976, MMS regulated oil and gas pipelines located upstream of the outlet flange of each facility where hydrocarbons were first produced or where produced hydrocarbons were first separated, dehydrated or otherwise processed, whichever facility was farther upstream. The Departments agreed to change this regulatory boundary with the signing of the December 10, 1996, MOU. The 1996 MOU was the result of negotiations that began in the summer of 1993 and included a high degree of participation from the regulated industry. MMS and DOT's Research and Special Programs Administration (RSPA) solicited public comments on a draft MOU through a joint MMS and DOT **Federal Register** Notice of May 24, 1995 (60 FR 27546–27549). The Notice announced a public meeting at the MMS Gulf of Mexico OCS regional office in New Orleans, Louisiana, on August 1, 1995, to discuss the proposal. Over 70 people attended the meeting which generated over 100 pages of transcribed comments from natural gas and petroleum trade organizations, natural gas and oil exploration and production companies, transmission companies, offshore construction companies, and industry consultants. A transcript of this meeting is available through the agency representative listed in the **FOR FURTHER INFORMATION** section of this notice. Twenty-three individuals and organizations submitted written comments on the **Federal Register** notice.

In May 1996, MMS and RSPA met with a joint industry workgroup representing OCS oil and natural gas producers and transmission pipeline operators led by the American Petroleum Institute. (The Interstate Natural Gas Association of America also participated on the workgroup.) The industry workgroup proposed that the agencies rely upon individual operators of production and transportation facilities to identify the boundaries of their respective facilities, since producers and transporters can best make such decisions based on the operating characteristics peculiar to each facility. The two agencies agreed with the industry proposal. Under the proposal, MMS would have primary regulatory responsibility for producer-operated facilities and pipelines on the OCS, while RSPA would have primary regulatory responsibility for transporter-operated pipelines and associated pumping or compressor facilities. Producing operators are companies which are engaged in the extraction and processing of hydrocarbons on the OCS. Transporting operators are companies which are engaged in the transportation of those hydrocarbons.

The Purpose of This Proposed Rule

The purpose of this proposed rule is to require OCS producing and transporting operators to designate the specific points on their pipelines where operating responsibility transfers from a producing operator to an adjoining transporting operator. The rule would amend 30 CFR Part 250, Subpart J—Pipelines and Pipeline Rights-of-Way, section 250.150, ''General Requirements,'' § 250.151, ''Definitions,'' and § 250.157, ''Applications.'' Operators would have until 60 days after the date the rule becomes final to identify the specific points at which operating responsibility transfers. In most cases, the specific transfer points would be easily identifiable either because of specific valves or flanges where the adjoining operations connect, or because of differences in paint colors that adjoining operators use to protect and maintain pipeline coatings or surfaces. For those instances in which the transfer points would not be identifiable by a durable marking, each operator would have until 180 days after the final rule becomes effective to mark the transfer points. (The 180-day period would give operators time to mark the transfer points during customary maintenance routines.) The operator would be required to durably mark each transfer point directly on the pipeline (usually at a valve or flange). If it were not practicable to durably mark a transfer point, and the transfer point were located above water, then the operator would be required to depict the transfer point on a schematic located on the facility. Some transfer points could be located subsea. In such cases, the operators also would be required to identify the transfer points on schematics which would be provided to MMS upon request.

For those instances in which adjoining operators could not agree on a transfer point, MMS and RSPA's Office of Pipeline Safety (OPS) would make a joint determination of the boundary.

MMS and OPS could, through their enforcement agencies and in consultation with the affected parties, agree to exceptions to the general boundary description (operations transfer point) on a facility-by-facility or area-by-area basis. Operators also could petition, by letter, MMS and OPS for exceptions to the general boundary description.

For existing lease term pipelines, the current designated operator of the associated lease(s) would have the operating responsibility for the pipeline(s). For right-of-way pipelines, MMS would assume that the current right-of-way grant holder had the operating responsibility, unless the right-of-way grant holder informed MMS otherwise within 60 days after the effective date of this rule. (There are up to 160 designated operators of leases and 70 operators of transportation pipelines on the OCS.)

Applications for new right-of-way pipelines would be required to include an identification of the operator and a boundary demarcation point on the flow schematic submitted in accordance with 30 CFR 250.157(a)(2).

A pipeline segment originally operated under DOT regulations but later transferred under MMS regulatory responsibility as a result of this proposed rulemaking could continue to be operated under DOT requirements, unless the MMS Regional Supervisor determined, based on an MMS safety assessment, that a pipeline segment or component is unsafe. The Regional Supervisor would then notify the operator that MMS regulations apply to that segment or component.

Under 30 CFR 250.3, the MMS Supervisor for Field Operations may approve alternative techniques, procedures, equipment, or activities an operator proposed if such techniques, procedures, equipment, or activities afford a degree of protection, safety, or performance equal to or better than that intended to be achieved by MMS regulations.

Various laws enacted since 1976 have contributed to ambiguity concerning MMS' and OPS' respective responsibilities concerning the approximately 20,000 miles of active OCS oil and gas pipelines and production facilities that were regulated under the May 6, 1976, MOU. The most notable legislative changes included the 1978 OCS Lands Act Amendments; the Hazardous Liquid Pipeline Safety Act of 1979; the OPA of 1990; and the Pipeline Safety Act amendments of 1990, 1992, 1995, and 1996.

The December 1996 MOU would redefine MMS–OPS regulatory boundary from the OCS facility where hydrocarbons are *first* produced, separated, dehydrated, or otherwise processed to the point at which operating responsibility for the pipeline transfers from a producing operator to a transporting operator. The MOU would place, to the greatest extent practicable, producer-operated pipelines under DOI regulation and transporter-operated pipelines under DOT regulation.

In its 1994 report ''*Improving the Safety of Marine Pipelines*,'' the National Academy of Sciences Marine Board recommended: ''To make better use of inspection resources and help integrate enforcement of MMS and OPS marine pipeline safety regulations, the committee recommends that enforcement of OPS regulations offshore be performed by MMS, through an interagency agreement or redefinition of the memorandum of understanding that defines the jurisdictional division between OPS and MMS * * *.'' In response to this recommendation, the 1996 MOU provides for DOI to act as an agent for the DOT in identifying and reporting potential violations of DOT regulations at platforms on the OCS. As an agent, DOI may inspect all DOT-regulated pipeline facilities on production platforms during DOI inspections. DOI may also perform coordinated DOI/DOT inspections of pipeline facilities on DOT-regulated platforms. The inspections may include reviewing any operating or maintenance records or reports that are located at the inspected OCS platform facility.

Executive Order (E.O.) 12866

This is not a significant rule under E.O. 12866 and does not require review by the Office of Management and Budget (OMB). An analysis of the proposed rule indicates that the direct costs to industry for the entire proposed rule total approximately $360,000 for the first year, and that in succeeding years, the cost of the rule to industry would not likely exceed $255,000.

Regulatory Flexibility Act

DOI has determined that this rule will not have a significant economic effect on a substantial number of small entities. While this rule would affect a substantial number of ''small entities,'' the economic effects of the rule would not be significant. There are many companies on the OCS that are ''small businesses'' as defined by the Small Business Administration. However, the technology necessary for conducting offshore oil and gas exploration and development activities is very complex and costly, and most entities that engage in offshore activities have considerable financial resources disproportionate to their numbers of employees and well beyond what would normally be considered ''small business.''

DOI's analysis of the economic impacts indicates that direct costs to industry for the entire proposed rule total approximately $360,000 for the first year, and in succeeding years, the cost of the rule to industry would not likely exceed $255,000 annually. These annual costs would not persist for long, because all pipelines converted to MMS regulation eventually would come into compliance with MMS safety valve requirements. There are up to 160 designated operators of leases and 70 operators of transportation pipelines on the OCS (both large and small operators), and the economic impacts on the oil and gas production and transportation companies directly affected would be minor. Not all operators affected would be small businesses, but much of their modification costs may be paid to offshore service contractors who may be classified as small businesses. Operators having to install new automatic shutdown valves as a result of transferring under MMS regulations would sustain the greatest economic impact from this rule. It is impractical, however, to determine in advance which operators would be affected, because the operators themselves will determine the transfer points between producers and transporters.

To the extent that this rule might eventually cause some of the relatively larger OCS operators to make modifications to their pipelines, it may have a minor beneficial effect of increasing demand for the services and equipment of smaller service companies and manufacturers. This rule would not impose any new restrictions on small pipeline service companies or manufacturers, nor will it cause their business practices to change.

Paperwork Reduction Act

This proposed rule contains a collection of information which we have submitted to the OMB for review and approval under section 3507(d) of the Paperwork Reduction Act of 1995. As part of our continuing effort to reduce paperwork and respondent burdens, MMS invites the public and other Federal agencies to comment on any aspect of the reporting burden imposed by this proposed rule. Submit your comments to the Office of Information and Regulatory Affairs, OMB; Attention: Desk Officer for the Department of the Interior (OMB control number 1010–XXXX); Washington, DC 20503. Send a copy of your comments to the Rules Processing Team; Mail Stop 4020; 381 Elden Street; Herndon, Virginia 20170–4817. You may obtain a copy of the supporting statement for the collection of information by contacting the Bureau's Information Collection Clearance Officer at (202) 208–7744.

The Paperwork Reduction Act of 1995 provides that 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 up to 60 days to approve or disapprove this collection of information but may respond after 30 days from receipt of our request. Therefore, your comments are best assured of being considered by OMB if OMB receives them within 30 days of publication of this notice. However, MMS will consider all comments received during the comment period for this notice of proposed rulemaking.

The title of this collection of information is ''Implementation of Memorandum of Understanding Between the Departments of the Interior and Transportation.''

The collection of information in the proposed rule consists of (1) reviewing existing pipeline maps, conferring and agreeing with operators of adjoining transportation pipeline segments concerning the locations of specific transfer points, and either marking directly on each pipeline or depicting on a schematic the specific point on each pipeline where operating responsibility transfers from the

producing operator to a transporting operator; (2) identifying the operator of right-of-way pipelines if different from the grant holder; and (3) allowing for petitions for exceptions to general operations transfer points. As stated above under the ''Intent of the Proposed Rule'' section, specific transfer points will be easily identifiable in most cases, either because of specific valves or flanges where the adjoining operations connect, or because of differences in paint that adjoining operators use to protect and maintain pipeline coatings or surfaces.

The requirement to respond is mandatory. MMS uses the information to determine the demarcation where pipelines are subject to MMS design, construction, operation, and maintenance requirements, as distinguished from similar OPS requirements.

The regulated community consists of up to 160 Federal OCS oil and gas lease designated operators and 70 transportation pipeline operators. There are approximately 3,000 points where operating responsibility for pipelines transfers from a producer to a transporter. MMS assumes that about 2,400 (representing 80 percent) of these transfer points are already marked. Therefore, this rulemaking would require a one-time identification and marking of about 600 points where operating responsibility for pipelines transfers from a producer to a transporter. For the 2,400 transfer points that are clearly marked, there would be no information burden. The 600 unmarked transfer points, on the other hand, would require widely-varying times for marking depending on whether a painted line or a schematic was used to mark the transfer point.

The public reporting burden for this proposed information collection requirement is estimated to average 5 hours per response. This includes the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing the required marking. The average annualized burden over a 3-year period would be 1,051 hours.

MMS will summarize written responses to this notice and address them in the final rule. All comments will become a matter of public record.

1. MMS specifically solicits comments on the following questions:

(a) Is the proposed collection of information necessary for the proper performance of MMS's functions, and will it be useful?

(b) Are the estimates of the burden hours of the proposed collection reasonable?

(c) Do you have any suggestions that would enhance the quality, clarity, or usefulness of the information to be collected?

(d) Is there a way to minimize the information collection burden on those who are to respond, including through the use of appropriate automated electronic, mechanical, or other forms of information technology?

2. In addition, the Paperwork Reduction Act of 1995 requires agencies to estimate the total annual cost burden to respondents or record keepers resulting from the collection of information. MMS needs your comments on this item. Your response should split the cost estimate into two components: (a) Total capital and startup cost, and (b) annual operation, maintenance, and purchase of services. Your estimates should consider the costs to generate, maintain, and disclose or provide the information. You should describe the methods you use to estimate major cost factors, including system and technology acquisition, expected useful life of capital equipment, discount rate(s), and the period over which you incur costs. Capital and startup costs include, among other items, computers and software you purchase to prepare for collecting information; monitoring, sampling, drilling, and testing equipment; and record storage facilities. Generally, your estimates should not include equipment or services purchased: before October 1, 1995; to comply with requirements not associated with the information collection; for reasons other than to provide information or keep records for the Government; or as part of customary and usual business or private practices.

Takings Implication Assessment

DOI certifies that the proposed rule does not represent a governmental action capable of interference with constitutionally protected property rights. Thus, a Takings Implication Assessment need not be prepared pursuant to E.O. 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Unfunded Mandates Reform Act of 1995

This rule does not contain any unfunded mandates to State, local, or tribal governments, nor would it impose significant regulatory costs on the private sector. Anticipated costs to the private sector will be far below the $100 million threshold for any year that was established by the Unfunded Mandates Reform Act.

E.O. 12988

DOI has certified to OMB that this proposed regulation meets the applicable civil justice reform standards provided in sections 3(a) and 3(b)(2) of E.O. 12988.

National Environmental Policy Act

Under 516 DM 6, Appendix 10.4, ''issuance and/or modification of regulations'' is considered a categorically excluded action causing no significant effects on the environment and, therefore, does not require preparation of an environmental assessment or impact statement. DOI completed a Categorical Exclusion Review for this action on April 22, 1997, and concluded: ''The proposed rulemaking does not represent an exception to the established criteria for categorical exclusion.''

List of Subjects in 30 CFR Part 250

Continental shelf, Environmental impact statements, Environmental protection, Government contracts, Incorporation by reference, Investigations, Mineral royalties, Oil and gas development and production, Oil and gas exploration, Oil and gas reserves, Penalties, Pipelines, Public lands—mineral resources, Public lands—rights-of-way, Reporting and recordkeeping requirements, Sulphur development and production, Sulphur exploration, Surety bonds.

Dated: September 22, 1997.

Sylvia V. Baca,

Assistant Secretary, Land and Minerals Management.

For the reasons stated in the preamble, Minerals Management Service proposes to amend 30 CFR part 250 as follows:

PART 250—OIL AND GAS AND SULPHUR OPERATIONS IN THE OUTER CONTINENTAL SHELF

1. The authority citation for part 250 continues to read as follows:

Authority: 43 U.S.C. 1331, *et seq.*

2. In § 250.150, paragraph (c) is revised to read as follows:

§ 250.150 General requirements.

* * * * *

(c)(1) Department of the Interior (DOI) pipelines, as defined in § 250.151 of this subpart, must meet the requirements for design, construction, operation, maintenance, and abandonment contained in §§ 250.150 through 250.158 of this subpart.

(2) A pipeline right-of-way grant holder must identify in writing to the Regional Supervisor the operator of any pipeline located on its right-of-way if the operator is different from the right-of-way grant holder.

(3) A producing operator must identify on all existing pipelines located on its lease or right-of-way the specific points at which operating responsibility transfers to a transporting operator.

(i) If the transfer points are not identifiable by a durable marking, each producing operator must mark all above-water transfer points by (insert date 180 days after the final rule is published). The operators of new pipelines also must durably mark all above-water transfer points directly on each pipeline.

(ii) If it is not practical to durably mark a transfer point, and the transfer point is located above water, then the operator must depict the transfer point on a schematic located on the facility.

(iii) If a transfer point is located subsea, then the operator also must identify the transfer point on a schematic. The operator must provide the schematic to MMS upon request.

(iv) If a producing and an adjoining transporting operator cannot agree on a transfer point by the date specified in paragraph (c)(3)(i) of this section, the MMS Regional Supervisor and the Department of Transportation (DOT) Office of Pipeline Safety (OPS) Regional Director may jointly determine the transfer point.

(4) Operators may petition, by letter, the MMS Regional Supervisor for exceptions to the general operations transfer point description on a facility-by-facility or an area-by-area basis. The Regional Supervisor, in consultation with the OPS Regional Director and affected parties, may grant such exceptions.

(5) Pipeline segments designed and constructed under DOT regulations before (*INSERT THE EFFECTIVE DATE OF THE FINAL RULE*), may continue to operate under DOT design and construction requirements until significant modifications or repairs are made to those segments. After (*INSERT THE EFFECTIVE DATE OF THE FINAL RULE*), MMS operational and maintenance requirements will apply to those segments.

* * * * *

3. In § 250.151, a definition for the term ''DOI pipelines'' is added in alphabetical order as follows:

§ 250.151 Definitions.

* * * * *

DOI pipelines are those pipelines extending upstream from each point on the OCS at which operating responsibility transfers from a producing operator to a transporting operator.

* * * * *

4. Section 250.157 is amended by revising the title, revising paragraph (a) introductory text, and adding a new sentence at the end of paragraph (a)(2) to read as follows:

§ 250.157 What to include in applications.

(a) Applications to install a lease term pipeline or for a pipeline right-of-way grant must be submitted in quadruplicate to the Regional Supervisor. Right-of-way grant applications must include an identification of the operator of the pipeline. Each application must include the following:

* * * * *

(2) * * * The schematic must indicate the point on the OCS at which operating responsibility transfers from a producing operator to a transporting operator.

* * * * *

[FR Doc. 97–26073 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE TREASURY

Fiscal Service

31 CFR Part 208

RIN 1510–AA56

Management of Federal Agency Disbursements: Hearing

AGENCY: Financial Management Service, Fiscal Service, Treasury.

ACTION: Change of date of public hearing.

SUMMARY: This document changes the date of the New York City public hearing on proposed regulations relating to the government's use of electronic funds transfer to make all Federal payments, with the exception of tax refunds, after January 1, 1999.

DATES: The public hearing in New York City is being held on Monday, October 20, 1997 beginning at 10:00 a.m. Requests to testify at the hearing and outlines of testimony must be received by Friday, October 10, 1997.

ADDRESSES: The public hearing in New York City will be held at the U.S. Alexander Hamilton Customs House, 1 Bowling Green, New York, New York.

FOR FURTHER INFORMATION CONTACT: Regarding the hearing, contact Martha Thomas-Mitchell at (202) 874–6757 or at Internet address martha.thomas-mitchell@fms.sprint.com. For general information on the proposed regulation, contact Robyn Schulhof at (202) 874–6754 or Diana Shevlin at (202) 874–7032.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking appearing in the **Federal Register** on September 16, 1997 (62 FR 48714) announced that a public hearing would be held in New York City on October 27, 1997 at the U.S. Alexander Hamilton Customs House, 1 Bowling Green, New York, New York, and that requests to speak at the hearing were to be received 14 days prior. The date of the hearing has changed as well as the due date for requests to testify at the hearing. The location of the hearing remains the same as originally published.

Dated: September 29, 1997.

Michael T. Smokovich,

Deputy Commissioner.

[FR Doc. 97–26197 Filed 9–30–97; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zones, Chesapeake Bay, Point Lookout to Cedar Point, Maryland; Correction

AGENCY: U.S. Army Corps of Engineers, DOD.

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

SUMMARY: This document corrects the preamble to a proposed rule published in the **Federal Register** on September 8, 1997, which concerns the Navy's request to amend the danger zone regulations. In the preamble the size of a restricted area is incorrectly expressed in feet. It should be expressed in yards. In addition, the comment period for this proposed rule which is scheduled to end on October 8, 1997, is extended until 31, 1997, to coincide with the comment period of a similar public notice issued by the Army Corps of Engineers Baltimore District.

DATES: Comments should be submitted by October 31, 1997.

ADDRESSES: HQUSACE, CECW–OR, Washington, D.C. 20314–1000.

FOR FURTHER INFORMATION CONTACT: Mr. Steve Elinsky at (410) 962–4503 or Mr. Ralph Eppard at (202) 761–1783.

Correction

In the proposed rule published in the **Federal Register** on September 8, 1997

(62 FR 47166–47167, make the following corrections in the Summary section. On page 47166, in the center column, in the third sentence correct ''600 feet'' to read ''600 yards'', and in the following sentence correct ''1,000 feet'' to read ''1,000 yards''.

In the **SUPPLEMENTARY INFORMATION** section, correct the third sentence to read ''The Navy also proposed to enlarge the existing restricting area at the Hannibal Target from a water area with a radius of 600 yards to a radius of 1,000 yards, and entry into the area is prohibited at all times.''

Dated; September 25, 1997.

Ralph T. Eppard,

Liaison Officer to the Federal Register, U.S. Army Corps of Engineers.

[FR Doc. 97–26154 Filed 10–1–97; 8:45 am]

BILLING CODE 3710–92–M

LIBRARY OF CONGRESS

Copyright Office

37 CFR Part 253

[Docket No. 96–6 CARP NCBRA]

Noncommercial Educational Broadcasting Compulsory License

AGENCY: Copyright Office, Library of Congress.

ACTION: Request for comments.

SUMMARY: The Copyright Office of the Library of Congress is submitting for public comment certain settlement proposals for the adjustment of the royalty rates for the noncommercial educational broadcasting compulsory license.

DATES: Comments and notices of intent to participate are due by November 3, 1997.

ADDRESSES: If sent by mail, an original and five copies of comments, and Notices of Intent to Participate, should be addressed to: Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. If hand delivered, an original and five copies of comments, and Notices of Intent to Participate, should be brought to: Office of the Copyright General Counsel, James Madison Memorial Building, Room LM–403, First and Independence Avenue, S.E., Washington, D.C. 20559–6000.

FOR FURTHER INFORMATION CONTACT: William J. Roberts, Senior Attorney, or Tanya Sandros, Attorney Advisor, Copyright Arbitration Royalty Panel (CARP), P.O. Box 70977, Southwest Station, Washington, D.C. 20024. Telephone (202) 707–8380. Telfax: (202) 707–8366.

SUPPLEMENTARY INFORMATION:

Background

Section 118 of the Copyright Act, 17 U.S.C., creates a compulsory license for the use of certain copyrighted works in connection with noncommercial broadcasting. Terms and rates for this compulsory license, applicable to parties who are not subject to privately negotiated licenses, are published in 37 CFR part 253 and are subject to adjustment at five year intervals. The last adjustment of the terms and rates for the section 118 license occurred in 1992, making 1997 a window year for the adjustment of these terms and rates.

On October 18, 1996, the Library published a notice in the **Federal Register** requesting comments from interested parties as to the need for a CARP proceeding to adjust the section 118 terms and rates. 61 FR 54459 (Oct. 18, 1996). After a protracted negotiation period, certain parties identified the need for a CARP proceeding, and the Library has announced the precontroversy discovery period and the initiation of the CARP. Order in Docket No. 96–6 CARP NCBRA (July 30, 1997).

Most of the rates and terms adopted for the section 118 license are for the use of works of copyright owners represented by one or more of the performing rights societies or organizations. Although not all copyright owners belong to such organizations, their works are nonetheless subject to usage under the section 118 license. It is, therefore, necessary to adopt royalty terms and rates for those ''unaffiliated'' copyright owners whose identity is not known, and whose interests are not currently represented in this proceeding.

Adjusting the Terms and Rates for Unaffiliated Copyright Owners

Section 251.63 of 37 CFR prescribes the procedure for adopting terms and rates for unaffiliated copyright owners under section 118. Because the identity of such copyright owners is not known, copyright users are unable to negotiate with them to reach private agreements; and their interests would not be represented if the matter were submitted to a CARP. Section 251.63 of the rules, therefore, allows copyright users to submit their proposals for adjustment of the terms and rates for the section 118 license to the Librarian of Congress. The Librarian then submits the proposals to a public notice and comment proceeding, whereby unaffiliated copyright owners who would be affected by the proposals are given the opportunity to challenge them. The unaffiliated copyright owners must submit their challenges by a date certain and must be willing to participate in the CARP proceeding adjusting the section 118 terms and rates. If no challenges are received, or if challenges are received by unaffiliated copyright owners who will not participate in a CARP proceeding, then the Librarian will adopt the proposals of the copyright users.

Accordingly, unaffiliated copyright owners must submit their written challenges to the Librarian of Congress no later than close of business on November 3, 1997. The content of the written challenge should describe the unaffiliated copyright owner's interest in this proceeding, which proposal described below that the owner finds objectionable, and the reasons for the challenge.

In addition, unaffiliated copyright owners submitting written challenges must also submit accompanying notices of intent to participate. Failure to submit a notice of intent to participate will preclude an unaffiliated copyright owner from participating in this proceeding and consideration of his or her written challenge. Those unaffiliated copyright owners who do submit notices of intent to participate will be contacted by the Librarian as to when their written direct cases are due. It is the intention of the Librarian to include such owners in the CARP proceeding that shall commence on December 31, 1997.

Proposals for Adjustment of Terms and Rates

Three parties, representing certain copyright users of works in connection with noncommercial broadcasting, filed proposals for adjustment of terms and rates.

1. National Religious Broadcasters Music Licensing Committee

The National Religious Broadcasters Music Licensing Committee (''NRBMLC'') proposes a rate for the public performance of copyrighted published nondramatic musical compositions not in the repertory of the American Society of Composers, Authors and Publishers (ASCAP), Broadcast Music, Inc. (BMI), or SESAC by radio stations not licensed to colleges, universities, or other nonprofit educational institutions and not affiliated with National Public Radio. The royalty rate for such performances from 1993–1997 is $1 per performance, and is established in 37 CFR 253.6(c)(4). NRBMLC proposes that the rate remain the same for the period 1998–2002.

In addition, NRBMLC proposes a rate for the recording of nondramatic performances and displays of musical works on and for the radio and television programs of public broadcasting entities, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities.

The rates for such uses, other than in a National Public Radio produced radio program, for the 1993–1997 period are:

Feature composition .....$.70
Feature (concert) (per half hour) $1.45
Background composition.....$.35

These rates are codified at 37 CFR 253.7(b)(4). NRBMLC proposes that the rates for the 1998–2002 period remain the same.

2. Public Broadcasting Service and National Public Radio

The Public Broadcasting Service (PBS) and National Public Radio (NPR) submitted a joint proposal to adjust the terms and rates for copyrighted works of unaffiliated copyright owners used by them for the 1998–2002 period. For adjustment of rates, PBS and NPR propose a one-time upward adjustment to the relevant rates in the amount of 6.2 percent. This one-time adjustment equals the average of the increases that would result from annual 2 percent increases over a five-year period.

With respect to terms, PBS and NPR propose that the current terms for the use of unaffiliated copyright owners' works by PBS and NPR remain unchanged, except to clarify that the proposed rates would not apply to works the rights to which are licensed by ASCAP, BMI, SESAC, The Harry Fox Agency, or the National Music Publishers Association. Unaffiliated copyright owners should consult 37 CFR part 253 for a description of the current terms.

The proposed changes in rates of PBS and NPR are as follows:

(a) Section 253.4 of the rules establishes the rates for performance of nondramatic musical compositions by PBS, NPR and other public broadcasting entities engaged in the activities set forth in 17 U.S.C. 118(d). PBS and NPR propose that the changes in these rates for the 1998–2002 period be as follows:

(i) For the performance of such a work in a feature presentation of PBS, $211.53, up from the current rate of $199.18;

(ii) For the performance of such a work as background or theme music in a PBS program, $53.59, up from the current rate of $50.46;

(iii) For the performance of such work in a feature presentation of a station of PBS, $18.08, up from the current rate of $17.02;

(iv) For the performance of such a work as background or theme music in a program of a station of PBS, $3.81, up from the current rate of $3.59;

(v) For the performance of such a work in a feature presentation of NPR, $21.44, up from the current rate of $20.19;

(vi) For the performance of such a work as background or theme music in an NPR program, $5.20, up from the current rate of $4.90;

(vii) For the performance of such a work in a feature presentation of a station of NPR, $1.52, up from the current rate of $1.43; and

(viii) For the performance of such a work as background or theme music in a program of a station of NPR, $.54, up from the current rate of $.51.

(b) Section 253.7 of the rules establishes the rates for the recording of nondramatic performances and displays of musical works on and for the radio and television programs of public broadcasting entities, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities. PBS and NPR propose that the changes in these rates be as follows:

(i) For the use of a musical work in a PBS-distributed program, , the royalty fees for the 1998–2002 period would be calculated by multiplying the following per composition rates by the number of different compositions in that PBS-distributed program:

Feature—$106.04, up from the current rate of $99.85
Concert feature (per minute)—$31.84, up from the current rate of $29.98
Background—$53.59, up from the current rate of $50.46

Theme

Single program or first series program—$53.59, up from the current rate of $50.46
Other series program—$21.75, up from the current rate of $20.48

(ii) For such uses other than in a PBS-distributed television program, the royalty fee for the 1998–2002 period would be calculated by multiplying the following per-composition rates by the number of different compositions in that program:

Feature—$8.76, up from the current rate of $8.25
Concert feature (per minute)—$2.30, up from the current rate of $2.17
Background—$3.81, up from the current rate of $3.59

Theme

Single program or first series program—$3.81, up from the current rate of $3.59
Other series program—$1.52, up from the current rate of $1.43

(iii) For uses in a musical work in a NPR program, the royalty fee for the 1998–2002 period would be calculated by multiplying the following per-composition rates by the number of different compositions in any NPR program distributed by NPR:

Feature—$11.48, up from the current rate of $10.81
Concert feature (per half hour)—$16.85, up from the current rate of $15.87
Background—$5.75, up from the current rate of $5.41

Theme

Single program or first series program—$5.75, up from the current rate of $5.41
Other series program—$2.29, up from the current rate of $2.16

(iv) For such uses other than in a NPR-produced radio program:

Feature—$.74, up from the current rate of $.70
Feature (concert) (per half hour)—$1.54, up from the current rate of $1.45
Background—$.37, up from the current rate of $.35

(c) Section 253.8 of the rules establishes rates and terms for the use of pictorial, graphic, and sculptural works by public broadcasting entities. The rates and terms include the making of reproductions described in 17 U.S.C. 118(d)(3). PBS and NPR propose that the change in rates for the 1998–2002 period be as follows:

(i) For such uses in a PBS-distributed program:

Featured display—$64.78, up from the current rate of $61.00
Background and montage display—$31.59, up from the current rate of $29.75
Program identification or thematic use.—$127.71, up from the current rate of $120.25
Display of an art reproduction—$41.95, up from the current rate of $39.50

(ii) For such uses in other than PBS-distributed programs:

Featured display—$41.95, up from the current rate of $39.50
Background and montage display—$21.51, up from the current rate of $20.25

Program identification or thematic use—$85.76, up from the current rate of $80.75

Display of an art reproduction—$21.51, up from the current rate of $20.25

Rate Adjustment for Section 253.7(b)(4)

Review of the rate proposals of NRBMLC and PBS and NPR reveals that there is a conflict between their proposed rates for the recording of nondramatic performances and displays of musical works on and for the radio and television programs of public broadcasting entities, other than in a National Public Radio produced program, and for the making, reproduction, and distribution of copies and phonorecords of public broadcasting programs containing such nondramatic performances and displays of musical works solely for the purpose of transmission by public broadcasting entities. 37 CFR 253.7(b)(4). NRBMLC proposes that the rates remain the same as the current rates, while PBS and NPR propose an increase of 6.2 percent. To resolve this conflict, the Librarian is announcing that he will adopt the proposal of PBS and NPR, described above, unless NRBMLC or some other party challenges the proposal, in which case the matter will be resolved by the CARP in this proceeding.

Marilyn J. Kretsinger,

Assistant General Counsel.

[FR Doc. 97–26062 Filed 10–1–97; 8:45 am]

BILLING CODE 1410–33–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 136

[FRL–5901–5]

Guidelines Establishing Test Procedures for the Analysis of Oil and Grease and Total Petroleum Hydrocarbons; Notice of Availability and Request for Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of data availability and request for comment.

SUMMARY: On January 23, 1996 (61 FR 1730), EPA proposed to amend the Guidelines Establishing Test Procedures for the Analysis of Pollutants under section 304(h) of the Clean Water Act to replace existing gravimetric test procedures for the determination of the conventional pollutant ''oil and grease'' (40 CFR 401.16) with EPA Method 1664, as part of EPA's effort to reduce dependency on the use of chlorofluorocarbons (CFCs). EPA also proposed to allow use of Method 1664 for determination of total petroleum hydrocarbons (TPH). The comment period on the proposal ended on March 25, 1996. On May 24, 1996 (61 FR 26149), EPA reopened the comment period until July 23, 1996. EPA received analytical data during both comment periods and following the close of the reopened comment period, and desires to consider these data in its rulemaking. EPA therefore is making available for public review and comment these additional analytical data which the Agency is considering in establishing the final regulation approving use of Method 1664.

DATES: Written comments on this notice must be submitted on or before November 3, 1997. All comments must be postmarked or delivered by hand by November 3, 1997.

ADDRESSES: Send written comments on this notice to ''Method 1664—Notice of Data Availability,'' Comment Clerk, Water Docket MC–4101, Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Commenters are requested to submit one copy of any references cited in their comments and an original and two copies of their written comments and enclosures. Commenters who want receipt of their comments acknowledged should include a self-addressed, stamped envelope. No facsimiles (faxes) will be accepted.

A copy of the data received by the Agency during and pursuant to the comment period for the proposed rule is available for review at EPA's Water Docket, 401 M Street, S.W., Washington, D.C. 20460. For access to the Docket materials, call (202) 260–3027 between 9:00 a.m. and 3:30 p.m. Eastern Standard Time (EST) for an appointment.

The complete text of this **Federal Register** notice and Method 1664 may be viewed or downloaded on the Internet at http://www.epa.gov/OST.

FOR FURTHER INFORMATION CONTACT: Mr. Ben Honaker, Engineering and Analysis Division (4303), USEPA Office of Science and Technology, 401 M Street, S.W., Washington, D.C., 20460, or call (202) 260–2272.

SUPPLEMENTARY INFORMATION: On January 23, 1996 (61 FR 1730), EPA proposed to replace currently approved gravimetric test procedures with EPA Method 1664: N-Hexane Extractable Material (HEM) and Silica Gel Treated N-Hexane Extractable Material (SGT–HEM) by Extraction and Gravimetry (Oil and Grease and Total Petroleum Hydrocarbons) for determination of ''oil and grease''. Oil and grease is a conventional pollutant as defined in section 304(a) of the Clean Water Act (CWA) and at 40 CFR 401.16. Method 1664 also was proposed for determination of total petroleum hydrocarbons (TPH), a non-conventional pollutant regulated in many National Pollution Discharge Elimination System permits. The proposed rule is necessary to meet compliance monitoring requirements of CWA and the chlorofluorocarbon phaseout requirements of the Clean Air Act Amendments. Method 1664 was proposed under the authority of Sections 301, 304(h), and 501(a) of CWA and the authority of sections 604, 606, and 613 of the 1990 Clean Air Act Amendments. In the proposed rule, the Agency requested comments, analysis, and additional information on the replacement of Freon-113 with n-hexane, the utility of Method 1664 for monitoring, the quality control (QC) acceptance criteria in Method 1664, the method detection limit (MDL) and minimum level (ML), the performance-based option criteria, and the six-month implementation scenario. In response to this request, the Agency received comments that provided additional analytical data pertaining to Method 1664.

The comment period on the proposal ended on March 25, 1996. On May 24, 1996 (61 FR 26149), EPA reopened the comment period until July 23, 1996. EPA received analytical data during both comment periods and following the close of the reopened comment period. The Agency desires to consider these additional data in formulating the final rule for the use of Method 1664.

This notice makes available for public review and comment all additional analytical data received by the Agency since the publication of the proposed rule. The additional data consist of results from preparation blank analyses, solid-phase extraction analyses, comparison of n-hexane-based extraction and freon-based extraction, and MDL and ML data.

EPA is soliciting comment on the additional analytical data only. Further comments on the proposal (61 FR 1730) will not be accepted. These additional data neither represent any modification of the proposed rule, nor indicate a change in the Agency's interpretation of existing requirements. The data represent additional information which the Agency is considering in establishing the final regulation approving the use of Method 1664.

Dated: September 22, 1997.

Robert Perciasepe,

Assistant Administrator for Water.

[FR Doc. 97–26178 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 745

[OPPTS-62128C; FRL–5749–1]

RIN 2070–AC64

Lead; Requirements for Lead-Based Paint Activities in Public Buildings, Commercial Buildings and Steel Structures; Extension of Comment Period

AGENCY: Environmental Protection Agency (EPA).

ACTION: Extension of comment period.

SUMMARY: EPA is extending the comment period on an August 22, 1997 document which announced a public meeting and requested written comments on the development of training and certification requirements and work practice standards for individuals and firms conducting lead-based paint activities in public buildings (except child-occupied facilities), commercial buildings, and steel structures.

DATES: Written comments should be submitted to EPA by November 3, 1997.

ADDRESSES: Comments must bear the docket control number ''OPPT–62128B.'' All comments should be sent in triplicate to: OPPT Document Control Officer (7407), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Room G–099, East Tower, Washington, DC 20460.

Comments and data may also be submitted electronically to: oppt.ncic@epamail.epa.gov. Follow the instructions under Unit II. of this document. No Confidential Business Information (CBI) should be submitted through e-mail.

All comments which contain information claimed as CBI must be clearly marked as such. Three sanitized copies of any comments containing information claimed as CBI must also be submitted and will be placed in the public record for this rulemaking. Persons submitting information on any portion of which they believe is entitled to treatment as CBI by EPA must assert a business confidentiality claim in accordance with 40 CFR 2.203(b) for each such portion. This claim must be made at the time that the information is submitted to EPA. If a submitter does not assert a confidentiality claim at the time of submission, EPA will consider this as a waiver of any confidentiality claim and the information may be made available to the public by EPA without further notice to the submitter.

FOR FURTHER INFORMATION CONTACT: For more specific or technical information contact: Ellie Clark, National Program Chemicals Division (7404), Office of Pollution Prevention and Toxics, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, Telephone: 202–260–3402, Fax: 202–260–0770, e-mail: clark.ellie@epamail.epa.gov.

For general information or to obtain copies of the August 22, 1997 document contact: National Lead Information Clearinghouse (NLIC), 1025 Connecticut Avenue, NW., Suite 1200, Washington, DC 20036-5405 or toll free at 1–800–424–5323. Fax: 202–659–1192, e-mail: leadctr@nsc.org, Internet site: http://www.nsc.org/ehc/lead.htm.

SUPPLEMENTARY INFORMATION:

I. Background

In the **Federal Register** of August 22, 1997 (62 FR 44621) (FRL–5740–7), EPA announced a public meeting scheduled for September 3, 1997, in Washington, DC to take public comments and suggestions from a cross-section of stakeholders on the development of training and certification requirements and work practice standards for individuals and firms conducting lead-based paint activities in public buildings (except child-occupied facilities), commercial buildings, and steel structures. The notice stated that EPA specifically wanted additional public comment on the following subjects: (1) Coverage of lead-based paint activities, in particular clarification of the term ''deleading''; (2) the interface between OSHA's lead standards and EPA's TSCA section 402 regulations; (3) distinguishing among various building and structure types; and (4) sources of information for EPA's regulations. EPA discussed each issue in detail and requested comments and additional information on specific items. In the document, EPA provided a 30–day comment period following the public meeting. In response to requests by interested parties, EPA is extending the comment period by 30 days. Comments must now be received by November 3, 1997.

II. Public Record and Electronic Submissions

The official record for this action, as well as the public version, has been established for this action under docket control number ''OPPTS–62128B'' (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 noon to 4 p.m., Monday through Friday, excluding legal holidays. The official record is located in the TSCA Nonconfidential Information Center, Rm. NE–B607, 401 M St., SW., Washington, DC.

Electronic comments can be sent directly to EPA at:

oppt.ncic@epamail.epa.gov

Electronic comments must be submitted as an ASCII file avoiding the use of special characters and any form of encryption. Comments and data will also be accepted on disks in WordPerfect 5.1/6.1 or ASCII file format. All comments and data in electronic form must be identified by the docket control number ''OPPTS–62128B.'' Electronic comments on this action may be filed online at many Federal Depository Libraries.

List of Subjects in 40 CFR Part 745

Environmental protection, Hazardous substances, Lead, Recordkeeping and notification requirements.

Dated: September 26, 1997.

Vanessa Vu,

Acting Director, Office of Pollution Prevention and Toxics.

[FR Doc. 97–26188 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[CC Docket Nos. 96–45 and 97–160, DA 97–2050]

Federal State Joint Board on Universal Service; Forward-Looking Mechanism for High Cost Support for Non-Rural LECs

Released September 24, 1997.

AGENCY: Federal Communications Commission.

ACTION: Proposed Rule; notice of meetings.

SUMMARY: Each Wednesday, the Common Carrier Bureau holds meetings with the proponents of the Hatfield Model and the Benchmark Cost Proxy Model to solicit the model proponents' individual views on the models' current

features, the relative merits of the two models, and any changes that the proponents make in the two models. These meetings are open to the public. There will be no meeting on Wednesday, October 1, 1997. Instead, a meeting will be held on Tuesday, September 30, 1997. The hour and place will remain unchanged (1:00 pm to 4:00 pm in the conference room of the Universal Service Branch, 2100 M Street, N.W., Eighth Floor). Subsequent meetings will be held each Wednesday until further notice.

DATES: The next meeting will be held on September 30, 1997, 1:00 to 4:00 p.m. Subsequent meetings will be held each Wednesday until further notice.

ADDRESSES: The meetings will be held at the Universal Service Branch, Federal Communications Commission, 2100 M St., NW., Eighth Floor Conference Room, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Astrid Carlson, Universal Service Branch, Accounting & Audits Division, Common Carrier Bureau (202) 418–7369.

SUPPLEMENTARY INFORMATION:

October 1, 1997 Meeting on Forward–Looking Cost Mechanism For Universal Service Support For Non–Rural Carriers Rescheduled to September 30, 1997

In the Universal Service Order released May 8, 1997, the Commission, acting on the recommendation of the Federal-State Joint Board, concluded that universal service support for non-rural carriers should be determined by subtracting a benchmark revenue amount from the forward-looking economic cost of providing the supported services.[1] The Commission concluded that it should continue to review two cost models, the Hatfield Model and the Benchmark Cost Proxy Model (BCPM).[2] The Commission further concluded that it would select the platform design features[3] of a forward-looking economic cost mechanism by December 31, 1997, and select a complete mechanism, including input values, by August 1998.[4] In a *Further Notice of Proposed Rulemaking* (*FNPRM*) in this proceeding, the Commission stated that it would consider a hybrid mechanism, combining the best features of both models, and might also ''study alternative algorithms and approaches that could be submitted by parties other than model sponsors or that could be generated internally by Commission staff.''[5]

As part of the process of considering mechanisms for computing the forward-looking economic cost of providing the supported services in rural, insular, and high cost areas, the Common Carrier Bureau and the staff of the Federal-State Joint Board on Universal Service hold meetings each Wednesday with the proponents of the Hatfield Model and the Benchmark Cost Proxy Model (BCPM) to solicit the model proponents' individual views on the models' current features, the relative mertis of the two models, and any changes that the proponents may make in the two models.

These meetings are open to the public. There will be no meeting on Wednesday, October 1, 1997. Instead, a meeting will be held on Tuesday, September 30, 1997. The hour and the place will remain unchanged (1 pm to 4 pm in the conference room of the Universal Service Branch, 2100 M Street, NW, Eighth Floor). Subsequent meetings will be held each Wednesday until further notice.

For further information about these workshops, contact Chuck Keller, (202) 418–7380, ckeller@fcc.gov.

Federal Communications Commission.

Timothy A. Peterson,

Deputy Chief, Division.

[FR Doc. 97–25791 Filed 9–30–97; 10:36 am]

BILLING CODE 6712–01–P

[1] Federal-State Joint Board on Universal Service, CC Docket No. 96–45, *Report and Order*, FCC 97–157, (released May 8, 1997) 62 FR 32862 (June 17, 1997) (*Order*) at paras. 199–201.

[2] The proponents of the Hatfield Model are AT&T and MCI. The proponents of BCPM are US West, Sprint, and BellSouth. *See Order* at Appendix J for a description of the Hatfield Model and BCPM.

[3] In the context of a forward-looking economic cost mechanism, the ''platform'' refers to the fixed algorithms and assumptions built into a cost model, as contrasted with user-specified ''inputs'' into a cost model. *See* Federal-State Joint Board on Universal Service, Forward Looking Mechanism for High Cost Support for Non-Rural LECs, CC Docket Nos. 96–45 and 97–160, Further Notice of Proposed Rulemaking, FCC 97–256 (released July 18, 1997) 62 FR 42457 (August 7, 1997) (*FNPRM*) at paras. 17–18.

[4] *Order* at para. 245.

[5] *FNPRM* at para. 35.

DEPARTMENT OF DEFENSE

48 CFR Parts 203 and 252

[DFARS Case 97–D020]

Defense Federal Acquisition Regulation Supplement; Employment Prohibition on Persons Convicted of Fraud or Other DoD Contract-Related Felonies

AGENCY: Department of Defense (DoD).

ACTION: Proposed rule with request for comments.

SUMMARY: The Director of Defense Procurement is proposing to amend the Defense Federal Acquisition Regulation Supplement (DFARS) to expand the list of positions in which contractors may not allow persons convicted of fraud or other DoD contract-related felonies to serve, and to provide that the term of such a prohibition on service may exceed 5 years.

DATES: *Comment date:* Comments on the proposed rule should be submitted in writing to the address shown below on or before December 1, 1997, to be considered in the formulation of the final rule.

ADDRESSES: Interested parties should submit written comments to: Defense Acquisition Regulations Council, Attn: Mr. Michael Pelkey, PDUSD(A&T)DP(DAR), IMD 3D139, 3062 Defense Pentagon, Washington, DC 20301–3062. Telefax number (703) 602–0350.

E-mail comments submitted over the Inernet should be addressed to: dfars@acq.osd.mil

Please cite DFARS Case 97–D020 in all correspondence related to this issue. E-mail comments should cite DFARS Case 97–D020 in the subject line.

FOR FURTHER INFORMATION CONTACT: Mr. Michael Pelkey, (703) 602–0131.

SUPPLEMENTARY INFORMATION:

A. Background

This proposed rule amends DFARS 203.570–2 and the clause at 252.203–7001 to expand the list of positions in which a person convicted of a felony arising out of a contract with DoD may not serve, and to permit agencies to prohibit such service for periods greater than 5 years, in accordance with 10 U.S.C. 2408.

B. Regulatory Flexibility Act

The proposed rule is not expected to have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act, 5 U.S.C. 601, et seq., because the rule pertains only to the employment of persons convicted of a felony arising out of a DoD contract. An initial regulatory flexibility analysis has therefore not been performed. Comments are invited from small businesses and other interested parties. Comments from small entities concerning the affected DFARS subparts also will be considered in accordance with 5 U.S.C. 610. Such comments should be submitted separately and should cite DFARS Case 97–D020 in correspondence.

C. Paperwork Reduction Act

The Paperwork Reduction Act does not apply because the proposed rule does not impose any information collection requirements that require the

approval of the Office of Management and Budget under 44 U.S.C. 3501, et seq.

List of Subjects in 48 CFR Parts 203 and 252

Government procurement.

Michele P. Peterson,

Executive Editor, Defense Acquisition Regulations Council.

Therefore, 48 CFR Parts 203 and 252 are proposed to be amended as follows:

1. The authority citation for 48 CFR Parts 203 and 252 continues to read as follows:

Authority: 41 U.S.C. 421 and 48 CFR Chapter 1.

PART 203—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

2. Section 203.570 is revised to read as follows:

203.570 Prohibition on persons convicted of fraud or other DoD contract-related felonies.

3. Section 203.570–2 is revised to read as follows:

203.570–2 Policy.

(a) Contractors or subcontractors shall not knowingly allow a person, convicted after September 29, 1988, of fraud or any other felony arising out of a contract with DoD, to serve—

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On its board of directors;

(3) As a consultant, agent, or representative; or

(4) In any capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(b) The period covered by the prohibition in paragraph (a) of this subsection is not less than 5 years from the date of conviction unless waived in the interest of national security by the agency head or designee. Prohibition periods greater than 5 years may be imposed upon a written determination by the agency head or designee. A copy of each such determination shall be provided to the Bureau of Justice Assistance, U.S. Department of Justice, 633 Indiana Avenue, NW., Room 470, Washington, DC 20531.

4. Section 203.570–5 is revised to read as follows:

203.570–5 Contract clause.

Use the clause at 252.203–7001, Special Prohibition on Persons Convicted of Fraud or Other DoD Contract-Related Felonies, in all solicitations and contracts exceeding the simplified acquisition threshold, except solicitations and contracts for commercial items.

PART 252—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

5. Section 252.203–7001 is amended by revising the section heading, the clause title and date, paragraphs (b) and (c), the introductory text of paragraph (d), and paragraph (h) to read as follows:

252.203–7001 Special Prohibition On Persons Convicted of Fraud or Other DoD Contract-Related Felonies.

* * * * *

Special Prohibition on Persons Convicted of Fraud or Other DOD Contract-Related Felonies (XXX 19XX)

* * * * *

(b) Any individual who is convicted after September 29, 1988, of fraud or any other felony arising out of a contract with DoD is prohibited from serving—

(1) In a management or supervisory capacity on any DoD contract or first-tier subcontract;

(2) On the board of directors of any DoD contractor or first-tier subcontractor;

(3) As a consultant, agent, or representative to any DoD contractor or first-tier subcontractor; or

(4) In any other capacity with the authority to influence, advise, or control the decisions of any DoD contractor or subcontractor with regard to any DoD contract or first-tier subcontract.

(c) Unless waived, the prohibition in paragraph (b) of this clause applies for not less than 5 years from the date of conviction.

(d) 10 U.S.C. 2408 provides that a defense contractor or first-tier subcontractor shall be subject to a criminal penalty of not more than $500,000 if convicted of knowingly—

* * * * *

(h) Pursuant to 10 U.S.C. 2408(c), defense contractors and subcontractors may obtain information as to whether a particular person has been convicted of fraud or any other felony arising out of a contract with DoD by contacting The Office of Justice Programs, The Denial of Federal Benefits Office, U.S. Department of Justice, telephone (202) 616–3507.

(End of clause)

[FR Doc. 97–26115 Filed 10–1–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Part 192

[Docket No. RSPA–97–2879; Notice 1]

Remotely Controlled Valves on Natural Gas Pipeline Facilities

AGENCY: Research and Special Programs Administration, DOT.

ACTION: Notice of public meeting.

SUMMARY: The Research and Special Programs Administration (RSPA) invites representatives of industry, state and local government, and the public to an open meeting on the use of remotely controlled valves (RCVs) on natural gas pipeline facilities. Congress mandated the use of RCVs on interstate natural gas pipeline facilities if it is determined as a result of a survey and assessment that the use of RCVs is technically and economically feasible and would reduce risks associated with a rupture of a natural gas pipeline facility. The purpose of this meeting is to gather information and discuss issues relevant to the survey and assessment.

DATES: The public meeting will be held on October 30, 1997, beginning at 9:00 a.m. Persons who want to participate in the public meeting should call (202) 366–4046 or e-mail their name, affiliation, and phone number to jenny.donohue@rspa.dot.gov before close of business October 17, 1997. The public meeting is open to all interested parties, but RSPA may limit participation because of space considerations and the need to obtain a wide range of views.

ADDRESSES: The meeting will be held in Houston, Texas at the Adam's Mark Hotel, 2900 Briarpark Drive at Westheimer. The hotel's telephone number is (713) 978–7400.

WRITTEN COMMENTS: Anyone may submit written comments. Persons who are unable to attend the public meeting may submit written comments on or before the deadline of November 28, 1997. Interested persons should submit as part of their written comments all material that is relevant to a statement of fact or argument. Late filed comments will be considered so far as practicable.

Send written comments to the Docket Facility, U.S. Department of Transportation, Plaza 401, 400 Seventh Street SW, Washington, DC 20590–0001. Comments should identify the docket number (RSPA–97–2879). Commenters should submit an original and one copy. Commenters wishing to receive

confirmation of receipt of their comments must include a stamped, self-addressed postcard with their comments. The docket clerk will date stamp the postcard and return it to the commenter. Comments will be available for inspection at the Docket Facility, located on the Plaza level of the Nassif Building in Room 401. The Docket Facility is open from 10:00 a.m. to 5:00 p.m., Monday through Friday, except on Federal holidays.

FOR FURTHER INFORMATION CONTACT: Lloyd W. Ulrich, telephone: (202) 366–4556, FAX: (202) 366–4566, e-mail: lloyd.ulrich@rspa.dot.gov regarding the subject matter of this notice or the Dockets Unit, (202) 366–5046, for copies of this notice or other material in the docket.

SUPPLEMENTARY INFORMATION: The Accountable Pipeline Safety and Partnership Act of 1996 (codified at 49 U.S.C. 60102 (j)) required that, ''Not later than June 1, 1998, the Secretary [of Transportation] shall survey and assess the effectiveness of remotely controlled valves to shut off the flow of natural gas in the event of a rupture of an interstate natural gas pipeline facility and shall make a determination about whether the use of remotely controlled valves is technically feasible and economically feasibility and would reduce risks associated with a rupture of an interstate natural gas pipeline facility.''

''Not later than one year after the survey and assessment are complete, if the Secretary has determined that the use of remotely controlled valves is technically and economically feasible and would reduce risks associated with a rupture of an interstate natural gas pipeline facility, the Secretary shall prescribe standards under which an operator of an interstate natural gas pipeline facility must use a remotely controlled valve. These standards shall include, but not be limited to, requirements for high-density population areas.''

RSPA is aware of the consequences when a natural gas pipeline that has experienced a rupture is not isolated quickly by closing valves on either side of the ruptured section. A high pressure gas transmission pipeline failure occurred in Edison, New Jersey on March 23, 1994. The failure of the 36-inch pipeline resulted in the escaping gas igniting and creating a fireball 500 feet high. There was one death and approximately 50 injuries. Radiant heat from the fireball ignited the roofs of buildings located more than 100 yards from the failure, destroyed 128 apartments and resulted in the evacuation of 1,500 people. The casualties were limited because the few minutes between the time of the failure and the explosion allowed residents to vacate the area. The gas company using a manually operated valve took 2½ hours to isolate the ruptured section of pipeline, which contributed to the severity of the damages.

The experience in New Jersey resulted in the adoption of a set of new rules by the New Jersey Board of Public Utilities (BPU) covering the installation, operation, and maintenance of intrastate natural gas pipelines in the state of New Jersey. These rules became effective March 17, 1997.

One of the new BPU rules requires each operator to submit a Sectionalizing Valve Assessment and Emergency Closing Plan for sectionalizing valves in class 3 and class 4 locations [1]. All valves in class 3 and class 4 locations are to be evaluated and prioritized as to the need for installation or retrofitting of a RCV or automatically controlled valve (ACV). Each plan is to include training of appropriate personnel on emergency plans and procedures. An emergency closing drill that simulates shutting down a selected section of the pipeline is required once each year. Reports of the closing drills are to be submitted to the BPU. RSPA is unaware of similar requirements in other states.

RSPA is also aware of a comprehensive report sponsored by the Gas Research Institute (GRI) on ACVs and RCVs [2]. The report addresses the evolution of ACVs in the natural gas industry. The report specifically addresses the risk of false closures, line section blowdown duration, and typical valve spacings. The report stresses the unreliability of ACVs because the pipeline failure detection systems used to trigger the closure of ACVs often mistake normal operating transient conditions as a pipeline failure. The report concludes that the installation of ACVs or RCVs will not prevent gas ignition because ignition usually occurs within ten minutes of a rupture, long before a line section could be blown down, even if it was isolated immediately after the rupture. However, early closure can reduce the duration of burn down and radiant heating of the area.

Consistent with the President's Regulatory Reinvention Initiative (E.O. 12866), RSPA wants to explore this congressional requirement with the maximum stakeholder involvement. Toward this end, RSPA is seeking early participation in the survey and assessment process by holding this public meeting at which participants, including RSPA staff, may exchange views on relevant issues concerning remotely controlled valves (RCVs). This public meeting is in partial satisfaction of the ''survey and assess'' portion of the Congressional requirement. RSPA hopes the public meeting will enable government and industry to reach a better understanding of the problems and potential solutions before proposed rules are considered.

RSPA will use the data accumulated as a result of this public meeting along with any state experience disclosed during the public meeting, and the GRI report on ACVs and RCVs to determine the technical and economic feasibility of using RCVs on natural gas pipeline facilities.

Participants at the public meeting are encouraged to focus their remarks on the following issues, but may address other issues as time permits and in supplementary written comments:

A. What is the potential value of early detection and isolation of a section of pipeline after a failure in terms of enhanced safety and reduced property damage?

B. What are the technical and economic *advantages* of installing RCVs?

C. What are the technical and economic *disadvantages* of installing RCVs?

D. What states in addition to New Jersey have adopted regulations concerning RCVs on intrastate natural gas pipeline facilities?

E. If RCVs were required in only high risk areas, what would constitute high risk areas and what would be criteria for prioritizing from highest to lowest risk?

F. Document cases where RCVs have malfunctioned causing them to close unexpectedly or to not close when commanded by the dispatcher.

G. Document cases where RCVs operated after an accident to reduce the consequences of the accident.

H. Provide documentation to support or refute the impression that when the escaping gas from a failed gas pipeline ignites, it normally occurs shortly after the accident, usually less than 10 minutes after the accident.

[1] A ''Class 3 location'' is defined in 49 CFR 192.5 as any class location unit (an area that extends 220 yards on either side of the centerline of any continuous 1-mile length of pipeline) that has 46 or more buildings intended for human occupancy, or any area where the pipeline lies within 100 yards of either a building of small well-defined area that is occupied by 20 or more persons on at least 5 days a week for 10 weeks in any 12-month period.

A ''Class 4 location'' is defined in 49 CFR 192.5 as any class location unit where buildings with four or more stories above ground are prevalent.

[2] Southwest Research Institute, ''Final Report, Remote and Automatic Main Line Valve Technology Assessment,'' July 1995, Sponsored by the Gas Research Institute (GRI–95/0101).

Issued in Washington, D.C., on October 24, 1997.

Richard B. Felder,

Associate Administrator for Pipeline Safety.

[FR Doc. 97–26123 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–60–P

Notices

Federal Register
Vol. 62, No. 191
Thursday, October 2, 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 26, 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, D.C. 20503 *and* to Department Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, D.C. 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.

- **Farm Service Agency**

Title: 7 CFR 783, Tree Assistance Program.

OMB Control Number: 0560-New.

Summary of Collection: Owners of orchard trees or grapevines provide information concerning losses due to disaster.

Need and use of the Information: The information is used to determine eligibility and calculation of losses.

Description of Respondents: Farms; Individuals or households; Business or other for-profit.

Number of Respondents: 1,000.

Frequency of Responses: Reporting: Once.

Total Burden Hours: 249.

Donald Hulcher,

Departmental Clearance Officer.

[FR Doc. 97–26093 Filed 10–1–97; 8:45 am]

BILLING CODE 3410–01–M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

California Spotted Owl Advisory Committee

AGENCY: Office of the Secretary, USDA.

ACTION: Notice; renewal of advisory committee.

SUMMARY: The Secretary of Agriculture is renewing the charter for the California Spotted Owl Federal Advisory Committee which is reviewing a preliminary revised Draft Environmental Impact Statement for Managing California Spotted Owl Habitat in the Sierra Nevada National Forests of California. The Advisory Committee's final report is due to the Secretary of Agriculture no later than December 31, 1997.

DATES: The charter for the California Spotted Owl Federal Advisory committee is being renewed to extend the life of the Committee until December 31, 1997.

FOR FURTHER INFORMATION CONTACT: Jonathan Stephens, Ecosystem Management Coordination Staff, Forest Service, telephone: (202) 205–0948.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (5 U.S.C. App.), notice is hereby given that the Secretary of Agriculture intends to renew the charter for the California Spotted Owl Federal Advisory Committee. The renewal is necessary for the Committee to complete its report and recommendations to the Secretary of Agriculture. The Committee was established in November 1996 (61 FR 59400). The purpose of the Advisory Committee is to review and evaluate the preliminary revised Draft Environmental Impact Statement (DEIS) and make recommendations on how the DEIS integrates the information recently published in the Sierra Nevada Ecosystem Project Report (SNEP) with the forest planning alternatives. The Committee will also examine the planning models, assumptions, analytical processes, and statistical treatment of information used to develop and support management actions in the preliminary revised DEIS. In addition, the Committee will review other scientific information brought to the Committee's attention that may pertain to the management of National Forest System lands in the Sierra Nevada ecosystem. The Committee will make recommendations to the Secretary on additional analysis and how the Forest Service should proceed regarding the release of a revised DEIS for public comment.

The Secretary has determined that the work of the Advisory Committee is necessary and in the public interest and relevant to the duties of the Department of Agriculture.

Dated: September 22, 1997.

Pearlie S. Reed,

Acting Assistant Secretary for Administration.

[FR Doc. 97–26164 Filed 10–1–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Establishment of Homochitto Purchase Unit; Correction

AGENCY: Forest Service, USDA.

ACTION: Notice; correction.

SUMMARY: The Forest Service published a notice of the establishment of the Homochitto Purchase Unit in the **Federal Register** on Tuesday, July 1, 1997. The establishment designation document, published as part of the notice, contained an error in the

description of the unit. The map accompanying the establishment notice clearly shows that the lands included in the purchase unit lie in Township 6 North, rather than Township 5, as stated in the July 1 notice. This notice corrects the township reference in the July 1 notice.

ADDRESSES: The map which depicts the land within the purchase unit and indicates the correct township number is available for public inspection in the Office of the Director, Lands Staff, 201 14th Street, S.W., Washington, D.C. 20250.

FOR FURTHER INFORMATION CONTACT: Jack Craven, Lands Staff, Forest Service, USDA, P.O. Box 96090, Washington, D.C. 20090–60690, telephone (202) 205–1248.

Correction

In the **Federal Register** issue of July 1, 1997 (62 FR 35471), on page 35471, in the third column, in the second paragraph, correct the land description to read as follows:

Lands lying in Township 6 North, Range 4 East, Franklin County, Washington, Meridian, Mississippi.

Dated: September 26, 1997.

Janice H. McDougle,

Associate Deputy Chief, National Forest System.

[FR Doc. 97–26165 Filed 10–1–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

ACTION: Notice of opportunity to request administrative review of antidumping or countervailing duty order, finding, or suspended investigation.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended, may request, in accordance with section 351.213 of the Department of Commerce (the Department) Regulations (19 CFR 351.213 (1997)), that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of October 1997, interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in October for the following periods:

	Period
Antidumping Duty Proceeding	
Italy: Pressure Sensitive Tape, A–475–059	10/1/96–9/30/97
Japan:	
Steel Wire Rope, A–588–045	10/1/96–9/30/97
Tapered Roller Bearings, Over 4 Inches, A–588–604	10/1/96–9/30/97
Tapered Roller Bearings, Under 4 Inches, A–588–054	10/1/96–9/30/97
Malaysia: Extruded Rubber Thread, A–557–805	10/1/96–9/30/97
The People's Republic of China:	
Barium Chloride, A–570–007	10/1/96–9/30/97
Lock Washers, A–570–822	10/1/96–9/30/97
Shop Towels, A–570–003	10/1/96–9/30/97
Yugoslavia: Industrial Nitrocellulose, A–479–801	10/1/96–9/30/97
Countervailing Duty Proceedings	
Brazil: Tillage Tools, C–351–406	1/1/96–12/31/96
India: Iron-Metal Castings, C–533–063	1/1/96–12/31/96
Iran: In-Shell Pistachios, C–507–601	1/1/96–12/31/96
Sweden: Carbon Steel Products, C–401–401	1/1/96–12/31/96
Suspension Agreements	
Kazakhstan: Uranium, A–834–802	10/1/96–9/30/97
Kyrgyzstan: Uranium, A–835–802	10/1/96–9/30/97
Russia: Uranium, A–821–802	10/1/96–9/30/97
Uzbekistan: Uranium, A–844–802	10/1/96–9/30/97

In accordance with section 351.213 of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. The Department has changed its requirements for requesting reviews for countervailing duty orders. Pursuant to 771(9) of the Act, an interested party must specify the individual producers or exporters covered by the order or suspension agreement for which they are requesting a view (Interim Regulations, 60 FR 25130, 25137 (May 11, 1995)). Therefore, for both antidumping and countervailing duty reviews, the interested party must specify for which individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order it is requesting a review, and the requesting party must state why it desires the Secretary to review those particular producers or exporters. If the interested party intends for the Secretary to review sales of merchandise by an exporter (or a producer if that producer also exports merchandise from other suppliers) which were produced in more than one country of origin and each country of origin is subject to a separate order, then the interested party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Seven copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/

Countervailing Enforcement, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(1)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of October 1997. If the Department does not receive, by the last day of October 1997, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the Customs Service to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: September 26, 1997.

Jeffrey P. Bialos,

Principal Deputy Assistant Secretary for Import Administration.

[FR Doc. 97–26195 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–489–501]

Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube From Turkey

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

SUMMARY: On May 13, 1997, the Department of Commerce (the Department) published the preliminary results of its administrative review of the antidumping duty order on certain welded carbon steel pipe and tube from Turkey. The review covers shipments of this merchandise to the United States during the period of review (POR) May 1, 1993, through April 30, 1994.

Based on our analysis of the comments received, and the correction of certain ministerial errors, we have changed the preliminary results. The final results are listed below in the section ''Final Results of Review.''

EFFECTIVE DATE: October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Charles Riggle or Kris Campbell, Office of AD/CVD Enforcement II, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–0650 and (202) 482–3813, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the statute and to the Department's regulations are references to the provisions as they existed on December 31, 1994.

Background

This review covers two manufacturers/exporters to the United States of the subject merchandise, the Borusan Group (Borusan) and Yucelboru Ihracat Ithalat ve Pazarlama A.S. (Yucelboru). On May 13, 1997, the Department published in the **Federal Register** the *Preliminary Results of Administrative Review of the Antidumping Duty Order on Certain Welded Carbon Steel Pipe and Tube from Turkey* (62 FR 26286) (*Preliminary Results*). We received case and rebuttal briefs from the petitioners [1] and Borusan on June 19, 1997, and June 26, 1997, respectively. Yucelboru did not submit a case or rebuttal brief. On August 1, 1997, we requested comments from Borusan and the petitioners regarding how we intended to calculate importer-specific *ad valorem* assessment rates for Borusan. Since Yucelboru's margin in the preliminary results was *de minimis,* we did not request comments from Yucelboru. On August 5, 1997, we received comments on the assessment rate from the petitioners.

The Department has now completed this administrative review in accordance with section 751 of the Tariff Act of 1930, as amended (the Act).

Scope of the Review

Imports covered by this review are shipments of certain welded carbon steel pipe and tube products with an outside diameter of 0.375 inch or more but not over 16 inches, of any wall thickness. These products are currently classifiable under the following Harmonized Tariff Schedule of the United States (HTSUS) subheadings: 7306.30.10.00, 7306.30.50.25, 7306.30.50.32, 7306.30.50.40, 7306.30.50.55, 7306.30.50.85, and 7306.30.50.90. These products, commonly referred to in the industry as standard pipe and tube, are produced to various American Society for Testing and Materials (ASTM) specifications, most notably A–120, A–53 or A–135.

Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope of this proceeding is dispositive.

Comparison of United States Price and Foreign Market Value

For both companies involved in this review, we calculated transaction-specific U.S. prices (USP) and compared them to foreign market values (FMV) based on either weighted-average home market prices or constructed values (CV). For price-to-price comparisons, we compared identical merchandise, where possible. Where there were no sales of identical merchandise in the home market to compare to U.S. sales, we made comparisons of similar merchandise based on the characteristics listed in the Department's antidumping questionnaire.

Where sales were made in the home market on a different weight basis from the U.S. market (*e.g.,* theoretical versus actual weight), we converted all quantities to the same weight basis, using the conversion factors supplied by the company, before making our fair value comparisons.

We have determined that Turkey experienced a high rate of inflation throughout the POR, as measured by the wholesale price index (WPI) published in *International Financial Statistics.* (*See* Comment 1 below). Therefore, in accordance with our practice, and in order to avoid the distortions caused by the effects of this level of inflation on prices, we did not apply the Department's 90/60 day rule if we were unable to match sales within the same month. Rather, we resorted to CV as the basis of FMV. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Steel Concrete Reinforcing Bars from Turkey,* 62 FR 9737, 9738 (March 4, 1997) (*Rebar from Turkey*).

In accordance with 19 CFR 353.58, we made comparisons at the same level of trade, where possible (*see* Sales Comment 8 below). For Borusan, we determined that there was one U.S. level of trade (*i.e.,* distributor) and three home market levels of trade: wholesaler/distributor, retailer, and end-user. Yucelboru had no level of trade distinctions in either market.

[1] The petitioners are Allied Tube & Conduit and Wheatland Tube Company.

United States Price

We based USP on purchase price in accordance with section 772(b) of the Act, because the subject merchandise was sold directly to the first unrelated purchaser in the United States prior to importation and the exporter's sales price methodology was not indicated by the facts of record. We calculated purchase price based on the same methodology used in the *Preliminary Results,* with the following exceptions:

Borusan

1. We corrected the gross unit price and quantity reported for one sales transaction (*see* Comment 9 below);
2. We added countervailing duties imposed on the subject merchandise to offset export subsidies, pursuant to section 772(c)(1)(C) of the Act (*see* Comment 11 below); and
3. We converted certain direct selling and movement expenses from Turkish lira to U.S. dollars using exchange rates based on the date of shipment (*see* Comment 15 below).

Yucelboru

1. We converted certain movement expenses from Turkish lira to U.S. dollars using exchange rates based on the date of shipment.

Foreign Market Value

Where FMV was based on home market price, we used the same methodology to calculate FMV as that described in the *Preliminary Results,* with the following exceptions:

Borusan

1. We deducted home market direct selling expenses and added U.S. direct selling expenses as a COS adjustment to FMV (*see* Comment 14 below); and
2. We indexed home market packing expenses before deducting them from FMV and indexed U.S. packing expenses before adding them to FMV (*see* Comment 13 below).

Yucelboru

1. We deducted home market direct selling expenses and added U.S. direct selling expenses as a COS adjustment to FMV; and
2. We indexed home market packing expenses before deducting them from FMV and indexed U.S. packing expenses before adding them to FMV.

Where FMV was based on CV, we used the same methodology for Borusan as that described in the *Preliminary Results,* with the following exceptions:

1. We adjusted the calculated interest expenses to avoid double counting imputed credit and inventory carrying expenses (*see* Comment 5 below);
2. We indexed all material costs (*see* Comment 3 below); and
3. We deducted home market direct selling expenses and added U.S. direct selling expenses as a COS adjustment to FMV (*see* Comment 14 below).

Cost of Production

As discussed in the *Preliminary Results,* we conducted an investigation to determine whether Borusan or Yucelboru made home market sales during the POR at prices below its cost of production (COP) within the meaning of section 773(b) of the Act (*see also* Comment 2 below). We disregarded individual below-cost sales of models for which greater than 10 percent and no more than 90 percent of sales were sold at less than COP over an extended period of time. We disregarded all sales of models with greater than 90 percent of sales at less than COP over an extended period of time.

Analysis of Comments Received

We gave interested parties an opportunity to comment on the preliminary results. We received comments and rebuttal comments from the petitioners and Borusan, but did not receive any comments from Yucelboru.

Comment 1: Inflation. Borusan argues that Turkey did not experience hyperinflation until the last four POR months (January through April, 1994). Accordingly, Borusan argues that the Department should limit the application of its hyperinflationary methodology to sales made during these months. Citing *Final Determination of Sales at Less Than Fair Value: Certain Fresh Cut Flowers from Peru,* 52 FR 7000, 7002 (March 6, 1987) (*Flowers from Peru*), Borusan states that the Department that previously limited its hyperinflationary methodology in this manner where a country experiences high inflation for a only a few months during the POR. As support for its position, Borusan claims that Turkey's inflation rate for 1993 was 56 percent, which is below the Department's established threshold of 60–65 percent (citing, *inter alia,* Import Administration Policy Bulletin Number 94.5, ''Differences in Merchandise Calculation in Hyperinflationary Economies'' (March 25, 1994) at 1, n.1).

The petitioners respond that the Department appropriately applied its hyperinflationary methodology to the entire POR. Citing *Final Results of Administrative Review: Certain Fresh Cut Flowers from Colombia,* 61 FR 42833, 42845 (August 19, 1996) (*Flowers from Colombia*), the petitioners note that, contrary to Borusan's claim that the hyperinflationary threshold is 60 percent, the Department recently stated that economies are considered hyperinflationary where annual inflation is greater than 50 percent. The petitioners assert, therefore, that the 56 percent inflation rate for 1993 cited by Borusan is hyperinflationary.

The petitioners further add that Borusan provided no justification for why the Department should differentiate between certain months within the review period and state that no justification exists because, in this case, the POR inflation rate exceeds 125 percent. Regarding the precedent cited by Borusan for such a differentiation, the petitioners note that *Flowers from Peru* was an investigation and content that, consequently, the Department's practice of using aggregate comparison market prices and costs in investigations (as opposed to monthly prices in reviews) makes investigations more appropriate proceeding for using a hyperinflationary methodology for only part of the period.

DOC Position: We agree with the petitioners. Although Import Administration Policy Bulletin Number 94.5 states that ''an economy is deemed to be hyperinflationary if its monthly or annual inflation rates are greater than 5 percent and 60 percent, respectively,'' in recent cases we have considered inflation rates lower than 60 percent to warrant application of our high-inflation methodology to avoid the distortions that may be caused by such inflation. *See Flowers from Colombia,* at 42845 and *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 30309, 30314 (June 14, 1996) (*Pasta from Turkey*). Thus, even if we were to split the POR into 1993 and 1994 segments as requested by Borusan, we would find high inflation to exist for the entire period, since the inflation rate was greater than 50 percent during both 1993 and 1994.

We further note with respect to Borusan's proposal to break the POR into discrete periods that, although not dispositive of this issue, we routinely examine the entire review period when determining whether high inflation exists. Borusan has provided no compelling rationale to depart from this methodology other than citing inflation rates for the two periods. *See Pasta from Turkey,* at 30314, and *Notice of Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey,* 61 FR 69067, 69068 (December 31, 1996) (the *1994–95 Review*). With respect to the one case cited by Borusan where the Department treated one portion of the period as inflationary and the other portion as non-inflationary,

wholesale price index data compiled by the International Monetary Fund (IMF) indicate that the inflation rate for the period designated as non-inflationary in that case exceeded 50 percent. As such, the finding in *Flowers from Peru*, which was made over ten years ago, conflicts with our current practice.

Comment 2: Initiation of Cost Investigation. Borusan argues that the Department improperly initiated a sales-below-cost investigation because: (1) The petitioners' cost allegation was not submitted until 14 months after the deadline set forth in 19 CFR 353.31(c)(ii); and (2) the allegation contained serious methodological flaws. With respect to the issue of timeliness, Borusan contends that, even though the issuance of the questionnaire and the submission of the response both occurred after the regulatory deadline for filing COP allegations (120 days after initiation of the review), the petitioners should not be excused for filing the COP allegation an additional six months after the submission of the sales questionnaire response (citing *Notice of Final Results of Antidumping Duty Administrative Review: Certain Forged Steel Crankshafts From the United Kingdom*, 60 FR 52150, 52153 (October 5, 1995) (*Crankshafts from the U.K.*)). Borusan adds that the allegation was insufficient because it: (1) Deducted credit expenses from the HM prices while including them in the costs, and (2) excluded downstream HM sales by related resellers from the analysis. Borusan contends that because the sales-below-cost investigation was improperly initiated, the Department should ignore the results of the cost test (citing *Koyo Seiko, Ltd.* v. *United States*, 806 F. Supp. 1008 (1992)).

The petitioners maintain that because the Department did not issue its questionnaire in this review until 254 days after publication of the notice of initiation, the 120-day time limit does not apply, and the Department was free to establish any reasonable date as the deadline for the sales-below-cost allegation. The petitioners state, however, that the Department did not establish a new deadline for filing a COP allegation. The petitioners add that the computerized version of Borusan's initial sales questionnaire response (filed in May 1995) was unreadable, as acknowledged by Borusan, and state that Borusan did not submit a readable computer tape until September 1995. Finally, the petitioners contend that the COP allegation itself is accurate because: (1) Non-investment interest expenses are in fact not included in the COPs, and (2) the exclusion of reseller sales is in accord with Borusan's claims during the POR that the Department should not consider such sales in its dumping analysis.

DOC Position: We agree with the petitioners. Regarding the timeliness of the sales-below-cost allegation, section 353.31(c)(1)(ii) of our regulations authorizes the Secretary to determine a new time limit beyond the general 120-day limit for alleging sales below cost if, in the Secretary's view, a relevant response is untimely or incomplete. In this respect, we find that a number of factors warrant our acceptance of the petitioners' allegation. The Department delayed issuance of the sales questionnaire until February 24, 1995, and the computerized version of Borusan's initial questionnaire response submitted on May 25, 1995, was unreadable. Therefore, the petitioners did not initially have the requisite data with which to make the allegation until a readable computerized version of Borusan's questionnaire response was submitted on September 29, 1995. Once the petitioners received the necessary data, they filed their allegation on January 11, 1996, which was within a reasonable time after receiving readable computer data under the circumstances of this case. During the period September 29, 1995, to January 11, 1996, there were closures at the Department due to the Federal budget crisis and a blizzard (*i.e.*, November 15 through 21, 1995, and December 16, 1995, through January 11, 1996). These extenuating circumstances were clearly beyond the petitioners' control. In addition, the petitioners requested an extension for filing their allegation. This is unlike the facts in *Crankshafts from the U.K.*, where the petitioners failed to make an allegation of sales-below-cost until filing their case brief, even though they had access to the data that would have enabled them to file a timely allegation. *Id.*, at 52153.

Regarding the merits of the allegation, section 773(b) of the Act requires that the Department make a sales below cost determination whenever it has reasonable grounds to believe or suspect that sales in the home market have been made at prices below the cost of production. As stated in our December 4, 1996, ''Petitioners' Allegation of Sales Below the Cost of Production Memorandum'' (*COP Allegation Memorandum*), we found that the data submitted by the petitioners, which was based on information contained in Borusan's questionnaire responses, provided reasonable grounds to believe or suspect that Borusan had made below-cost sales.

Borusan's claims notwithstanding, we determined that the methodology used by petitioners gave us reason to suspect that sales were made below cost. Because petitioners excluded non-investment interest expenses from the SG&A component of COP, thereby understating Borusan's actual costs, they made a corresponding adjustment to price by subtracting credit expenses. Based on this analysis there was a considerable number of sales made below cost. Furthermore, for a significant number of these sales the price/cost differential was such that, even if credit expenses were added back into the price calculation, we had reason to believe that these would have been below-cost sales.

Second, we did not include sales made by Borusan's related resellers in our analysis of the cost allegation because neither we nor the petitioners could determine from Borusan's response the additional costs incurred by the related resellers. Therefore, we did not find it appropriate to include these sales in our analysis of whether to initiate a below-cost investigation. *See COP Allegation Memorandum.* Moreover, the sales we did examine were ''representative of the broader range of foreign models which may be used to determine FMV for the various U.S. models'' and our analysis of the below-cost allegation regarding these sales indicated that there was a sufficient basis to initiate a below-cost investigation. *See* Import Administration Policy Bulletin No. 94/1, ''Cost of Production—Standards for Initiation of Inquiry'' (March 25, 1994).

Comment 3: Exclusion of Material Costs from WPI Adjustment to COP. The petitioners allege that the Department erroneously excluded some, but not all, raw materials from the indexing of the cost of manufacturing (COM). Specifically, the petitioners claim that the Department failed to subtract varnish and coupling costs from the total monthly COM figures before indexing. The petitioners contend that the Department should index the rest of the COM, calculate a weighted average, then deflate the average and add direct materials costs, including the varnish and coupling costs, to calculate the monthly COM.

Borusan concurs with the petitioners that the Department should subtract varnish and coupling costs before indexing and calculating the COM.

DOC Position: We disagree with both parties. In cases involving high inflation, it is our general practice to index all costs, whether they are reported on a replacement cost or historical cost basis. In the *Preliminary Results*, the coil, zinc, varnish and coupling costs all should have been

indexed in order to derive indexed weighted-average COMs that include raw materials costs. In high-inflation cases, it is normally the Department's practice to request that respondents report their material costs on a monthly replacement cost basis (*i.e.*, the costs to the producer to replace the materials in the month consumer). *See Final Results of Antidumping Duty Administrative Review: Ferrosilicon from Brazil,* 61 FR 59407, 59408 (November 22, 1996). This data reflects the increases in materials costs from month to month due to inflation.

However, in accordance with our practice, we still need to index all monthly replacement costs forward to the end of the POR in order to calculate a POR weighted-average COM, which applies to both inflationary and non-inflationary cases. We then deflate this POR average COM to derive a cost for each month that is based on a POR weighted average. This monthly cost is then compared to sales in that month. It we did not index costs in this manner, our calculations could be affected by monthly changes, other than inflation, that affect these costs (*i.e.*, price fluctuations due to material shortages).

Comment 4: Use of Production Quantity. The petitioners maintain that the Department should use monthly production quantities contained in Borusan's post-verification data submission rather than sales quantities to weight-average the indexed COP.

Borusan claims that the Department did in fact use production quantities to weight average the COP in the preliminary results and therefore no correction is required.

DOC Position: We agree with Borusan. In the *Preliminary Results,* we used the production quantities contained in Borusan's March 31, 1997, data submission to weight-average COP (*see* lines 22436, 22437, 22561 and 22562 of Department's SAS margin program used in the *Preliminary Results*). The preliminary results calculation memorandum erroneously stated that we used the sales quantity to weight-average the indexed conversion costs. *See Analysis for Borusan Group (Calculation Memorandum*)(May 8, 1997). We have continued to use the production quantities to weight-average the COP in the final results.

Comment 5: Interest Expense—Inclusion of Foreign Exchange Gains and Losses. Borusan claims that the Department should exclude foreign exchange losses from the interest expense calculation used in the COP/CV calculations. Maintaining that these losses are primarily losses on foreign currency loans due to the high inflation experienced in Turkey and the devaluation of the Turkish Lira, Borusan contends that the losses should be treated as an inflation adjustment and not as a cost of production.

The petitioners maintain that Borusan should not be allowed to exclude foreign exchange losses from its costs on the basis that a significant portion of the foreign exchange losses resulted from inflation. The petitioners contend that the Department already adjusts for the inflation effects of each cost element by using its hyperinflationary methodology to calculate infation-adjusted costs. They further contend that the Department's practice, as set forth in *Rebar from Turkey,* is to include these losses in the COP/CV financial expenses even where the economy is considered hyperinflationary. The petitioners also note that the Department's verification report indicates that the interest expenses obtained were to be adjusted using wholesale price indices for the preliminary results but that no adjustment was made.

In addition, the petitioners argue that the Department should disallow Borusan's reported foreign exchange gains as an offset to interest expense because, contrary to the Department's policy for allowing this offset, the foreign exchange gains resulted primarily from export sales and not from the importation of raw materials.

DOC Position: We agree with the petitioners that we should include Borusan's foreign exchanges losses and exclude Borusan's reported foreign exchange gains in calculating the COP/CV. With respect to foreign exchange losses, we have included this expense in our COP/CV interest expense calculation. The cost verification report notes that Borusan's foreign exchange losses are incurred on dollar-denominated debt. Further, as noted by Borusan, these losses are reflected in its income statement. The Department has clearly established that translation losses on dollar-denominated loans, as reflected in a company's income statement, are appropriately included in the cost of production because they reflect an actual increase in the amount of local currency that will have to be paid to settle these loans. *See Final Determination of Sales at Less Than Fair Value: Fresh Cut Roses from Ecuador,* 60 FR 7019, 7039 (February 6, 1995)(*Roses from Ecuador*). We not that although hyperinflation was largely responsible for the depreciation of the Turkish Lira, the inflation factor has been accounted for by indexing the interest expense for inflation using WPIs. *See Calculation Memorandum.*

With respect to foreign exchange gains, we have not included such gains in the interest expense calculation, consistent with our findings in other segments of this proceeding. *See* the *1994–95 Review* at 69072. The record evidence demonstrates that the foreign exchange gains at issue result from export sales transactions. *See* Exhibit 13 of the cost verification report. Our practice is to include foreign exchange gains as an offset to finance expenses if they are related to the cost of acquiring debt for purposes of financing production operations, and to exclude this item if it relates to sales. *See Rebar from Turkey,* at 9741, and *Pasta From Turkey,* at 30324. In this case, we find that foreign exchange gains are related to sales, not production; therefore, they should not be used as an offset for calculating home market interest expenses.

Comment 6: Imputed Credit Expense in Constructed Value/Offset to Trade Receivables and Finished Goods Inventory Portion of Interest Expense. Borusan alleges that the Department failed to adjust the CV interest expense factor to offset the imputed credit expense with that portion of actual finance expenses related to the financing of trade receivables. Borusan maintains that the Department's past practice, as set forth in *Final Determination of Sales at Less Than Fair Value: Stainless Steel Butt-Weld Pipe Fitting from Taiwan* 58 FR 28556, 28560 (May 14, 1993) (*Fittings from Taiwan*), is to include imputed credit costs in CV and offset the actual finance expenses by an amount attributed to financing trade receivables in order to avoid double counting of finance expenses. Therefore, Borusan contends that the Department should adjust the interest rate factor used for CV.

The petitioners respond that it is not clear that the Department included imputed credit expenses in the CV in the preliminary results; therefore, the Department must first ensure that it has included imputed credit costs (and inventory carrying costs) in CV before making any offset for trade receivables financing.

DOC Position: In the *Preliminary Results,* we correctly included imputed credit expenses and inventory carrying expenses in the CV. The inclusion of these imputed expenses in the CV is in accordance with our established practice prior to the amendments made to the Act by the Uruguay Round Agreements Act (URAA) effective January 1, 1995. *See. e.g., Final Determination of Sales at Less Than Value: Certain All-Terrain Vehicles from Japan,* 54 FR 4864, 4867 (January 31,

1989). However, we failed to adjust the interest expense in order to avoid double counting that portion of the interest expense that corresponds with the imputed credit expense or with the imputed inventory carrying expenses, (*i.e.*, financing of trade receivables and financing of finished goods inventory). For these final results, we offset the reported interest expense by an amount attributable to financing trade receivables and finished goods inventory. *See Fittings from Taiwan* at 28560. We calculated the offset as a percentage of trade receivables and finished goods inventory to total assets, using the balance reported in the audited financial statements. We then used this ratio to reduce the interest rate used to calculate finance expenses in our CV calculation.

Comment 7: Depreciation. The petitioners allege that Borusan incorrectly calculated its depreciation because it did not index its monthly depreciation expenses forward to equivalent terms. Rather, the petitioners allege that Borusan calculated this expense by adding the monthly amounts in its accounting records and then dividing the total by 12. Instead of calculating a simple average, the petitioners contend that Borusan should have inflated each monthly depreciation figure to December 1993 so they would be expressed in equivalent terms. The inflated figures should have then been summed and the result divided by 12 to obtain an inflation-adjusted monthly average that is then deflated to derive depreciation costs for each month. The petitioners further maintain that Borusan incorrectly deflated the simple monthly average calculated for depreciation, as noted in the Cost Verification report, and assert that the Department should deflate the monthly average depreciation using the calculation formula shown in verification exhibit M1.

Borusan responds that the Department should not recalculate the average monthly depreciation figure by expressing it in December 1993 terms because, as noted in Borusan's financial statements, the depreciation amount is already stated in December 1993 terms. Borusan contends that the petitioners' recommended approach would result in a double indexing of this cost. Also, Borusan states that the manner in which it converted this December 1993 depreciation amount to monthly POR amounts is correct. With respect to the second point, Borusan notes that the data used by the Department in the preliminary results, based on Borusan's March 31, 1997, post-verification submission, already incorporated the required correction to Borusan's depreciation adjustment in the manner prescribed in the verification report.

DOC Position: We agree with Borusan. At our request, Borusan submitted revised COP and CV databases on March 31, 1997, in which the depreciation adjustment was recalculated in accordance with our instructions. The revised data were used in the preliminary results. *See Calculation Memorandum*, at 4. Furthermore, Borusan's depreciation expenses were stated in December 1993 terms in accordance with Turkish law. Note 2 of Borusan's audited financial statements for 1992 and 1993 states that ''Turkish commercial practice and tax legislation require that financial statements be prepared in accordance with the historical cost convention with the sole exception of the optional revaluation of fixed assets on the basis of indices published on an annual basis by the Ministry of Finance.'' Note 3(f) of the financial statements indicates that property, plant and equipment were revalued on December 31, 1993 using the Ministry of Finance's officially published index of 58.4 percent. See Exhibit 4 of Borusan's questionnaire response dated May 8, 1995. Specifically, each month's depreciation expense was originally reported in December 1993 cost terms, and was then deflated to each month. *See* page 25 and Exhibit M–1 of the cost verification report. Therefore, consistent with our established practice, we have not adjusted further Borusan's depreciation expense because the reported depreciation expense had already been adjusted for inflation when the assets were revalued based on the Ministry's index. *See Rebar From Turkey at* 9748.

Comment 8: Level of Trade. Borusan contends that the Department's decision in the *Preliminary Results* to collapse certain levels of trade (LOTs) was in error. Borusan claims that it sells to five separate LOTs in the home market: (1) direct mill sales to trading companies (LOT 1); (2) direct mill sales to industrial end-users (LOT 2); (3) downstream sales to local wholesalers (LOT 3); (4) downstream sales to retailers (LOT 4); and (5) downstream sales to industrial end-users (LOT 5). Borusan argues that the Department's decision to collapse LOT 1 with LOT 3, and to collapse LOT 2 with LOT 5, is based on a fundamental misunderstanding of Borusan's reported LOTs and cannot be justified by the evidence contained on the administrative record in the review.

Borusan contends that it met its burden of justifying its claimed LOTs through the information submitted in its questionnaire response. Moreover, Borusan maintains that the Department provided insufficient explanation in the preliminary results for collapsing these LOTs. Alternatively, if the Department rejects this argument, Borusan requests that the Department use the same LOTs as it did in the *1994–95 Review*.

The petitioners contend that Borusan did not adequately differentiate or document the asserted five levels of trade, despite a specific request by the Department in a supplemental questionnaire for such differentiation and documentation.

DOC Position: We agree with the petitioners. As in the *Preliminary Results*, we treated Borusan's reported LOTs 1 and 3 as one LOT, and we treated reported LOTs 2 and 5 as one LOT.

In determining the number of LOTs under the pre-Uruguay Round Tariff Act, we examine the function of the respondent's customers and determine where in the distribution chain the customers fall (*i.e.*, wholesaler, retailer, end-user). *See* Import Administration Policy Bulletin No. 92/1, ''Matching at Levels of Trade,'' (July 29, 1992), at 2; and *Final Results of Antidumping Duty Administrative Reviews: Certain Corrosion-Resistant Carbon Steel Flat Products and Certain Cut-to-Length Carbon Steel Plate from Canada*, 61 FR 13815, 13825 (March 28, 1996). It is the respondent's responsibility to distinguish its claimed LOTs in this manner.

Applying this standard to the instant proceeding, the information provided by Borusan does not indicate that LOTs 1 and 3 are distinct, nor does it adequately distinguish LOTs 2 and 5. LOT 1 involves direct sales by Borusan to trading companies. LOT 3 involves related party resales to wholesalers. Evidence contained in Borusan's February 26, 1996, submission indicates that there is significant overlap in the functions performed and the place in the chain of distribution for the customers (trading companies and wholesalers) involved in claimed LOTs 1 and 3. For instance, certain trading companies sell directly to retailers; these trading companies have the same function in the chain of distribution as wholesalers, *i.e.*, both function as resellers of the subject merchandise to retailers. Thus, the fact that claimed LOT 1 involves direct sales while claimed LOT 3 involves resales does not establish that separate LOTs in fact exist for these sales, absent evidence that the customers involved in these two groups of sales occupy different places in the chain of distribution. Because the information provided by Borusan does

not indicate such differences in the chain of distribution, we determined that LOTs 1 and 3 are appropriately considered as one level for this review.

Our decision to collapse reported LOTs 2 and 5 is based on the same principle. Claimed LOT 2 involves direct sales to end users, while claimed LOT 5 involves related party resales to end users. As with claimed LOTs 1 and 3, our examination of the record evidence indicates that there is a significant overlap in the function of the customers in the chain of distribution for these claimed levels (end users in both cases). We therefore have collapsed LOT 2 with LOT 5. *See Final Determination of Sales at Less Than Fair Value: Certain Carbon and Alloy Steel Wire Rod from Canada,* 59 FR 18791, 18794 (April 20, 1994).

Finally, as to Borusan's argument that we use the same LOTs used in the *1994–95 Review,* the criteria upon which we examined Borusan's LOT argument in *1994–95 Review* cannot be applied to this review because those criteria apply to cases administered under the URAA. *See also* Statement of Administrative Action (SAA) accompanying the URAA at 829–831.

Comment 9: Gross Unit Price Correction. The petitioners contend that the Department should correct the gross unit price reported for the first sales transaction examined at verification (*i.e.,* SVE M.1) based on its findings.

Borusan maintains that the Department found at verification that the gross unit price reported for the sales transaction was correct.

DOC Position: We agree with the petitioners. The gross unit price reported for the sales transaction at issue is incorrect because that price is based on an incorrect weight amount noted in the sales invoice. Although Borusan reported the weight listed in the invoice, that weight was incorrectly calculated based on formulas used to convert feet to metric tons. Therefore, we have corrected this error in the sales database.

Comment 10: Verification Corrections. The petitioners state that the Department should ensure that the errors noted in Borusan's March 31, 1997, submission have been corrected in the final data used in this proceeding.

Borusan states that the Department used sales and cost databases that incorporated data corrections contained in its March 31, 1997, submission. Therefore, Borusan contends that there is no need for the Department to make any additional changes to Borusan's sales and cost information in the final results.

DOC Position: We agree with the petitioners and have ensured that the sales and costs databases that we are using for the final results incorporate all corrections from verification. In the course of examining whether the corrections noted in the March 31, 1997, submission were in fact included in the sales and cost databases, we found that certain corrections noted in verification exhibit A1, regarding customer-specific quantity rebates granted on 1993 sales, were not included in the home market database. We have corrected this for the final results.

Comment 11: Countervailing Duty Adjustment. Borusan maintains that the Department erred in not making an upward adjustment to U.S. price for countervailing duties as required by section 772(d)(1)(D) of the Act.

The petitioners did not comment on this issue.

DOC Position: We agree with Borusan. Since the countervailing duties in question concern export subsidies, we have added to the U.S. price an amount for said duties (*i.e.,* the actual amount paid in CVD). This amount was determined by multiplying the 7.26 *ad valorem* rate by the C&F value net of ocean freight expenses and CVD. *See* Exhibit O1 of the cost verification report.

Comment 12: Imputed Interest on VAT Payments. Borusan argues that the Department failed to allow a circumstance of sale (COS) adjustment for financing expenses incurred on making VAT payments in the home market. Borusan maintains that it must finance its payment of VAT taxes, and that this expense represents a carrying expense incurred by Borusan until it receives payment for the invoiced amount (inclusive of VAT) for sales made to its home market customers. Borusan contends that there is no discernible difference between adjusting for credit expenses accrued in connection with sales and financing costs incurred on VAT payments. Therefore, Borusan states that section 353.56 of the Department's regulations authorizes the Department to make an adjustment to account for the carrying costs incurred in financing VAT payments.

The petitioners respond that the claimed adjustment does not constitute a COS adjustment as defined in section 353.56 of the Department's regulations. The petitioners cite to the *1994–95 Review* where the Department disallowed a COS adjustment for the same VAT drawback claimed by Borusan in the present case.

DOC Position: We agree with the petitioners, and, consistent with our treatment of this item in other segments of this proceeding, have disallowed a COS adjustment for imputed interest resulting from delayed refunds of VAT paid on inputs. *See* the *1994–95 Review,* at 69076. Allowing Borusan such an adjustment would involve imputing an expense incurred not between Borusan and its customers, but between Borusan, its supplier, and the government. ''[W]hile such a[n expense] may affect the notion of true economic cost to [the respondent], it tells us nothing about the difference in prices that result from the different circumstances of sale.'' *See Federal-Mogul Corp.* v. *United States,* 839 F. Supp. 881, 885 (November 30, 1993).

Further, to the extent that Borusan incurs such an expense, it is incurred regardless of whether Borusan actually makes such a sale. In other words, there is no direct relationship between the imputed expense and the sales being examined. Accordingly, there is no basis for making a COS adjustment.

Comment 13: Indexation of Packing Expenses. Borusan contends that the Department should have indexed the packing expenses in connection with home market and U.S. sales because the Department found that Turkey experienced hyperinflation during the POR.

The petitioners argue that the Department should not index packing expenses because the packing costs contain a large component of raw materials which are already reported on a replacement cost basis.

DOC Position: We agree with Borusan and have indexed Borusan's packing expenses in both markets. Because the timing of packing materials purchases in a hyperinflationary economy may result in an over- or under-statement of net prices, our practice is to index all packing costs in the manner done for COM. *See Pasta From Turkey,* at 30323, and the *1994–95 Review,* at 69071.

Moreover, as noted above in Comment 3, in accordance with our practice, all costs, including materials, are indexed in hyperinflationary economy cases. Therefore, we do not accept the petitioners' argument that packing costs should not be indexed because some of the packing expenses are reported on a replacement cost basis.

Comment 14: Direct Selling Expenses. Borusan argues that the Department incorrectly deducted direct selling expenses from U.S. price and added these expenses to FMV, thus double counting the expenses. Borusan cites to section 773(a)(4) of the Act in support of its argument.

The petitioners did not comment on this issue.

DOC Position: We agree with Borusan and have corrected this error in the final results. To make the COS adjustment, we have deducted home market direct selling expenses from FMV and then added U.S. direct selling expenses to FMV.

Comment 15: Conversion of Certain Direct Selling and Movement Expenses. Borusan contends that the Department incorrectly converted certain direct selling and movement expenses from Turkish Lira to U.S. dollars by using exchange rates based on dates of sale rather than on dates of shipment.

The petitioners did not comment on this issue.

DOC Position: We agree with Borusan. In accordance with our practice, we have corrected the error by using exchange rates based on the date of shipment to convert expenses from Turkish lira to U.S. dollars. *See Final Determination of Sales at Less Than Fair Value: Silicon Metal From Brazil,* 56 FR 26977, 26980 (June 12, 1991) (Comment 3).

Comment 16: Assessment Rate. On August 1, 1997, we informed Borusan and the petitioners that we intended to calculate importer-specific *ad valorem* assessment rates on entered value. Since our antidumping questionnaire did not request Borusan to submit entered values in its questionnaire response, we informed the parties that we would calculate entered values by subtracting international freight charges from the gross unit prices reported in the U.S. sales database.

The petitioners contend that to calculate the entered values the Department should also subtract from the gross unit prices the discount that Borusan grants its customers.

Borusan did not comment on this issue.

DOC Position: We agree with the petitioners. We have removed all discounts from gross unit prices to calculate entered values.

Final Results of Review

As a result of our review, we determine that the following margins exist for the period May 1, 1993, through April 30, 1994:

Manufacturer/ exporter	Review period	Margin (percent)
Borusan	5/1/93–4/30/94	4.01
Yucelboru	5/1/93–4/30/94	0.00

The Department shall determine, and Customs shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to Customs.

For Yucelboru, a cash deposit rate of zero will be effective for all its shipments of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the publication date of these final results of this administrative review, as provided by section 751(a) of the Act.

For Borusan, the cash deposit rate will continue to be 2.57 percent, the rate effective since May 16, 1997, which was published in the *Notice of Amended Final Results of Antidumping Duty Administrative Review: Certain Welded Carbon Steel Pipe and Tube from Turkey,* 62 FR 27013 (May 16, 1997).

For merchandise exported by manufacturers or exporters not covered in this review but covered in the original less-than-fair-value (LTFV) investigation or a previous review, the cash deposit will continue to be the most recent rate published in the final determination or final results for which the manufacturer or exporter received a company-specific rate; if the exporter is not a firm covered in this or a prior review or the original investigation, but the manufacturer is, the cash deposit rate will be that established for the manufacturer of the merchandise; and if neither the exporter nor the manufacturer is a firm covered in this or any previous review, the cash deposit rate will be 14.74 percent, the ''all others'' rate established in the LTFV investigation.

These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice also serves as final reminder to importers of their responsibility to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice is the only reminder to parties subject to administrative protective order (APO) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 C.F.R. 353.34(d). Failure to comply is a violation of the APO.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and 19 C.F.R. 353.22.

Dated: September 25, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26196 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[C–401–056]

Viscose Rayon Staple Fiber From Sweden; Final Results of Countervailing Duty Administrative Review

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

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

SUMMARY: On June 6, 1997, the Department of Commerce (''the Department'') published in the **Federal Register** its preliminary results of administrative review of the countervailing duty order on viscose rayon staple fiber from Sweden for the period January 1, 1995 through December 31, 1995 (62 FR 31079). The Department has now completed this administrative review in accordance with section 751(a) of the Tariff Act of 1930, as amended. For information on the net subsidy for each reviewed company, and for all non-reviewed companies, please see the *Final Results of Review* section of this notice. We will instruct the U.S. Customs Service to assess countervailing duties as detailed in the *Final Results of Review* section of this notice.

EFFECTIVE DATE: October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Stephanie Moore or Russell Morris, Office of CVD/AD Enforcement VI, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–2786.

SUPPLEMENTARY INFORMATION:

Background

Pursuant to 19 CFR 355.22(a), this review covers only those producers or exporters of the subject merchandise for which a review was specifically requested. Accordingly, this review covers Svenska Rayon AB (Svenska). This review also covers the period January 1, 1995 through December 31, 1995, and ten programs.

We published the preliminary results on June 6, 1997 (62 FR 31079). We invited interested parties to comment on the preliminary results. We received no comments from any of the parties.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions of the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (URAA) effective January 1, 1995 (the Act). The Department is conducting this administrative review in accordance with section 751(a) of the Act.

Scope of the Review

Imports covered by this review are shipments from Sweden of regular viscose rayon staple fiber from Sweden of regular viscose rayon staple fiber and high-wet modulus (modal) viscose rayon staple fiber. Such merchandise is classifiable under item number 5504.10.00 of the Harmonized Tariff Schedule (HTS). The HTS item is provided for convenience and Customs purposes. The written description remains dispositive.

Analysis of Programs

Based upon the responses to our questionnaire, we determine the following:

I. Programs Found Not To Confer Subsidies

A. *Investment Grants from the Working Life Fund*
B. *Recruitment Incentive Program*
C. *Trainee Temporary Replacement*
D. *Recruitment Subsidy Program*

In the preliminary results, we found that these programs did not confer countervailable subsidies on the subject merchandise. We did not receive any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the preliminary results. We will examine the Recruitment Subsidy Program in any future administrative reviews of this order because we did not make a specificity determination in this review since, even if the program were found to be specific, the subsidy rate would be so small that it would not change the overall subsidy rate of Svenska.

II. Programs Found To Be Not Used

In the preliminary results, we found that Svenska did not apply for or receive benefits under the following programs:

A. *Manpower Reduction Grants*
B. *Grants for Temporary Employment for Public Works*
C. *Regional Development Grant*
D. *Transportation Grants*
E. *Location-of-Industry Loans*

We did not receive any comments on these programs from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

III. Programs Found To Be Terminated

In the preliminary results, we found the following program to be terminated and that no residual benefits were being provided:

Elderly Employment Compensation Program

We did not receive any comments on this program from the interested parties, and our review of the record has not led us to change our findings from the preliminary results.

Final Results of Review

For the reasons discussed in the preliminary determination, we determine that no countervailable subsidies were conferred on Svenska for the period January 1, 1995 through December 31, 1995. We will instruct the U.S. Customs Service (''Customs'') to liquidate without regard to countervailing duties, all shipments of this merchandise exported on or after January 1, 1995, and on or before December 31, 1995. The Department will also instruct Customs to collect a cash deposit of estimated countervailing duties of zero percent *ad valorem*, as provided for by section 751(a) of the Act, on all shipments of this merchandise from Svenska, entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

Because the URAA replaced the general rule in favor of a country-wide rate with a general rule in favor of individual rates for investigated and reviewed companies, the procedures for establishing countervailing duty rates, including those for non-reviewed companies, are now essentially the same as those in antidumping cases, except as provided for in § 777A(e)(2)(B) of the Act. The requested review will normally cover only those companies specifically named. *See* 19 CFR § 355.22(a) (1997). Pursuant to 19 CFR § 355.22(g), for all companies for which a review was not requested, duties must be assessed at the cash deposit rate, and cash deposits must continue to be collected at the rate previously ordered. As such, the countervailing duty cash deposit rate applicable to a company can no longer change, except pursuant to a review of that company. *See Federal-Mogul Corporation and The Torrington Company* v. *United States*, 822 F.Supp. 782 (CIT 1993) and *Floral Trade Council* v. *United States*, 822 F.Supp. 766 (CIT 1993) (interpreting 19 CFR § 353.22(e), the antidumping regulation on automatic assessment, which is virtually identical to 19 CFR § 355.22(g)). Therefore, the cash deposit rates for all companies except those covered by this review will be unchanged by the results of this review.

We will instruct Customs to continue to collect cash deposits for non-reviewed companies at the most recent company-specific or country-wide rate applicable to the company. Accordingly, the cash deposit rates that will be applied to non-reviewed companies covered by this order are those established in the most recently completed administrative proceeding conducted pursuant to the statutory provisions that were in effect prior to the URAA amendments. These rates shall apply to all non-reviewed companies until a review of a company assigned these rates is conducted. In addition, for the period January 1, 1995 through December 31, 1995, the assessment rates applicable to all non-reviewed companies covered by this order are the cash deposit rates in effect at the time of entry.

This notice serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR § 355.34(d). Timely written notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

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

Dated: September 25, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–26194 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Export Trade Certificate of Review

ACTION: Notice of application to amend certificate.

SUMMARY: The Office of Export Trading Company Affairs (''OETCA''), International Trade Administration,

Department of Commerce, has received an application to amend an Export Trade Certificate of Review. This notice summarizes the proposed amendment and requests comments relevant to whether the amended Certificate should be issued.

FOR FURTHER INFORMATION CONTACT: W. Dawn Busby, Director, Office of Export Trading Company Affairs, International Trade Administration, (202) 482–5131. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: Title III of the Export Trading Company Act of 1982 (15 U.S.C. 4001–21) authorizes the Secretary of Commerce to issue Export Trade Certificates of Review. A Certificate of Review protects the holder and the members identified in the Certificate from state and federal government antitrust actions and from private, treble damage antitrust actions for the export conduct specified in the Certificate and carried out in compliance with its terms and conditions. Section 302(b)(1) of the Act and 15 CFR 325.6(a) require the Secretary to publish a notice in the **Federal Register** identifying the applicant and summarizing its proposed export conduct.

Request for Public Comments

Interested parties may submit written comments relevant to the determination whether an amended Certificate should be issued. If the comments include any privileged or confidential business information, it must be clearly marked and a nonconfidential version of the comments (identified as such) should be included. Any comments not marked privileged or confidential business information will be deemed to be nonconfidential. An original and five copies, plus two copies of the nonconfidential version, should be submitted no later than 20 days after the date of this notice to: Office of Export Trading Company Affairs, International Trade Administration, Department of Commerce, Room 1800H, Washington, D.C. 20230. Information submitted by any person is exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552). However, nonconfidential versions of the comments will be made available to the applicant if necessary for determining whether or not to issue the Certificate. Comments should refer to this application as ''Export Trade Certificate of Review, application number 89–3A018.''

Outdoor Power Equipment Institute, Inc.'s (''OPEI'') original Certificate was issued on March 19, 1990 (55 FR 11041, March 26, 1990) and previously amended on April 20, 1990 (55 FR 21766, May 29, 1990); and July 12, 1990 (55 FR 29398, July 19, 1990). A summary of the application for an amendment follows.

Summary of the Application

Applicant: Outdoor Power Equipment Institute, Inc. (''OPEI''), 341 South Patrick Street, Alexandria, Virginia 22314.

Contact: Laurence J. Lasoff, Counsel, Telephone: (202) 342–8530.

Application No.: 89–3A018.

Date Deemed Submitted: September 16, 1997.

Proposed Amendment: OPEI seeks to amend its Certificate to:

1. Add the following company as a new ''Member'' of the Certificate within the meaning of section 325.2(1) of the Regulations (15 C.F.R. 325.2(1)): Excel Industries, Inc., Hesston, Kansas; and

2. Delete as ''Members'' the following companies: Engineering Products Company, Inc., Waukesha, Wisconsin; E-Z Rake, Inc., Lebanon, Indiana; Falls Products Inc., Geona, Illinois; Merry Tiller, Inc., Birmingham, Alabama; NOMA Outdoor Product, Inc., Jackson, Tennessee; Roto-Hoe Company, Newbury, Ohio; Sarlo Power Mowers, Inc., Fort Myers, Florida; Snapper Power Equipment, McDonough, Georgia; and Trailmate, Inc., Sarasota, Florida.

Dated: September 26, 1997.

W. Dawn Busby,

Director, Office of Export Trading Company Affairs.

[FR Doc. 97–26066 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–DR–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 070197A]

Small Takes of Marine Mammals Incidental to Specified Activities; Oil and Gas Exploration Drilling Activities in the Beaufort Sea

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

ACTION: Notice of issuance of an incidental harassment authorization.

SUMMARY: In accordance with provisions of the Marine Mammal Protection Act (MMPA) as amended, notification is hereby given that an Incidental Harassment Authorization (IHA) to take small numbers of marine mammals by harassment incidental to conducting oil exploration drilling activities in Camden Bay, Beaufort Sea in waters off Alaska has been issued to ARCO Alaska, Inc. (ARCO).

DATES: This authorization is effective from September 25, 1997, through September 1, 1998.

ADDRESSES: The application and monitoring plan, authorization, and environmental assessment (EA) are available by writing to the Chief, Marine Mammal Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Silver Spring, MD 20910–3225, or by telephoning one of the contacts listed below.

FOR FURTHER INFORMATION CONTACT: Kenneth R. Hollingshead, Office of Protected Resources, NMFS, (301) 713–2055, Brad Smith, Western Alaska Field Office, NMFS, (907) 271–5006.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and either regulations are issued or, if the taking is limited to harassment, notice of a proposed authorization is provided to the public for review.

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

On April 10, 1996 (61 FR 15884), NMFS published an interim rule establishing, among other things, procedures for issuing incidental harassment authorizations under section 101(a)(5)(D) of the MMPA for activities in Arctic waters, including requirements for peer-review of a monitoring program and a plan of cooperation between the applicant and affected subsistence users. For additional information on the procedures followed for this

authorization, please refer to that document.

Summary of Request

On May 30, 1997, NMFS received an application from ARCO requesting a 1-year authorization for the possible harassment of small numbers of several species of marine mammals incidental to moving a Concrete Island Drilling System (CIDS) from Prudhoe Bay to Camden Bay, Alaska and drilling an oil exploration well at that location during the winter, 1997/98. Essentially, the project has several stages as summarized below: (a) Deballast the bottom-founded Global Marine Drilling Co. ''Glomar Beaufort Sea #1'' CIDS and move it to the well site in Camden Bay on or about August 15, 1997; (b) Transport drilling supplies, materials and other equipment to the CIDS. Transport fuel from Canada to the site; (c) Warm shutdown mode until such time as ice in Camden Bay is fully formed (estimated to be around November 1, 1997). Crew change via helicopter during this and succeeding times; (d) Drilling operations after ice formation on or around November 1, 1997 (drilling and well testing operations may occur from that date through mid-May 1998); (e) Cold shutdown mode from completion of drilling and well testing operations until around July 1, 1998; and (f) Towing CIDS from Camden Bay by tug boats to Prudhoe Bay or another location.

A more detailed description of the work planned is contained in the application and is available upon request (see **ADDRESSES**). Moving the CIDS from Prudhoe Bay began on August 16, 1997. The barging of fuel, equipment and supplies will be completed on or before August 31, 1997.

Comments and Responses

A notice of receipt of the application and proposed authorization was published on July 15, 1997 (62 FR 37881), and a 30-day public comment period was provided on the application and proposed authorization. During the comment period, comments received were from the Marine Mammal Commission (MMC), the Alaska Eskimo Whaling Commission (AEWC) and North Slope Borough (NSB), ARCO, Greenpeace Alaska (Greenpeace) and the Trustees for Alaska (Trustees). ARCO's comments which addressed contents in the EA are not discussed further in this document. Information on the activity and authorization request that are not subject to reviewer comments can be found in the proposed authorization notice and is not repeated here. Issues outside either the scope of the IHA process or on the impacts on marine mammals and/or subsistence needs for marine mammals are not addressed in this document.

Negligible impact concerns

Comment 1: Trustees believe that NMFS fails to adequately discuss scientific information which found significant effects from disturbance on whales and other marine mammals. They believe NMFS provided little information in the notice and EA not found in ARCO's application.

Response: The MMPA requires NMFS to use the best scientific information available when determining whether an activity will have a negligible impact on marine mammals (see the definition of negligible impact above or in 50 CFR 216.103). Extensive monitoring of impacts of oil exploration activities on marine mammals and analyses of the results from those studies have been conducted over the past two decades. This information has also been summarized elsewhere (*e.g.*, Richardson *et al.* (1995b) on noise impacts). The EA also summarizes this information and incorporates other documentation by reference. Because the best scientific information to date available to NMFS indicates that oil and gas exploration activities in the Beaufort Sea are not having more than a negligible impact on marine mammals, and because Trustees and other commenters have not provided scientific information to the contrary, an incidental harassment authorization appears warranted.

NMFS does not contradict commenters' position that bowhead whales and other marine mammals may be harassed by noise from aircraft, tugboats and oil drilling operations. However, the MMPA allows a take by harassment if certain findings are made and certain conditions are met. NMFS believes the level of incidental harassment by the ARCO activity will not adversely affect the species or stocks of marine mammals through effects on annual rates of recruitment or survival. Therefore, the taking is considered negligible.

Marine mammal concerns

Comment 2: Greenpeace and Trustees both note that NMFS has failed to fully consider the impacts to the bowhead whale population. They believe NMFS should assess impacts from the first arrivals in the western Beaufort Sea and not just on impacts after August 31.

Response: NMFS agrees and has modified the EA to address this concern. However, NMFS notes that the bowhead whale numbers referenced by Trustees as passing the Camden Bay site are overstated. Moore and Clark (1991) estimated in 1981 through 1983, up to 500 (range 0–500) bowheads may be offshore the Barter Island region; however, no whales were sighted west of that region prior to September 1 during those years. Most sighted bowheads were still in Canadian waters. While NMFS notes that in general, bowhead whales migrate westward through the Alaskan Beaufort Sea from late August to late October, only a portion of the population has been estimated as migrating during this time period. Other bowheads are either undetectable to observers (*i.e.*, under the ice), migrated prior to surveys commencing, or did not migrate to the Canadian Beaufort Sea. As a result of ARCO's agreement with the AEWC to complete moving activities and barge traffic prior to September 1, NMFS believes the majority of the bowhead population will not hear noise emanating from the CIDS because of their presence in the Canadian Beaufort Sea.

Most westward migrating bowheads sighted are in water ranging from 20 to 50 m (65–165 ft) deep (Ljungblad *et al.* 1984). Scientific evidence indicates that bowhead whale distribution appears to be strongly influenced by ice (but see information provided by Traditional Knowledge discussed below). In heavy ice years, bowheads tend to migrate in deeper water (> 60 m (> 197 ft)), while in light ice years, a larger proportion sighted are found in shallow water (<40 m (< 131 ft)) (NMFS 1996). A few may occur close to shore. Therefore, there is some potential that bowhead whales may be incidentally harassed while the CIDS is being towed westward and the supply activities prior to August 31. However, these numbers are considered to be small and the impact negligible. Additional information on this issue can be found in the EA.

Comment 3: Trustees note that NMFS does not provide a specific date for start-up of drilling, nor when the spring bowhead whale migration period begins (when the CIDS should not be moved), nor does it prohibit drilling operations from the CIDS during this period, if drilling takes longer than expected.

Response: NMFS notes that it is unaware whether ice-up needs to be complete prior to the CIDS commencing drilling. Therefore, recognizing that bowhead whales may be migrating westward through the offshore and nearshore Camden Bay area through late October, and drilling during this period of time could result in additional harassment takes that have not been considered in the negligible take analysis, NMFS has conditioned the IHA so that drilling activities prior to

November 1, 1997, are not covered by the IHA and any incidental harassment of bowheads resulting from an early start-up is a violation of the IHA and the MMPA.

During the springtime eastward migration bowheads are presumed to first arrive offshore Camden Bay in late April to early May. This migration is also presumed to occur through the end of June. Because the leads through the ice at this time are usually well offshore (and the reason there is not a springtime subsistence hunt at Nuiqsuk and Kaktovik), no incidental harassment takings are presumed to occur from drilling activities. However, in order to ensure bowhead migration is not impeded by anthropogenic noise, a condition of the IHA prohibits any oil and gas exploration activity in the spring leads, including drilling or vessel noise. If on-site drilling activities are projected to continue into the time bowheads enter offshore Camden Bay, prior to modifying the IHA, NMFS will require submission and implementation of a revised monitoring program to ensure that bowheads will not be seriously affected by drilling activities while moving through the spring leads. In accordance with NMFS regulations, any modification of an IHA that does not involve emergency action to protect marine mammals is subject to a 30-day public comment period. For that reason, a request for an amendment to the IHA, and the accompanying monitoring plan will need to be provided to NMFS no later than March 1, 1998.

If the CIDS remains under the control of, or under contract to ARCO after completion of the drilling operation, the IHA authorizes the harassment of bowheads and other marine mammals incidental to moving the CIDS to another site after the last bowhead migration pulse has completed its eastward migration. If necessary, NMFS will make a determination that the migration is complete and will notify interested parties.

Comment 4: Greenpeace states that the impacts of industrial noise associated with exploratory drilling activities during the bowhead migration have not been adequately evaluated by NMFS.

Response: Other than towing the CIDS and tug/barge traffic, no other activities related to the CIDS operation is anticipated to have an impact on bowhead whales. Impacts on bowheads from vessel noise was discussed in the EA.

Comment 5: Trustees note that NMFS fails to make clear that the drill site is located in significant ringed seal habitat and that seals undergoing stresses such as reproduction (taking place during drilling activities) may be more vulnerable to the effects of contaminants or disturbance. Trustees also notes that NMFS fails to discuss impacts from seismic activities and vehicle traffic.

Response: The biology, abundance and distribution of ringed seals and other pinnipeds were addressed in the EA. The EA notes that some reduction in density of ringed seals within an area of approximately 2.3 nmi (3.7 km) of the CIDS could be expected. However, considering winter-time ringed seal densities of between 2–6 ringed seals/nm^2, few ringed seals should be affected by the CIDS, whose noise disturbance zone is limited to less than 1 nm. Because drilling operations will begin on or around November 1, 1997, well prior to ringed seals establishing birth lairs, and continue through mid-May 1998, ringed seal pupping, (which starts in early April), is unlikely to take place in the vicinity of the CIDS. Therefore, NMFS expects few ringed seals would be affected and that impact will result, at worst, in some displacement. Considering the extensive habitat available to ringed seals and the size of the Alaskan ringed seal population, displacement would not result in more than a negligible impact on the species.

Incidental harassment for either seismic activities or vehicle traffic over ice has not been requested by ARCO, is not being authorized, and is not anticipated by the applicant, except for the latter in emergency situations, such as an oil spill. NMFS notes however, that the incidental taking by this type of activity is the subject of a separate rulemaking action (see 62 FR 42737, August 8, 1997).

Environmental concerns

Comment 6: Trustees believe that the impacts to the Alaska National Wildlife Refuge (ANWR) have been ignored by NMFS. One of their concerns is that, to avoid impacts to marine mammals, helicopters would be required to fly over land. However, this would increase the magnitude and extent of impacts to the wilderness.

Response: NMFS believes no more than a negligible impact will accrue to marine habitats of importance to marine mammals in the waters offshore of ANWR from the wintertime CIDS operation. Once the CIDS is in place and supplied prior to September 1, noise from the CIDS will be limited to generators operating in the warm shutdown mode, and possibly some noise from helicopters supplying the CIDS prior to beginning drilling. Oil drilling noises will not occur until ice-up is complete. Other than small numbers of seals and polar bears (for which the U.S. Fish and Wildlife Service has issued a small take authorization), marine mammals will be unaffected (but see comment 7 below regarding potential for oil spills and comment 8 regarding drilling muds). Impacts relating to issuance of an IHA were addressed in NMFS' EA, other impacts were addressed in the final Environmental Impact Statement (FEIS) for the Beaufort Sea Lease Sale 144 (BSLS 144) and an EA prepared by the Minerals Management Service (MMS) for ARCO's activities.

ARCO will be required to comply with appropriate MMS and ANWR regulations regarding aircraft overflights. Also to mitigate noise levels for marine mammals, NMFS has conditioned the IHA to require aircraft to remain at an altitude of 1,000 ft (305 m) until within 0.5 nm (926 m) of the CIDS, whenever the weather ceiling allows such heights.

Comment 7: Both Greenpeace and Trustees expressed deep concern over the possibility of an oil spill in the vicinity of ANWR. There was concern that in the event of a crude oil blowout, harm to the marine mammals which reside on the barrier islands and in other habitats along the ANWR shoreline would be devastating.

Trustees noted that the relief well plan calls for ice roads and support activities with ANWR. This is unacceptable.

Response: When making a negligible impact determination, NMFS finds that a negligible impact determination may be appropriate if the probability of occurrence is low, but the potential effects may be significant. In this case, the probability of occurrence of impacts must be balanced with the potential severity of harm to the species or stock when determining negligible impact. In applying this balancing test, NMFS evaluates the risks involved and the potential impacts on marine mammal populations and habitat.

NMFS recognizes that there is still considerable disagreement as to the effects of an oil spill on bowhead whales and other marine mammals in the Alaskan Beaufort Sea. MMS used Oil Spill Risk Analysis modelling to estimate the impacts of a worst-case spill on bowhead whales and concluded that this event would result in the mortality of a few individuals with expected recovery to the species' overall population level in 1 to 3 years. However, some data on the anatomy and migratory behavior of bowhead whales suggest that impacts from a large oil spill could pose a grave threat to this species, especially if substantial

amounts of oil got into the lead system during the spring migration (Albert 1981, Shotts *et al.* 1990). NMFS notes however, that to date no blowouts have occurred during drilling 81 exploratory wells in Alaskan waters as of 1994 (MMS 1996). As analyzed in more detail in MMS' EA and based upon information provided in that document and the FEIS for BSLS 144, NMFS has determined that the potential for a significant oil spill from a single exploration activity site (as contrasted to an oil production site on which oil spill probabilistic analyses are based), and the potential therefore for significant impacts on marine mammals inhabiting the offshore and nearshore waters of Camden Bay, is negligible.

NMFS notes that ARCO's Oil Spill Contingency Plan has been modified to eliminate all references to relief well planning involving construction on, or movement through, ANWR, including its lagoons.

Comment 8: Both Greenpeace and Trustees believe NMFS fails to give meaningful consideration to impacts associated with chronic discharges of contaminants (drilling muds, cuttings, biocides, oil) associated with exploratory drilling operations. Greenpeace believes routine and accidental discharges are substantial.

Response: The discharge of anthropogenic materials from oil platforms, (such as drilling muds, discharged materials and produced water) is regulated by the Environmental Protection Agency (EPA) under the National Pollutant Discharge Elimination System. A permit for oil exploration activities has been issued by EPA for this activity. While drilling muds are relatively non-toxic and the metals associated with drilling muds are virtually unavailable for bioaccumulation by marine organisms (Neff 1987), other anthropogenic materials could potentially harm bowhead whales by reducing or contaminating their food resources if found in sufficient quantities. The feeding strategy of bowhead whales could lead to ingestion of oil from oil-contaminated food, if the prey organisms accumulate petroleum hydrocarbons in their tissue. The effect of pollutants including heavy metals on the planktonic organisms (copepods, euphasiids) on which these whales feed is relatively unknown, but may result in either direct mortality or sublethal effects that inhibit growth, longevity and reproduction. If planktonic crustaceans have the ability to detoxify hydrocarbons, these hydrocarbons are less likely to persist and biomagnify in the bowhead whale. The National Research Council (1985) concluded that the risks to most outer continental shelf (OCS) benthic communities from exploratory drilling discharges are small and result primarily from physical benthic effects. In addition, the relatively small area of these discharges further limits their impact in the Beaufort Sea marine environment.

NMFS has modified its EA to address this concern.

Subsistence concerns

Comment 9: The AEWC has concerns that any major noise-producing activities, including those by ARCO, that occur in the vicinity of a village's subsistence hunt or in the ''upstream'' migration path of the bowhead whales have the potential to interfere with the bowhead subsistence hunt. As a result, the AEWC has requested that all Fall open-water industrial activities with the potential to interfere with the Fall bowhead whale subsistence hunt cease as of August 31, 1997. If the CIDS is not on location at the specified and represented time by ARCO, then the AEWC insists that an approved open water Conflict and Avoidance Agreement (CAA) must be in place prior to the IHA being issued. If the CAA is signed before NMFS issues an IHA, then the AEWC agrees with NMFS that the potential impacts should be sufficiently mitigated to warrant issuance of an IHA with no further mitigation requirements. If the CAA is not signed, the AEWC recommends additional specified mitigation measures. Greenpeace states that no operations should continue east of Cross Island after the end of August.

Response: NMFS has been informed that a CAA between the AEWC and ARCO has been concluded. As part of that agreement, ARCO has agreed to cease all activities in the vicinity of the CIDS, including barge transport of supplies after August 31, 1997. Once the bowhead whale hunt has concluded, activities can continue as scheduled and discussed in the application and proposed authorization.

Comment 10: Greenpeace asserts that the proposed action will have a significant impact on the bowhead whale and Inupiat communities that depend on the bowhead whale for subsistence. Because the impacts of the industrial noise associated with the exploratory drilling activities during the bowhead migration have not been adequately evaluated by NMFS, NMFS must deny ARCO's IHA application.

Response: Impacts to bowhead whales from oil exploration activities were addressed above, in the EA, and in the notice of proposed authorization. NMFS has used the best scientific information available, along with Traditional Knowledge, to assess impacts of vessel, aircraft, and overwinter drilling activities on marine mammals. NMFS believes that a signed CAA supports NMFS determination that there will not be an unavoidable adverse impact on the availability of a species or stock for taking for subsistence needs.

Traditional knowledge concerns

Comment 11: Trustees believe NMFS has ignored valid and relevant scientific information-known through Traditional Knowledge of Native Alaskans-which contradict conclusions that oil industry operations will have a negligible impact. Greenpeace notes that the whaling captains have presented compelling evidence that bowheads are displaced from their migratory route and feeding areas by seismic and drilling operations. Greenpeace also believes that NMFS has dismissed the subtle behavioral effects on bowhead whales (*e.g.* spookiness) that whaling captains discuss.

Response: Traditional Knowledge provides information that industrial noise is detectable to bowhead whales at greater underwater distances than empirical scientific information has shown, and that bowheads will deflect from industrial noise, such as seismic airgun noise (up to 30–35 nmi from the airgun array), at great distances. Traditional Knowledge has been added as appropriate to the EA as requested by the AEWC on July 17, 1997.

NMFS does not dismiss information on behavioral effects from industrial noise on bowheads. These issues are discussed whenever relevant (see for example, NMFS 1996 [1]). Because ARCO's application noted that activities potentially affecting bowhead whales would not take place during the time when the major portion of the stock migrates through the Beaufort Sea, and therefore, no adverse effects on subsistence takings would occur, lengthy discussion on behavioral effects was unnecessary.

Monitoring

Comment 12: Greenpeace finds that ARCO's 1997 proposed monitoring plan is not scientifically rigorous enough to determine impacts to Arctic pinnipeds and cetacean species. Greenpeace contends that ARCO's quasi-scientific experimental design of the monitoring program is aimed at trying to prove that exploratory and other disturbing

[1] NMFS. 1996. Environmental Assessment: Request by BP Exploration (Alaska) Inc. for an Incidental Harassment Authorization to Allow the Incidental Take of Marine Mammals in the Beaufort Sea During the 1996 Northstar Seismic Exploration Program.

activities will have a negligible impact on the marine mammal populations.

Response: Section 101(a)(5)(D)(ii)(III) of the MMPA mandates a monitoring program to assess impacts to marine mammals by the activity. NMFS has stated previously that a monitoring program should be appropriate to determine the distribution and behavioral responses of potentially affected species of marine mammals before, during, and after exposure to the activities. NMFS believes that timing of each phase of ARCO's activity has mitigated affects on marine mammals to the lowest extent practicable. While additional monitoring can certainly be required under the IHA, NMFS must weigh the information value of such monitoring with costs for conducting the monitoring. If costs outweigh benefits, then NMFS believes the monitoring may not be practical, unless extenuating circumstances exist, such as ongoing subsistence harvests, or critically endangered species are present. An example of unnecessary monitoring includes repeating transmission loss tests for a CIDS during oil drilling activities, even though bowhead whales will not be in the vicinity of the CIDS when it is active.

Comment 13: Greenpeace believes NMFS must require a comprehensive monitoring plan that is fully subjected to independent peer design and review.

Response: Section 101(a)(5)(D)(ii)(III) requires an IHA to prescribe, where applicable, the requirements for independent peer-review of monitoring plans for activities where the proposed activity may affect the availability of a species or stock for taking for subsistence purposes. A signed CAA between the AEWC and the activity participants provides NMFS with documentation that the proposed activity will not have an unavoidable adverse impact on the availability of a species or stock for taking for subsistence needs. ARCO's proposed activity was discussed at the Peer-Review Workshop in Seattle on July 17, 1997, with the AEWC. In addition, the monitoring plan has been reviewed by scientists of NMFS and the MMC. The Scientific Director of the MMC, an independent reviewer, was of the opinion that the monitoring plan is adequate to verify that only small numbers of marine mammals are taken, that the taking is by harassment only, and that the impacts on the affected species and stocks are negligible. A similar assessment has been made by NMFS scientists who have reviewed the monitoring plan.

If at any time NMFS believes that the incidental harassment process would benefit from peer-review, it will promptly conduct this review. For example, if ARCO's oil drilling activities continue into the spring or summer, NMFS will require ARCO to provide a revised monitoring plan. That plan will be independently peer-reviewed to ensure that impacts to bowhead whales are adequately assessed.

Comment 14: Greenpeace states that NMFS must require ARCO to employ a full array of bottom-mounted hydrophones and deploy sonobuoys to accurately measure bowhead and other marine mammal vocalizations and ambient noise. The monitoring plan must be designed to substantiate the ''zone of influence,'' however distant.

Response: NMFS disagrees. Under the IHA, during drilling activity phase the harassment of bowhead whales is not authorized. As noted in the application, no drilling will occur prior to complete ice-up, at which time bowhead whales will be in the Bering Sea, and drilling will cease prior to springtime bowhead migration. If, as mentioned in comment 3, drilling activities were to extend into late spring, 1998, and bowheads enter the Camden Bay area, NMFS would require ARCO to request an amendment to its IHA. Included in that request would be a modified monitoring plan.

Substantiating the zone of influence during wintertime for bowheads is viewed by NMFS as unnecessary in light of the above statement. Substantiating a zone of influence for seals would require disruptive research on seals in lairs which, while likely valuable research, is unnecessarily intrusive on the animals when implemented as a monitoring tool. Because of the potential for an increase in Arctic wintertime drilling and seismic work over the next few years, NMFS encourages MMS to fund additional studies on ringed seal behavior and effects from industrial development.

Authorization concerns

Comment 15: Greenpeace and Trustees were concerned about the adequacy of time for NMFS to give adequate recognition to public comments.

Response: As noted by this document, NMFS believes that it has given proper review of all public comments.

Comment 16: ARCO believes that the operational restrictions set out in the IHA are not necessary because no takes of marine mammals are anticipated. For example, ARCO notes that September 1 is only a target date for completing the CIDS supply.

Response: NMFS presumes that the operational restrictions refer to the mitigation measures proposed in the earlier notice. NMFS notes however, that activities that proceed prior to, or after, the dates ARCO has suggested for each phase of the project, may potentially harass marine mammals, especially activities that may affect bowhead migration in the spring leads. The potential for the incidental harassment of marine mammals having a more than negligible impact on marine mammals during these alternative times has simply not been evaluated at this time. As a result, incidental takings outside the periods specified cannot be authorized. NMFS notes however, that once the NSB has secured its whaleboats for the season, and notifies ARCO of this fact, ARCO may continue resupply of the CIDS via barges.

Cumulative impact concerns

Comment 17: Trustees and Greenpeace believe NMFS ignores the cumulative impacts from oil exploration and development in the Arctic. Trustees provide a statement from one whaling captain that bowheads no longer enter Camden Bay due to industrial activity.

Response: NMFS has not ignored the cumulative impact from oil and gas exploration on marine mammals or their habitat. Due to distances between oil and gas exploration activities, NMFS does not expect a cumulative impact in 1997. NMFS has identified two oil and gas exploration activities in the Central and Eastern U.S. Beaufort Sea this year, a seismic survey by BP Exploration (Alaska) and the proposed activity. Other than the potential for the CIDS being towed within proximity to the seismic survey during mid-August, and the resulting noise if the seismic array is operating at the time, no cumulative impacts are anticipated. In 1990, NMFS determined that in any one year between 1990 and 1995 in the Beaufort and Chukchi Seas, there may be between 2 and 5 drilling units operating in Federal waters and two drilling units in state waters. In addition up to 17,000 seismic trackline miles in the Beaufort and Chukchi Seas would be conducted over the five years. On July 16, 1990 (55 FR 29207), NMFS determined that this level of industrial activity would not result in more than a negligible impact on marine mammals. No new information has been provided since that time to require a reassessment of cumulative impacts.

Traditional Knowledge indicates that oil exploration deflects whales further offshore, making them less accessible to whalers. While agreeing with this observation, NMFS notes that because no major oil and gas exploration activities have taken place in Camden

Bay since 1993, if bowhead whales are not following historic migratory routes (according to Traditional Knowledge), then one or more factors must be influencing their migration. These include: Ice conditions, food distribution and/or abundance, or conditioning by bowhead whales to the previous noise events. NMFS notes that a similar migratory modification has been made by California gray whales in their southward migration along the California coast in order to avoid recreational and commercial vessel traffic south of Pt. Conception.

National Environmental Policy Act (NEPA) concerns

Comment 18: Trustees noted that the site-specific impacts of drilling a well in the proposed Warthog area on marine mammals were not addressed in BSLS 144 FEIS, nor in ARCO's exploration plan or oil spill contingency plan. Trustees believe that NMFS' IHA documentation fails to acknowledge the potential effects addressed in ARCO's Oil Spill Contingency Plan.

Response: MMS released an EA that discusses ARCO's planned scope of work in Camden Bay, alternatives to those activities, and the impacts to the human environment from the proposed action and alternatives.

Impacts of potential oil spills resulting from exploration activities on BSLS 144 were addressed in that Lease Sale's FEIS and in MMS' 1997 EA. To the extent that those impacts affect marine mammals and their habitat, appropriate parts have been incorporated by reference in NMFS' EA. Incorporation by reference is provided by Council on Environmental Quality regulations (40 CFR 1502.21).

Comment 19: Greenpeace and Trustees believe that the proposed action will have a ''significant effect on the human environment'' and therefore NMFS needs to prepare an environmental impact statement (EIS) on the action. Greenpeace notes that ARCO proposes to introduce major sources of industrial noise and pollution to a pristine and ecologically significant area off the ANWR. Because the operations associated with, and subsequent exploratory drilling will affect species and habitats that the ANWR is designed to protect, NMFS must prepare a full EIS.

Response: NMFS disagrees. Commenters have not provided scientific information that the impact would be more than negligible (*i. e.*, significant). Since NMFS must analyze a request for an IHA to determine whether the proposed activity has no more than a negligible impact on a species or stock of marine mammals and does not have an unmitigable adverse impact on subsistence users, it believes that the issuance of a small take authorization only requires the preparation of an EA and not an EIS. In this case, the agency found through preparing an EA that the proposed action will not significantly affect the quality of the human environment thus making a finding of no significant impact. If the EA results in this finding, no additional documents are required by NEPA (NOAA Directives Manual 02–10).

Comment 20: Greenpeace notes the alleged inadequacies of the draft EIS on BSLS 144, especially as it relates to marine mammals and habitat-use patterns. Greenpeace references a review of BSLS 144 by the MMC.

Response: NMFS notes that the MMC comments were submitted in response to a draft EIS prepared by MMS for BSLS 144. Appropriate modifications and a response to MMC comments were provided in the FEIS. In addition, NMFS reviewed BSLS 144 under section 7 of the Endangered Species Act (ESA), and concluded formal consultation on November 16, 1995. The finding of that consultation was that, based on the Arctic Regional Biological Opinion, oil exploration activities under BSLS 144 is not likely to jeopardize the continued existence of listed species under its jurisdiction.

NMFS also notes that ringed seal and other marine mammal biology, distribution and abundance, and impacts were provided in its EA on the proposed action.

Other concerns

Comment 21: Greenpeace and Trustees believe that issuance of an IHA will violate the Coastal Zone Management Act (CZMA; 16 U.S.C. 1451–1464). The CZMA provides that a Federal agency may not issue a license or permit to conduct an activity that affects a state's coastal zone before a state concurs with the license applicant's certification that the activity will be consistent with the provisions of the state's plan.

Response: ARCO submitted the necessary information to the State of Alaska in order to evaluate the consistency of ARCO's activities with Alaska's coastal zone management plan (ACZMP). The State has worked with ARCO to address the State's coastal management concerns regarding ARCO's proposed activities in the Beaufort Sea. In managing Alaska's coastal zone, and in its evaluation of ARCO's proposed activities, the State must balance the competing objectives and purposes of the ACZMP. It is NMFS' understanding that the State has expressed no outstanding concerns regarding the consistency of ARCO's proposed activities with the enforceable policies of the ACZMP. An authorization to drill will not be provided to ARCO by MMS until ARCO has received the State's consistency determination.

Comment 22: Trustees contend that an Alaska Native Interest Land Claims Act (ANILCA) section 810 study is required. They believe that because the IHA is a required aspect of the decision regarding use of OCS lands for drilling, and the proposed oil industry activities could also harm the availability and use of ANWR lands for subsistence and cause a restriction of subsistence uses, and ANILCA study is necessary.

Response: The U.S. Supreme Court ruled in March 1987 that, by ANILCA's plain language, section 810 applies only to Federal lands within the State of Alaska's boundaries. ANILCA defines ''public lands'' to mean federal lands situated ''in Alaska,'' a phrase which has a precise geographic/political meaning that can be delineated with exactitude to include coastal waters to a point three miles from the coastline, where the OCS commences. Therefore, an ANILCA section 810 analysis/report is not required for ARCO's Warthog project.

Comment 23: Greenpeace and Trustees both believe ARCO, in deballasting the CIDS and moving the drilling unit to Camden Bay prior to receiving an authorization under the MMPA is in violation of the MMPA because marine mammals will be significantly affected by the action. In addition, NMFS, by not enforcing the MMPA and prohibiting the movement, has also violated the MMPA and the Administrative Procedure Act.

Response: NMFS disagrees. NMFS believes that such an instruction is not authorized by the MMPA, since under the MMPA NMFS authorizes only the taking of marine mammals incidental to that activity, not the activity itself. However, initiating an action that might result in a taking of a marine mammal without an authorization under the MMPA places that activity in jeopardy of violating the MMPA moratorium on taking marine mammals.

This issue was the subject of a District Court action by Greenpeace. On August 21, 1997, a U.S. District Court Judge for the District of Columbia disallowed Greenpeace's request to the Court for a Temporary Restraining Order to require NMFS to stop ARCO's moving the CIDS to Camden Bay.

Consultation

Under section 7 of the ESA, NMFS has completed consultations on the issuance of this authorization.

NEPA

In conjunction with the notice of proposed authorization, NMFS released a draft EA that addresses the impacts on the human environment from issuance of the authorization and the alternatives to the proposed action. Comments received on the draft EA, while leading to an improved EA, did not provide sufficient information that implementation of either the proposed action or the alternatives to that action would have a significant effect on the human environment. Therefore, as a result of the findings made in the EA, NMFS has concluded that implementation of either the preferred alternative or other identified alternatives would not have a significant impact on the human environment. As a result of that finding, an EIS will not be prepared. A copy of the EA is available upon request (see **ADDRESSES**).

Conclusions

NMFS has determined that the short-term impact of exploration drilling and related activities in the Beaufort Sea will result, at worst, in a temporary modification in behavior by certain species of pinnipeds, and possibly some individual bowhead or beluga whales. While behavioral modifications may be made by these species of marine mammals to avoid the resultant noise from tugs either towing the CIDS or transporting supplies, or due to drilling activities, this behavioral change is expected to have a negligible impact on the animals.

While the number of potential incidental harassment takes will depend on the distribution and abundance of marine mammals (which vary annually due to variable ice conditions and other factors) in the activity area, the number of potential harassment takings is estimated to be small. In addition, no take by injury and/or death is anticipated and takes will be at the lowest level practicable due to incorporation of the mitigation measures mentioned above. No rookeries, mating grounds, areas of concentrated feeding, or other areas of special significance for marine mammals occur within or near the planned area of operations during the season of operations.

Because bowhead whales are in the Canadian Beaufort Sea until late August/early September, moving the CIDS during August will not impact subsistence hunting of bowhead whales. Appropriate mitigation measures to avoid an unmitigable adverse impact on the availability of bowhead whales for subsistence needs was the subject of consultation between ARCO and subsistence users. As a result of discussions between the two parties, a Conflict and Avoidance Agreement has been concluded. This Agreement consists of three main components: (1) Communications, (2) conflict avoidance, and (3) dispute resolution.

Since NMFS is assured that the taking will not result in more than the incidental harassment (as defined by the MMPA) of small numbers of certain species of marine mammals, would have only a negligible impact on these stocks, will not have an unmitigable adverse impact on the availability of these stocks for subsistence uses, and would result in the least practicable impact on the stocks, NMFS has determined that the requirements of section 101(a)(5)(D) have been met and the authorization can be issued.

Authorization

Accordingly, NMFS has issued an IHA to ARCO Alaska for the above described oil exploration drilling activities in Camden Bay, Beaufort Sea, AK, provided the mitigation, monitoring and reporting requirements described in the authorization are undertaken.

Dated: September 25, 1997.

Patricia A. Montanio,

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

[FR Doc. 97–26060 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The NWS is publishing proposed certifications for the consolidation, automation, and closure of the following Weather Service offices at the indicated FAA Weather Observation Service Level:

(1) Alamosa, CO Weather Service Office (WSO) which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future Pueblo and Grand Junction Weather Forecast Offices (WFOs);

(2) Alpena, MI WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future North Central Lower Michigan WFO;

(3) Houghton Lake, MI WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future North Central Lower Michigan and Grand Rapids WFOs;

(4) Kalispell, MT WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future Missoula WFO;

(5) Lander, WY WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future Riverton WFO;

(6) Norfolk, NE WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future Omaha and North Platte WFOs;

(7) Sault Ste. Marie, MI WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future North Central Lower Michigan and Marquette WFOs;

(8) Scottsbluff, NE WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future Cheyenne and North Platte WFOs;

(9) Sheridan, WY WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future Billings and Riverton WFOs; and

(10) St. Cloud, MN WSO which will be automated at FAA Weather Observation Service Level D and have its services consolidated into the future Minneapolis and Aberdeen WFOs.

In accordance with Pub. L. 102–567, the public will have 60 days in which to comment on these proposed consolidation, automation, and closure certifications.

DATES: Comments are requested by December 1, 1997.

ADDRESSES: Requests for copies of the proposed consolidation, automation and closure packages should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300.

SUPPLEMENTARY INFORMATION: In accordance with section 706 of Pub. L.

102–567, the Secretary of Commerce must certify that these consolidation, automation, and closure certifications will not result in any degradation of service to the affected areas of responsibility and must publish the proposed consolidation, automation, and closure certifications in the FR. The documentation supporting each proposed certification includes the following:

(1) A draft memorandum by the meteorologist(s)-in-charge recommending the certification(s), the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the WSR–88D Radar Commissioning Report(s), User Confirmation of Services Report(s), and the Decommissioning Readiness Report (as applicable);

(7) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the ASOS Commissioning Report; series of three letters between NWS and FAA confirming that weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning; Surface Aviation Observation Transition Checklist, where required, documenting transfer of augmentation and backup responsibility from NWS to FAA; successful resolution of ASOS user confirmation of services complaints; and an in-place supplementary data program at the responsible WFO(s);

(8) Warning and forecast verification statistics for pre-modernized and modernized services which were utilized in determining that services have not been degraded;

(9) An Air Safety Appraisal for offices which are located on an airport; and

(10) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Pub. L. 102–567. In December 1995 the Committee decided that, in general, they would forego the optional consultation on proposed certifications. Instead, the Committee would just review certifications after the public comment period had closed so their consultation would be with the benefit of public comments that had been submitted.

This notice does not include the complete certification packages because they are too voluminous to publish. Copies of the certification packages and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certifications. At the June 25, and September 24, 1997 MTC meetings the Committee stated that its endorsement of certifications is ''subject to the following qualifications:

(1) The number of trained staff in each modernized field office meets staffing requirements as established by the modernization criteria and documented in the National Implementation Plan and the Human Resources Plan (WBS 1100). Delays in training or failure to fill required positions will increase the risk of degradation of service;

(2) The availability of operational systems in each modernized field office meets requirements as established by the modernization criteria and documented in the System Commissioning and Support Function Demonstration Plans; and

(3) The operational and administrative infrastructures and technical development needed to support the modernized field offices be maintained as required by the modernization plan.'' It is expected that these qualifications can be met for the above proposed certifications. If these qualifications can not be met prior to the December MTC meeting, these proposed certifications may or may not be presented to the Committee. If a decision to certify is made, the Secretary of Commerce must publish the final certification in the FR and transmit the certification to the appropriate Congressional committees prior to consolidating, automating, and closing these offices.

Dated: September 26, 1997.

Robert S. Winokur,

Acting Assistant Administrator for Weather Services.

[FR Doc. 97–26127 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The NWS is publishing proposed certifications for the automation and closure of the following Weather Service offices at the indicated FAA Weather Observation Service Level:

(1) Abilene, TX Weather Service Office (WSO) which will be automated at FAA Weather Observation Service Level C and with services being provided by the future San Angelo, Dallas/Fort Worth, Lubbock, and Midland/Odessa Weather Forecast Offices (WFOs);

(2) Concordia, KS WSO which will be automated at FAA Weather Observation Service Level D and with Services being provided by the future Topeka, Wichita, and Hastings WFOs;

(3) Ely, NV WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Elko WFO;

(4) Havre, MT WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Great Falls WFO;

(5) International Falls, MN WSO which will be automated at FAA Weather Observation Level D and with services by the future Duluth and Eastern North Dakota WFOs;

(6) Santa Maria, CA WSO which will be automated at FAA Weather Observation Service Level C and with services being provided by the future Los Angeles and San Francisco Bay Area WFOs;

(7) Tupelo, MS WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Memphis and Jackson WFOs;

(8) Valentine, NE WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future North Platte WFO;

(9) Victoria, TX WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Corpus Christi, Austin/San Antonio, and Houston/Galveston WFOs;

(10) Wichita Falls, TX WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Oklahoma City and Dallas/Fort Worth WFOs; and

(11) Winnemucca, NV WSO which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Elko WFO.

In accordance with Public Law 102–567, the public will have 60-day in which to comment on these proposed automation and closure certifications.

DATES: Comments are requested by December 1, 1997.

ADDRESSES: Requests for copies of the proposes automation and closure packages should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300.

SUPPLEMENTARY INFORMATION: In accordance with section 706 of Pub. L. 102–567, the Secretary of Commerce must certify that these automations and closures will not result in any degradation of service to the affected areas of responsibility and must publish the proposed automation and closure certifications in the FR. The documentation supporting each proposed certification includes the following:

(1) A draft memorandum by the meteorologist(s)-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) A description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) A comparison of the services provided within the service area and the services to be provided after such action;

(4) A description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) An identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) Evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the ASOS Commissioning Report; services of three letters between NWS and FAA confirming that weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning; Surface Aviation Observation Transition Checklist, where required, documenting transfer of augmentation and backup responsibility from NWS to FAA; successful resolution of ASOS users confirmation of services complaints; and an in-place supplementary data program at the responsible WFO(s);

(7) Warning and forecast verification statistics for pre-modernized and modernized services which were utilized in determining that services have not been degraded;

(8) An Air Safety Appraisal for offices which are located on an airport; and

(9) A letter appointing the liaison officer.

These proposed certifications do not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Pub. L. 102–567. In December 1995 the Committee decided that, in general, they would forego the optional consultation on proposed certifications. Instead, the Committee would just review certifications after the public comment period had closed so their consultation would be with the benefit of pubic comments that had been submitted.

This notice does not include the complete certification packages because they are too voluminous to publish. Copies of the certification packages and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. At the June 25, 1997 and the September 24, 1997 MTC meetings the Committee stated that its endorsement of certifications is ''subject to the following qualification:

(1) The number of trained staff in each modernized field office meets staffing requirements as established by the modernization criteria and documented in the National Implementation Plan and the Human Resources Plan (WBS 1100). Delays in training or failure to fill required positions will increase the risk of degradation of service;

(2) The availability of operational systems in each modernized field office meets requirements as established by the modernization criteria and documented in the System Commissioning and Support Function Demonstration Plans; and

(3) The operational and administrative infrastructures and technical development needed to support the modernized field offices be maintained as required by the modernization plan.'' It is expected that these qualifications can be met for the above proposed certifications. If these qualifications can not be met prior to the December MTC meeting, these proposed certifications may or may not be presented to the Committee. If a decision to certify is made, the Secretary of Commerce must publish the final certification in the FR and transmit the certification to the appropriate Congressional committees prior to automating and closing these offices.

Dated: September 26, 1997.

Robert S. Winokur,

Acting Assistant Administrator for Weather Services.

[FR Doc. 97–26128 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

National Weather Service Modernization and Associated Restructuring

AGENCY: National Weather Service (NWS), NOAA, Commerce.

ACTION: Notice and opportunity for public comment.

SUMMARY: The NWS is publishing a proposed certification for the automation of the Williston, ND, Weather Service Office which will be automated at FAA Weather Observation Service Level D and with services being provided by the future Bismarck Weather Forecast Office (WFO).

In accordance with Pub. L. 102–567, the public will have 60 days in which to comment on this proposed automation certification.

DATES: Comments are requested by December 1, 1997.

ADDRESSES: Requests for copies of the proposed automation package should be sent to Tom Beaver, Room 11426, 1325 East-West Highway, Silver Spring, MD 20910, telephone 301–713–0300. All comments should be sent to Tom Beaver at the above address.

FOR FURTHER INFORMATION CONTACT: Tom Beaver at 301–713–0300.

SUPPLEMENTARY INFORMATION: In accordance with section 706 of Pub. L. 102–567, the Secretary of Commerce must certify that this automation will not result in any degradation of service to the affected area of responsibility and must publish the proposed automation certification in the **Federal Register**. The documentation supporting the proposed certification includes the following:

(1) a draft memorandum by the meteorologist-in-charge recommending the certification, the final of which will be endorsed by the Regional Director and the Assistant Administrator of the NWS if appropriate, after consideration of public comments and completion of consultation with the Modernization Transition Committee (the Committee);

(2) a description of local weather characteristics and weather-related concerns which affect the weather services provided within the service area;

(3) a comparison of services provided in the service area and the services to be provided after such action;

(4) a description of any recent or expected modernization of NWS operation which will enhance services in the service area;

(5) an identification of any area within the affected service area which would not receive coverage (at an elevation of 10,000 feet) by the next generation weather radar network;

(6) evidence, based upon operational demonstration of modernized NWS operations, which was considered in reaching the conclusion that no degradation in service will result from such action including the ASOS Commissioning Report; series of three letters between NWS and FAA confirming that weather services will continue in full compliance with applicable flight aviation rules after ASOS commissioning; successful resolution of ASOS user confirmation of services complaints; and an in-place supplementary data program at the responsible WFO; and

(7) a letter appointing the liaison officer.

This proposed certification does not include any report of the Committee which could be submitted in accordance with sections 706(b)(6) and 707(c) of Public Law 102–567. In December 1995 the Committee decided that, in general, they would forego the optional consultation on proposed certifications. Instead, the Committee would just review certifications after the public comment period had closed so their consultation would be with the benefit of public comments that had been submitted.

This notice does not include the complete certification package because it is too voluminous to publish. Copies of the certification package and supporting documentation can be obtained through the contact listed above.

Once all public comments have been received and considered, the NWS will complete consultation with the Committee and determine whether to proceed with the final certification. At the June 25, and September 24, 1997 MTC meetings the Committee stated that its endorsement of certifications is ''subject to the following qualifications:

(1) The number of trained staff in each modernized field office meets staffing requirements as established by the modernization criteria and documented in the National Implementation Plan and the Human Resources Plan (WBS 1100). Delays in training or failure to fill required positions will increase the risk of degradation of service;

(2) The availability of operational systems in each modernized field office meets requirements as established by the modernization criteria and documented in the System Commissioning and Support Function Demonstration Plans; and

(3) The operational and administrative infrastructures and technical development needed to support the modernized field offices be maintained as required by the modernization plan.'' It is expected that these qualifications can be met for this proposed certification. If the qualifications can not be met prior to the December MTC meeting, this proposed certification may or may not be presented to the Committee.

If a decision to certify is made, the Secretary of Commerce must publish the final certification in the FR and transmit the certification to the appropriate Congressional committees prior to automating this office.

Dated: September 26, 1997.

Robert S. Winokur,

Acting Assistant Administrator for Weather Services.

[FR Doc. 97–26129 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–12–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 092497A]

Marine Mammals

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

ACTION: Denial of public display permit (PHF870–1391)

SUMMARY: Notice is hereby given that the National Marine Fisheries Service has denied issuance of a permit to M & M Amusement Park to import marine mammals for public display purposes.

ADDRESSES: Documents submitted in connection with the above application are available for review upon written request or by appointment in the following office(s):

Permits and Documentation Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southeast Region, NMFS, NOAA, 9731 Executive Center Drive North, St. Petersburg, FL 33702 (813/570–5301).

FOR FURTHER INFORMATION CONTACT: Ann Hochman, 301/713–2289.

SUPPLEMENTARY INFORMATION: On Friday, July 25, 1997, notice was published in the **Federal Register** (62 FR 40050) that an application had been filed by M & M Amusement Park, Calle Gilberto Rolin L16, Caguas, PR 00725. A public display permit was requested to import two bottlenose dolphins (*Delphinapterus leucas*) and three South American sea lions (*Otaria flavescens*) from Venezuela where they are currently on tour with Waterland - Mundo Marino of Valle, Colombia, into Puerto Rico for public display at several sites including San Juan, Ponce and Mayaguez. The requested permit has been denied subject to the provisions of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 *et seq.*), the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and the conditions set forth therein. Most importantly, the applicant was not registered under nor held a license issued under 7 U.S.C. 2131, *et seq.*

Dated: September 26, 1997

Ann D. Terbush,

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

[FR Doc. 97–26059 Filed 10–1–97; 8:45 am]

BILLING CODE 3510–22–F

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Submission for OMB Review; Comment Request

The Corporation for National and Community Service (CNCS), has submitted the following public information collection requests (ICRs) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, (44 U.S.C. Chapter 35). Copies of these individual ICRs, with applicable supporting documentation, may be obtained by calling the Corporation for National and Community Service, Roger L. Hurley, (202) 606–5000, Extension 144.

Comments should be sent to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for the Corporation for National and Community Service, Office of Management and Budget, Room 10235, Washington, D.C., 20503. (202) 395–7316, within 30 days from the date of this publication in the **Federal Register**.

The OMB is particularly interested in comments which:

Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;

Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

Enhance the quality, utility and clarity of the information to be collected; and

Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

Type of Review: Renewal.

Agency: Corporation for National and Community Service.

Title: Americorps NCCC Service Project Application.

OMB Number: 3045–0010.

Frequency: Annually.

Affected Public: Various non-profit organizations/project sponsors.

Number of Respondents: 800.

Estimated Time Per Respondent: 3 hrs.

Total Burden Hours: 2400 hrs.

Total Annualized capital/startup costs: N/A.

Total Annual Cost (operating/maintaining systems or purchasing services): $33,600.

Description: The Corporation for National and Community Service proposes to renew the AmeriCorps NCCC Service Project Application in a revised form, which incorporate lessons learned since the program inception. The Form is the means by which various organizations can request NCCC Members to assist in community service projects, and by which the NCCC evaluates such proposals for approval and selection.

Dated: September 29, 1997.

Andrew P. Chambers,

AmeriCorps NCCC National Director.

[FR Doc. 97–26112 Filed 10–1–97; 8:45 am]

BILLING CODE 6050–28–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

ACTION: Submission for OMB Review; Comment Request.

SUMMARY: The Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before November 3, 1997.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Dan Chenok, Desk Officer, Department of Education, Office of Management and Budget, 725 17th Street, NW., Room 10235, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, 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.

Dated: September 26, 1997.

Gloria Parker,

Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Management

Type of Review: Extension.

Title: Customer Satisfaction Surveys and Focus Groups.

Frequency: On Occasion.

Affected Public: Individuals or households; Business or other for-profit; Not-for-Profit institutions; State, Local or Tribal Government, SEAs or LEAs.

Annual Reporting and Recordkeeping Hour Burden:

Responses: 100,000.

Burden Hours: 50,600.

Abstract: Customer satisfaction surveys and focus group discussions will be conducted by the Principal Offices of the Department of Education to measure customer satisfaction and establish and improve customer service standards as required by Executive Order 12862.

[FR Doc. 97–26096 Filed 10–1–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[FERC–549]

Proposed Information Collection and Request for Comments

September 26, 1997.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice of proposed information collection and request for comments.

SUMMARY: In compliance with the requirements of Section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Consideration will be given to comments submitted on or before December 1, 1997.

ADDRESSES: Copies of the proposed collection of information can be obtained from and written comments may be submitted to the Federal Energy Regulatory Commission, Attn: Michael Miller, Information Services Division, ED–12.4, 888 First Street NE., Washington, DC 20426.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 208–1415, by fax at (202) 273–0873, and by e-mail at mmiller@ ferc.fed.us.

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–549 ''Gas Pipeline Rates: Natural Gas Policy Act, Title III Transactions and Natural Gas Act Blanket Certificates Transactions'' (OMB No. 1902–0086) is used by the Commission to implement the statutory provisions of the Sections 311 and 312 of the Natural Gas Policy Act (NGPA) (15 U.S.C. 3371–3372), and Section 7 of the Natural Gas Act (NGA) (15 U.S.C. 717–717w). Under Part 284 of the Commission's regulations non-interstate pipelines that perform transportation service under NGPA Section 311 (intrastate pipelines) or blanket certificates issued under section 7 of the NGA (Hinshaw pipelines) are required to file an annual report containing specific details of each transaction initiated during the reporting year. Interstate pipelines performing unbundled sales service under a blanket certificate granted under Part 284 of the regulations are required to file an annual report detailing specific information for each transaction initiated during the reporting year. The Commission uses the information collected in these reports to monitor the jurisdictional transportation activities of interstate pipelines and the unbundled sales activities of interstate pipelines.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
90	1.0	8.83	795

The estimated total cost to respondents is $41,902, (795 hours divided by 2,087 hours per year per employee times $110,000 per year per average employee=$41,902). The cost per respondent is $466.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology *e.g.* permitting electronic submission of responses.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26071 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3765–000]

Allegheny Power Service Corporation, on Behalf of Monongahela Power Company, the Potomac Edison Company, and West Penn Power Company (Allegheny Power); Notice of Filing

September 26, 1997.

Take notice that on September 4, 1997, Allegheny Power Service Corporation on behalf of Monongahela Power Company, the Potomac Edison Company, and West Penn Power Company tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 10, 1997. Protests will be considered by the

Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26080 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3455–000]

Central Illinois Light Company; Notice of Filing

September 26, 1997.

Take notice that on August 11, 1997, Central Illinois Light Company tendered for filing an amendment in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 6, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26079 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4381–000]

Eastern Energy Marketing, Inc.; Notice of Filing

September 26, 1997.

Take notice that on August 27, 1997, Eastern Energy Marketing, Inc. (EEM) tendered for filing a petition for waivers and blanket approvals under various regulations of the Commission and for an order accepting its FERC Electric Rate Schedule No. 1 to be effective no later than October 27, 1997.

EEM intends to engage in electric power and energy transactions as a marketer and broker. In transactions where EEM sells electric energy it proposes to make such sales on rates, terms, and conditions to be mutually agreed to with the purchasing party. EEM it not in the business of generating, transmitting, or distributing electric power.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before October 8, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26081 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–760–000]

El Paso Natural Gas Company; Notice of Request Under Blanket Authorization

September 26, 1997.

Take notice that on September 18, 1997, El Paso Natural Gas Company (El Paso), Post Office Box 1492, El Paso, Texas 79978, filed in Docket No. CP97–760–000 a request pursuant to Sections 157.205 and 157.212 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.212) for authorization to construct and operate a new delivery point in Reeves County, Texas, to permit the interruptible transportation and delivery of natural gas to Orla Petco, Inc. (Orla)—an independent oil producer. El Paso makes such request under its blanket certificate issued in Docket No. CP82–435–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request on file with the Commission and open to public inspection.

El Paso states that Orla currently operates an enhanced oil recovery project in Reeves County, Texas. It is stated that to extract the oil from the field, Orla is injecting $C0_2$ into the reservoir to increase the reservoir's operating pressure and enhance the production of crude oil. El Paso avers that in order to increase the pressure of the proposed gases (CO_2 and hydrocarbon mix) being re-injected into the reservoir, Orla has acquired a gas compressor that requires pipeline quality supplies of natural gas as fuel.

In support of Orla's continued enhanced oil recovery operations, Orla has requested that El Paso provide transportation service pursuant to a Transportation Service Agreement dated August 21, 1997 for Orla. El Paso states that, by the letter agreement the parties agreed that El Paso would install a new delivery point on El Paso's 6⅝ inch Line from Jal-El Paso Line to Continental Oil Company's Ramsey Plant in Reeves County, Texas. El Paso therefore, states that it is seeking authorization to construct and operate the Orla Petco, Inc. Delivery Point in order to accommodate a request for service by Orla.

El Paso proposed to deliver up to 54,750 Mcf annually or an average of 150 Mcf per day to the Orla Petco, Inc. Delivery Point, stating that the requested volumes will be within Orla's existing entitlements. The estimated construction cost of the proposed facility is $35,000—and Orla has agreed to reimburse El Paso's cost.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26077 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–287–006]

El Paso Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

September 26, 1997.

Take notice that on September 23, 1997, El Paso Natural Gas Company (El Paso) tendered for filing to become part of its FERC Gas Tariff, Second Revised Volume No. 1–A, the following tariff sheets to become effective October 23, 1997:

Fourth Revised Sheet No. 102
First Revised Sheet No. 113A
Fifth Revised Sheet No. 214
First Revised Sheet No. 312
Third Revised Sheet No. 349
Fourth Revised Sheet No. 350

El Paso states that the above tariff sheets are being filed to remove the rate cap from El Paso's limited negotiated rate option for Rate Schedule FT–1 service pursuant to El Paso's Settlement filed at Docket No. RP95–363–000, et al., and the Commission's Policy Statement at Docket Nos. RM95–6–000, et al. Further, the filing makes negotiated rates available to interruptible transportation service under Rate Schedule IT–1 pursuant to the Policy Statement.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26084 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–113–000]

Gasdel Pipeline Systems, Inc.; Notice of Proposed Changes in FERC Gas Tariff

September 26, 1997.

Take notice that on September 22, 1997, Gasdel Pipeline Systems, Inc. (Gasdel) tendered for filing Sixth Revised Sheet No. 5 to its FERC Gas Tariff, First Revised Volume No. 1A. The proposed effective date of this tariff sheet is October 1, 1997.

Gasdel states that pursuant to Article 30 of the General Terms and Conditions of its FERC Gas Tariff, and FERC Annual Charges Billing under 18 CFR Part 382, dated August 1, 1997, Gasdel is filing to reflect a FERC Annual Charge Adjustment of $.0022 for the fiscal year beginning October 1, 1997.

Gasdel states that copy of its filing was served on all jurisdictional customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed 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 proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26088 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–750–000]

Mobil Natural Gas Pipeline Company; Notice of Application

September 26, 1997.

Take notice that on September 11, 1997, Mobil Natural Gas Pipeline Company (MNGPC), filed in Docket No. CP97–750–000 an application pursuant to Section 7(c) of the Natural Gas Act for authorizations necessary to acquire and convert to natural gas service a 2.5 mile portion of a mothballed 6.5 mile pipeline previously used for fuel oil delivery; to own, operate, and maintain the Gibson Point Pipeline System and certain appurtenant facilities thereto; to construct check metering facilities at the Paulsboro, New Jersey refinery owned by Mobil Oil Corporation (Mobil Oil); to construct a ''T'' with a flange at an interconnection with Texas Eastern Transmission Corporation (Texas Eastern); to own certain facilities interconnecting with the existing Texas Eastern pipeline system; and to provide transportation service from the Texas Eastern interconnect to the Paulsboro, New Jersey refinery, all as set forth in the application which is on file with the Commission and open to public inspection.

MNGPC states that it proposes to acquire and convert to gas service approximately 2.5 miles of the fuel oil pipeline extending from Delaware County, Pennsylvania, where an interconnection is to be established with the existing 16-inch Line 1–A–1 of Texas Eastern, to the existing terminus at the Paulsboro Refinery. In addition, MNGPC proposes to construct check metering facilities at the Paulsboro Refinery and a ''T'' at the Texas Eastern interconnect. At the Texas Eastern interconnect, Texas Eastern will construct and operate a tap, a meter station, connecting pipe, and electronic gas measurement equipment. The sole function of the converted pipeline will be to provide transportation service to the Paulsboro Refinery owned by Mobil Oil, pursuant to a 15-year transportation agreement for 27 MMcf/day. It is stated that approval of this application will allow Mobil Oil to: (i) Obrain the lowest-cost fuel supply at its Paulsboro refinery; (ii) eliminate use of an existing electric compressor, thereby reducing emissions and noise levels at the refinery; and (iii) replace, with natural gas, refinery products that are currently being used to fuel a cogeneration facility.

It is asserted that the pipeline would be converted and the metering facilities, the ''T'' with a flange, and the interconnecting facilities would be constructed in the fall of 1997 for an in-service date of December 17, 1997. The costs of Texas Eastern's construction of the interconnecting facilities are estimated to be approximately $1,135,000. The costs of constructing the metering facilities and the ''T'' with

a flange are estimated to be approximately $200,000.

MNGPC states that the proposed conversion of the fuel oil pipeline to natural gas and the proposed construction and operation of the interconnecting facilities and facilities appurtenant to the Gibson Point Pipeline will have no significant environmental effects. Construction related to the pipeline will be minimal and will occur either on the well-buffered property of the Paulsboro Refinery itself or in areas that already are industrial in nature. No new right-of-way is required for the converted pipeline because MNGPC will use existing pipeline facilities located in an existing right-of-way.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 14, 1997 file with Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 or 385.214 and the regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's rules.

Take further notice that pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no petition to intervene is filed within the time required herein or if the Commission on its own review of the matter finds that a grant of the application is required by the public convenience and necessity. If a petition for leave to intervene is timely filed, or if the Commission, on its own motion, believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for MNGPC to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26076 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No RP97–533–000]

Pacific Gas Transmission Company; Notice of Proposed Change FERC Gas Tariff

September 26, 1997.

Take notice that on September 22, 1997, Pacific Gas Transmission Company (PGT) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1–A: Nineteenth Revised Sheet No. 4. PGT requested the above-referenced tariff sheet become effective November 1, 1997.

PGT asserts that the purpose of this filing is to modify the rate for service on PGT's Medford, Oregon Extension under Rate Schedule FTS–1 (E–2) (WWP) in accordance with the negotiated rate formula for that service as specified in PGT's FERC Gas Tariff.

PGT further states that a copy of this filing has been served on PGT's jurisdictional customers and interested state regulatory agencies.

Any person desiring to be heard or protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26086 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–150–008]

Richfield Gas Storage System; Notice of Compliance Filing

September 26, 1997.

Take notice that on September 23, 1997, Richfield Gas Storage System (Richfield) tendered for filing as part of its FERC Gas Tariff, Substitute Volume No. 1, the tariff sheets listed on Appendix A to the filing, to be effective November 1, 1997.

Richfield asserts that the purpose of this filing is to comply with the Commission's Order No. 587–C, Standards for Business Practices of Interstate Natural Gas Pipelines issued on March 4, 1997 in Docket No. RM96–1–004.

Richfield states that copies of this filing are being served on all affected customers, applicable state regulatory agencies and parties to this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26083 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–336–003]

Trailblazer Pipeline Company; Notice of Compliance Filing

September 26, 1997.

Take notice that on September 24, 1997, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, certain tariff sheets to be effective June 1, 1997 and November 1, 1997.

Trailblazer states that the purpose of the filing is to comply with Ordering Paragraph (A) of the Commission's order issued September 15, 1997 in Docket Nos. RP97–336–001 and 002 (September 15th Order), which required Trailblazer to delete from its Tariff the sentence, ''If the rate will sometimes be less than but will never exceed the applicable maximum rate, such rate will be considered a discounted rate rather than a Negotiated Rate.'' Trailblazer states that in the present filing it has reflected this change to be effective June 1, 1997, as well as conforming changes to be effective November 1, 1997, to sheets approved by OPR letter order issued July 31, 1997 in Docket No. RP97–54–006 (July 31st Letter Order).

Trailblazer requests waiver of the Commission's Regulations to the extent necessary to permit the tendered tariff sheets to become effective as indicated in the present filing consistent with the September 15th Order and the July 31st Letter Order.

Trailblazer states that copies of the filing have been mailed to its transportation customers, interested state regulatory agencies, and all parties set out on the official service lists in Docket No. RP97–336.

Any person desiring to protest said filing should file a motion with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed as provided in Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 97–26085 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–534–000]

Viking Gas Transmission Company; Notice of Proposed Changes in FERC Gas Tariff

September 26, 1997.

Take notice that on September 23, 1997, Viking Gas Transmission Company (Viking) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the tariff sheets listed on Appendix A to the filing to be effective November 1, 1997.

Viking states that the purpose of this filing is to establish a new Rate Schedule FT–C, which will be applicable to the expansion capacity approved by the Commission on May 6, 1997 in ''Order Issuing Certificate,'' Docket No. CP97–93–000, 79 FERC ¶ 61,136 (1997). Rate Schedule FT–C is identical in all respects to Viking's existing FT–A rate schedule, except that it applies only to firm shippers using the expansion capacity. Viking is also filing to implement the initial incremental demand rate of $8.65 Dth/month approved by the Commission in the May 6, 1997 certificate order.

As provided in the Commission's order, this initial rate for FT–C service will be subject to a retroactive ''true-up'' filing after a final accounting for the project has been completed. Viking states that it is also making miscellaneous tariff modifications so that its tariff properly reflects the existence of Viking's new Rate Schedule FT–C.

Viking states that copies of the filing have been mailed to all of its jurisdictional customers and to affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26087 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–766–000]

Williams Natural Gas Company; Notice of Request Under Blanket Authorization

September 26, 1997.

Take notice that on September 22, 1997, Williams Natural Gas Company (WNG), P.O. Box 3288, Tulsa, Oklahoma 74101, filed in Docket No. CP97–766–000 a request pursuant to Sections 157.205, 157.212, and 157.216, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.212, 157.216) for authorization to upgrade the United Cities Gas Company Olathe Naval Base meter setting and appurtenant facilities located in Johnson County, Kansas under WNG's blanket certificate issued in Docket No. CP82–479–000 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.

WNG states that the total projected volume of delivery through the new facilities is estimated to be 407,400 Dth annually with a peak day volume of 2,500 Dth. The total project cost is estimated to be $162,282 which will be offset by the execution of a new incremental one year firm transportation agreement. WNG states that this change is not prohibited by an existing tariff and that it has sufficient capacity to accomplish the deliveries specified without detriment or disadvantage to its other customers.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26078 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2680–039]

Consumers Energy Company; Notice of Availability of Draft Environmental Assessment

September 26, 1997.

A draft environmental assessment (DEA) is available for public review. The DEA was prepared for a plan to construct angler access facilities at what is known as the Port Sheldon site. The plan was required by ordering paragraph (C) of the Order Approving Settlement Agreement Regarding Fishery Issues, issued by the Commission on January 23, 1996. The Port Sheldon site is located adjacent to Lake Michigan and Pigeon Lake, near the Town of West Olive, Michigan.

The DEA finds that the licensee's plan is not a major federal action significantly affecting the quality of the human environment. The DEA was written by staff in the Office of Hydropower Licensing, Federal Energy Regulatory Commission. Copies of the DEA can be viewed at the Commission's Reference and Information Center, Room 2A, 888 First Street, NE., Washington, DC 20426. Copies can also be obtained by contacting the project manager listed below.

Please submit any comments within 40 days from the date of this notice. Any comments, conclusions, or recommendations that draw upon studies, reports, or other working papers of substance should be supported by appropriate documentation.

Comments should be addressed to: Ms. Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please include the project number (2680–039) on any comments filed. For further information, you may contact the project manager, Patti Pakkala, at (202) 219–0025.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26082 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Amendment of License

September 26, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Amendment of License.

b. *Project No.:* 184.

c. *Date filed:* September 18, 1997.

d. *Applicant:* Pacific Gas and Electric Company.

e. *Name of Project:* El Dorado.

f. *Location:* On the South Fork American River, in El Dorado, Alpine, and Amador Counties, California, partially within Eldorado National Forest.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791(a)–825(r).

h. *Applicant Contact:* Mr. Terry Morforld, Manager, Hydro Generation, Mail Code N11C, P.O. Box 770000, San Francisco, CA 94177, (415) 973–5311.

i. *FERC Contact:* James Hunter, (202) 219–2839.

j. *Comment Date:* November 5, 1997.

k. *Description of Project:* The proposed Riverton Water Supply System (RWSS) would consist of a river intake and pump station on the South Fork of the American River near Riverton and a 30-inch-diameter, 2000-foot-long, buried pipeline extending from the pump station to an existing undamaged portion of the El Dorado canal.

Pacific Gas and Electric Company (PG&E) proposes to construct and operate the RWSS project in order to restore water delivery to the El Dorado Irrigation District (EID). Severe flood damage to the El Dorado Project in late 1996 and early 1997 interrupted that delivery. The proposed facilities would discharge about 40 cubic feet per second of water into the canal, from which water would be delivered to EID as it had been before the flood damage. PG&E's proposal includes a contingency plan to install a temporary intake and above-ground pipeline to provide an emergency water supply, if necessitated by drought conditions prior to completion of the permanent facilities.

l. This notice also consists of the following standard paragraphs: B, C1, and D2.

B. Comments, Protests, or Motions to Intervene—Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

C1. Filing and Service of Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'' ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTESTS'', OR ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers. Any of the above-named documents must be filed by providing the original and the number of copies provided by the Commission's regulations to: The Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

D2. Agency Comments—Federal, state, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does no file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26089 Filed 10–1–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5901–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; Voluntary Customer Service Satisfaction Surveys

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Voluntary Customer Service Satisfaction Surveys, OMB Control Number 2090–0019, expiring 10/31/97. The ICR describes the nature of the information collection, and its expected burden and cost. Sample data collection instruments are appended with paper copies.

DATES: Comments must be submitted on or before November 3, 1997. They may

be sent via e-mail to bonner.patricia@epamail.epa.gov.

ADDRESSES: USEPA, Office of Policy, Planning and Evaluation, OSPED/IO Mail Code 2161, 401 M Street SW, Washington, D.C. 20460.

FOR FURTHER INFORMATION CONTACT: Sandy Farmer at EPA, (202) 260–2740, and refer to EPA ICR No. 1711.02. The ICR may be accessed electronically via Internet [http://www/epa.gov/oppe on the World Wide Web], requested via fax at 202–260–4968, or by calling 202–260–0599.

SUPPLEMENTARY INFORMATION:

Title: Voluntary Customer Service Satisfaction Surveys, OMB Control No. 2090–0019, EPA ICR Number 1711.02, expiring 10/31/97. This is a request seeking renewal of a generic clearance for customer satisfaction surveys directed under Executive Order 12862 ''Setting Customer Service Standards'' (9/11/93).

Abstract: Within the Environmental Protection Agency, voluntary customer surveys are used to learn how customers perceive EPA's services, and whether the Agency is achieving its customer service standards. Surveys involve individuals who have used EPA services directly or could have obtained such services (e.g. people notified about [X] who did not respond). Information obtained from surveys has been and will be used to evaluate and improve service delivery. Surveys provide managers with information to help them take actions that will lead to improved service delivery and streamlined procedures. During the next three years, EPA nationwide plans up to 994 surveys. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information, was published on 4/30/97 (62 FR 23446); no comments were received.

Burden Statement: Response time ranges from seconds to full day focus group sessions; the average annual public reporting and record keeping burden for this collection of information is 11 minutes per response. The Agency plans to use: minimal question/comment cards with narrow scope; longer comment sheets to evaluate training/conferences/workshops/events and publications; telephone interviews; in-person interviews; short and long written (mail) surveys; focus groups; and Internet feedback screens. 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. Labor costs were estimated using the Bureau of Labor Statistics April 18, 1997, release of weekly earnings of wage and salary workers, using the median earnings reported ($504/week).

Respondents/Affected Entities: Any person or entity that uses EPA services.

Estimated Number of Respondents: 83,469—FY 1998; 82,144—FY 1999; and 85,294—FY 2000.

Frequency of Response: Generally, 1 time. However, one survey will go to the same 75 individuals twice a year, each year, and individuals may select to reply more than one and many times to Internet screens.

Estimated Total Annual Hour Burden: 18,405—FY 1998; 14,014—FY 1999; and 14,824—FY 2000.

Estimated Total Annualized Cost Burden: FY 1998—$231,903; FY 1999—$176,576; FY 2000—$186,783.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including use of automated collection techniques to the following addresses. Please refer to EPA ICR No.1711.02 and OMB Control No.2090–0019 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460 and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: September 26, 1997.

Joseph Retzer,

Director, Regulatory Information Division.

[FR Doc. 97–26176 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5901–9]

Asbestos NESHAP State Notification Procedures Change

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice to regulated community.

SUMMARY: The Environmental Protection Agency, Region I Office, Boston, MA, has notified in writing the EPA—New England states of Maine, New Hampshire, Massachusetts, and Connecticut that effective October 1, 1997, all owners or operators of a demolition or renovation activity subject to the asbestos NESHAP and who provide written notification to the states 10-working days in advance of commencing with the renovation or demolition activity, will not have to provide similar notification to the EPA Administrator as required pursuant to 40 CFR 61.145(b). Important exceptions to the Federal and state notification procedures change are discussed below. In brief, such exceptions require regulated entities to continue to submit asbestos NESHAP notifications to the EPA for all demolitions involving asbestos below each respective State's regulatory threshold amount, including all demolitions believed to involve no asbestos.

Background

The asbestos National Emissions Standard for Hazardous Air Pollutants (asbestos NESHAP) was promulgated pursuant to section 112 of the 1990 Clean Air Act as Amended and is codified at 40 CFR, part 61, subpart M. Among other things, the asbestos NESHAP [40 CFR 61.145(b)] requires all owners or operators of a demolition or renovation (demo/reno) activity that is subject to the asbestos NESHAP, to notify the Administrator in writing, at least 10-working days before asbestos stripping or removal work or any other activity begins, such as site preparation that would breakup, dislodge or similarly disturb asbestos material. Since the states of Maine, New Hampshire, Massachusetts and Connecticut were fully-delegated EPA asbestos NESHAP states, pursuant to section 112(d) of the Clean Air Act prior to the 1990 amendments, EPA made a determination that enabling legislation and promulgated regulations these states had in place governing demo/reno activities at the time of delegation were adequate for the purposes of effectively implementing the and enforcing the asbestos NESHAP. Included in this was

the requirement that these same owners or operators of a demolition or renovation activity, notify in writing the designated state agency in advance of commencing with the demo/reno activity. EPA views this as a duplication of effort. EPA also believes that the costs, in terms of time and resources, of providing duel notification to both the state and federal government represent an unnecessary burden for the regulated community. Therefore, effective October 1, 1997, and with the exception referenced below, EPA will no longer require the regulated community in Maine, New Hampshire, Massachusetts, or Connecticut, to provide written Notification of Demolition and Renovation to EPA, pursuant to 40 CFR 61.145(b), as long as such notices are delivered to the designated state agency. EPA will view notification to the state agency as having satisfied the Federal notification requirement and conversely, will consider non-notifiers to the state agency as being in violation of the Federal notification requirement as well.

This notice is not subject to the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, since no additional reporting, recordkeeping, or notification requirements are being imposed as a result of this action.

Exception

Exceptions to this transfer of notification receipt procedures will apply to regulated facilities, as defined by the asbestos NESHAP at 40 CFR 61.141, where a demolition is to occur but where asbestos is believed to be present below State regulatory threshold amounts, including those demolitions believed to involve zero asbestos. In addition, this notification procedures change applies only to applicable demo/reno activities being conducted the states of Maine, New Hampshire, Massachusetts, and Connecticut. EPA will continue to require full compliance with the notification requirements outlined in 40 CFR 61.145(b) for any demo/reno operation, subject to the asbestos NESHAP, being conducted in the states of Vermont and Rhode Island.

FOR FURTHER INFORMATION CONTACT: Wayne R. Toland; U.S. EPA Region I; Office of Environmental Stewardship; Air, Pesticides, and Toxics Enforcement Office (SEA); J.F.K. Federal Building; Boston, MA, 02203. Telephone: (617) 565–3260.

Dated: September 25, 1997.

John P. DeVillars,

Regional Administrator EPA, Region I.

[FR Doc. 97–26175 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5902–1]

Request for Applications for Essential Use Exemptions to the Production and Import Phaseout of Ozone Depleting Substances Under the Montreal Protocol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: Through this notice, the Environmental Protection Agency (EPA) is requesting applications for consideration at the Tenth Meeting of the Parties to the Montreal Protocol on Substances that Deplete the Ozone Layer (the Protocol) to be held in September 1998, for exemptions to the production and import phaseout in 1999 and subsequent years for ozone-depleting substances (including halons 1211 and 1301, CFC–11, CFC–12, CFC–113, CFC–114, CFC–115, CFC–13, CFC–111, CFC–112, CFC–211, CFC–212, CFC–213, CFC–214, CFC–215, CFC–216, CFC–217, carbon tetrachloride, and methyl chloroform).

DATES: Applications for essential use exemptions must be submitted to EPA no later than November 17, 1997 in order for the United States (U.S.) government to complete its review and to submit nominations to the United Nations Environment Programme (UNEP) and the Protocol Parties in a timely manner.

ADDRESSES: Send five copies of application materials to: Chris O'Donnell, Stratospheric Protection Division (6205J), Environmental Protection Agency, 401 M Street, S.W., Washington, D.C. 20460. Send one copy of application materials to: Air Docket A–93–39, 401 M Street, S.W. (6102), Room M1500, Washington, D.C. 20460.

Confidentiality: Applications should not contain confidential or proprietary information.

FOR FURTHER INFORMATION CONTACT: Chris O'Donnell at the above address or at (202) 233–9079 telephone, (202) 233–9665 fax, or odonnell.chris@epamail.epa.gov. General information may be obtained from the Stratospheric Ozone Hotline at 1–800–296–1996.

SUPPLEMENTARY INFORMATION:

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I. Background—The Essential Use Nomination Process
II. Information Required for Essential Use Applications for Production or Importation of Class I Substances in 1999 and Subsequent Years

I. Background—The Essential Use Nomination Process

As described in previous **Federal Register** (FR) notices (58 FR 29410, May 20, 1993; 59 FR 52544, October 18, 1994; 60 FR 54349, October 23, 1995; and 61 FR 51110, September 30, 1996), the Parties to the Protocol agreed during the Fourth Meeting in Copenhagen on November 23–25, 1992, to accelerate the phaseout schedules for Class I ozone-depleting substances. Specifically, the Parties agreed to phase out the production of halons by January 1, 1994, and the production of other Class I substances, except methyl bromide, by January 1, 1996. The Parties also reached decisions and adopted resolutions on a variety of other matters, including the criteria to be used for allowing ''essential use'' exemptions from the phaseout of production and importation of controlled substances. Language regarding essential uses was added to the Protocol provisions in Article 2 governing the control measures. Decision IV/25 of the Fourth Meeting of the Parties details the specific criteria and review process for granting essential use exemptions.

At the Eighth Meeting of the Parties in 1996, the Parties modified the timetable for nomination of essential uses. Pursuant to Decision VIII/9, Parties may nominate a controlled substance for an exemption from the production phaseout by January 31 of each year. The United Nations Environment Programme (UNEP) committees then review the nominations at their spring meetings and forward their recommendations for decision at the Meeting of the Parties later that year. The Parties may choose to grant the exemption for one or more of the nominated years, but each approved or pending application may be reconsidered and modified by the Parties at their annual meetings. Since the Parties in 1998 will be considering nominations for the year 1999 and beyond, today's notice solicits requests for those years. Further detail on the essential use process is provided later in this section.

Decision IV/25 states that ''* * * a use of a controlled substance should qualify as ''essential'' only if: (i) It is necessary for the health, safety or is critical for the functioning of society (encompassing cultural and intellectual aspects); and (ii) there are no available technically and economically feasible alternatives or substitutes that are acceptable from the standpoint of environment and health''. In addition, the Parties agreed ''that production and consumption, if any, of a controlled

substance, for essential uses should be permitted only if: (i) All economically feasible steps have been taken to minimize the essential use and any associated emission of the controlled substance; and (ii) the controlled substance is not available in sufficient quantity and quality from the existing stocks of banked or recycled controlled substances * * *.''

Section 614 (b) of the Clean Air Act Amendments of 1990 (the Act) provides: ''In the case of conflict between any provision of this title [Title VI of the Act] and any provision of the Protocol, the more stringent provision shall govern.'' Thus, to the extent that an accelerated phaseout schedule has been adopted under the Protocol, EPA can legally provide exemptions for uses authorized by the Protocol but not otherwise specified in the Act as long as any additional production does not exceed the production reduction schedule contained in section 604(a).

The first step in the process to qualify a use as essential under the Protocol is for the user to ascertain whether the use of the controlled substance meets the Decision IV/25 criteria. The user should then notify EPA of the candidate use and provide information for U.S. government agencies and the Protocol Parties to evaluate that use according to the criteria under Decision IV/25. The UNEP Technology and Economic Assessment Panel (TEAP) has issued a handbook entitled ''Handbook on Essential Use Nominations,'' available from EPA, to guide applicants. Applicants should follow the guidelines in the handbook when preparing their exemption requests. Past applicants should note that the current TEAP handbook has been substantially revised to reflect Decision VIII/10 of the Parties.

Upon receipt of the exemption request, EPA reviews the application and works with other interested federal agencies to determine whether it meets the essential use criteria and as a result, warrants being nominated for an exemption. Applicants should be aware that recent essential use exemptions granted to the U.S. for 1997 were limited to chlorofluoro-carbons (CFCs) for metered dose inhalers (MDIs) to treat asthma and chronic obstructive pulmonary disease.

In the case of multiple exemption requests for a single use, EPA aggregates exemption requests received from individual entities into a single U.S. request. An important part of the EPA review is to determine that the aggregate request for a particular out-year adequately reflects the market penetration potential and expected availability of CFC substitutes by that point in time. If the sum of individual requests does not incorporate such assumptions, the U.S. government may adjust the aggregate request to better reflect true market needs.

Nominations submitted to the Ozone Secretariat by the U.S. and other Parties are then forwarded to the UNEP TEAP and its Technical Options Committees (TOCs), which review the submissions and make recommendations to the Parties for exemptions. Those recommendations are then considered by the Parties at their annual meeting for final decision. If the Parties declare a specified use of a controlled substance as essential and issue the necessary exemptions from the production phaseout, EPA may propose regulatory changes to reflect the decisions by the Parties consistent with the Act.

The timing of the reviews is such that in any given year the Parties review nominations for exemption from the production phaseout intended for the following year and any subsequent years. This means that, if nominated, applications submitted in response to today's notice for CFC production in 1999 and beyond will be considered by the Parties in 1998 for final action at the Meeting of the Parties in September of that year.

II. Information Required for Essential Use Applications for Production or Importation of Class I Substances in 1999 and Subsequent Years

Through this notice, EPA requests applications for essential use exemptions for all Class I substances for 1999 and subsequent years. All requests for exemptions submitted to EPA must present the information relevant to the application as prescribed in the TEAP Handbook mentioned in the previous section. As noted earlier, the TEAP handbook has been substantially revised to incorporate Decision VIII/10 adopted by the Parties at their Eighth Meeting, in November 1996. Decision VIII/10 will require applicants to expand on information provided in previous nominations as well as provide new information. Since the U.S. government does not forward incomplete or inadequate nominations to the Ozone Secretariat, it is important for applicants to provide all information requested in the Handbook, including the information specified in the supplemental research and development form (page 43) and the accounting framework matrix (page 41). Parties have been asked to request this information from companies, and these forms will assist the EPA in preparing a complete and comprehensive nomination. In brief, the TEAP Handbook states that applicants must present information on:

- Role of use in society
- Alternatives to use, including education programs on alternatives
- Steps to minimize use, including development of CFC-free alternatives
- Steps to minimize emissions
- Amount of substance available through recycling and stockpiling
- Quantity of controlled substances requested by year.

EPA anticipates that the 1998 review by the Parties of MDI essential use requests will focus extensively on research efforts underway to develop alternatives to CFC MDIs, on education programs to inform patients and providers of the phaseout and the transition to alternatives, and on steps taken to minimize CFC use and emissions including efforts to recapture or reprocess the controlled substance. Accordingly, applicants are strongly advised to present detailed information on these points, including the scope and cost of such efforts and the medical and patient organizations involved in the work. Applicants can strengthen their exemption requests by submitting a complete set of education materials and including copies of printed, electronic or audio-visual tools. Applicants are given notice that exemption requests without adequate information on research and education will not be considered complete.

Applicants should submit their exemption requests to EPA as noted in the **ADDRESSES** section at the beginning of today's notice.

Dated: September 25, 1997.

Richard D. Wilson,

Acting Assistant Administrator, Office of Air and Radiation.

[FR Doc. 97–26183 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5902–6]

Availability of FY 96 Grant Performance Report for Georgia

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of grantee performance evaluation report.

SUMMARY: EPA's grant regulations (40 CFR 35.150) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports

of such evaluations. EPA recently performed an end-of-year evaluation of one state air pollution control program (Georgia Environmental Protection Division). This audit was conducted to assess the agency's performance under the grant made to them by EPA pursuant to section 105 of the Clean Air Act. EPA Region 4, has prepared a report for the state of Georgia identified above and is now available for public inspection.

ADDRESSES: The report may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW, Atlanta, Georgia 30303, in the Air, Pesticides, and Toxics Management Division.

FOR FURTHER INFORMATION CONTACT: Linda Thomas, (404) 562–9064, at the above Region 4 address.

Dated: September 24, 1997.

Michael V. Peyton,

Acting Regional Administrator.

[FR Doc. 97–26184 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5901–6]

National Drinking Water Advisory Council; Notice of Open Meetings

Under section 10(a)(2) of Pub. L. 92–423, ''The Federal Advisory Committee Act,'' notice is hereby given that a meeting of the National Drinking Water Advisory Council established under the Safe Drinking Water Act, as amended (42 U.S.C. S300f *et seq.*), will be held on October 15, 1997 from 10 a.m. until 6 p.m. and October 16, 1997, from 9 a.m. until 5 p.m., at the Ramada Plaza Hotel Pentagon, 4641 Kenmore Avenue, Alexandria, Virginia 22304. The purpose of this meeting will be to provide the Council with the recommendations from the Operator Certification Working Group Report and to discuss with the Council the effectiveness and continued use of its working groups. Other issues to be covered at the meeting will include: A status on the activities of the Microbial Disinfectants/Disinfection By-products Federal Advisory Committee, SDWA implementation issues, accountability and performance measures.

This meeting is open to the public. The Council encourages the hearing of outside statements and will allocate one hour on October 15, 1997, for this purpose. Oral statements will be limited to ten minutes and it is preferred that only one person present the statement. Any outside parties interested in presenting an oral statement should petition the Council by telephone at (202) 260–2285 or by E-Mail at shaw.charlene@epamail.epa.gov by October 14, 1997.

Any person who wishes to file a written statement can do so before or after a Council meeting. Written statements received prior to the meeting will be distributed to all members of the Council before any final discussion or vote is completed. Any statements received after the meeting will become part of the permanent meeting file and will be forwarded to the Council members for their information.

Members of the public that would like to attend the meeting, present an oral statement, or submit a written statement, should contact Ms. Charlene Shaw, Designated Federal Officer, National Drinking Water Advisory Council, U.S. EPA, Office of Ground Water and Drinking Water (4601), 401 M Street SW, Washington, D.C. 20460. The telephone number is Area Code (202) 260–2285 or E-Mail shaw.charlene@epamail.epa.gov.

Dated: September 26, 1997.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–26179 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5900–8]

Announcement of Stakeholders Meeting on the National Primary Drinking Water Regulation for Radon-222

AGENCY: Environmental Protection Agency.

ACTION: Notice of stakeholders meeting.

SUMMARY: The Environmental Protection Agency (EPA) will be holding a one-day public meeting on Thursday, October 30, 1997, in Boston, MA. The purpose of this meeting is to present information on EPA's plans for activities to develop a proposed National Primary Drinking Water Regulation (NPDWR) for radon-222, and solicit public input on major technical and implementation issues, and on preferred approaches for continued public involvement. This upcoming meeting is the third of a series of stakeholders meetings on the NPDWR for radon. The first meeting was held on June 26, 1997 in Washington, DC and the second meeting on September 2, 1997 in San Francisco, CA. These meetings were initiated as part of the Drinking Water Program Redirection efforts to help refocus EPA's drinking water priorities and to support strong, flexible partnerships among EPA, States, Tribes, local governments, and the public. At the upcoming meeting, EPA is seeking input from State and Tribal drinking water and radon programs, the regulated community (public water systems), public health and safety organizations, environmental and public interest groups, and other stakeholders on a number of issues related to developing the NPDWR for radon. EPA encourages the full participation of stakeholders throughout this process.

DATES: The stakeholder meeting on the NPDWR for radon will be held on Thursday, October 30, 1997 from 9:00 a.m. to 5:00 p.m EST. Check-in will begin at 8:30 a.m.

ADDRESSES: To register for the meeting, please contact the Safe Drinking Water Hotline at 1–800–426–4791. Those registered for the meeting by October 17, 1997 will receive an agenda, logistics sheet, and background materials prior to the meeting. The agenda and background materials will be similar to the previous stakeholders meetings on radon held in Washington, DC and San Francisco, CA. Members of the public who cannot participate may submit comments in writing by November 14, 1997 to Sylvia Malm, at the U.S. Environmental Protection Agency, 401 M St., SW (4607), Washington, DC, 20460. The meeting will be held in Boston, MA. The address of the meeting site will be included with the background materials or available from the Hotline.

FOR FURTHER INFORMATION CONTACT: For general information on meeting logistics, please contact the Safe Drinking Water Hotline at 1–800–426–4791. For information on the activities related to developing the NPDWR for radon and other EPA activities under the Safe Drinking Water Act, contact the Safe Drinking Water Hotline at 1–800–426–4791. For information on radon in indoor air, contact the National Safety Council's National Radon Hotline at 1–800–SOS–RADON.

SUPPLEMENTARY INFORMATION:

A. Background

On July 18, 1991 (56 FR 33050), EPA proposed a Maximum Contaminant Level Goal (MCLG) and National Primary Drinking Water Regulation (NPDWR) for radon and other radionuclides in public water supplies. EPA proposed to regulate radon at 300 pCi/L. Commenters on the 1991 proposed NPDWR for radon raised several concerns, including cost of implementation, especially for small

systems, and the larger risk to public health from radon in indoor air from soil under buildings.

On August 6, 1996, amendments to the Safe Drinking Water Act (SDWA) were enacted, which establish a new charter for the nation's public water systems, States, and EPA in protecting the safety of drinking water. The amendments [section 1412(b)(13)] direct EPA to develop an MCLG and NPDWR for radon. EPA is required to (1) withdraw the 1991 proposed MCLG and NPDWR for radon-222 (the proposed rule for radon was withdrawn on August 6, 1997; 62 FR 42221); (2) arrange for the National Academy of Sciences (NAS) to conduct an independent risk assessment for radon in drinking water and an independent assessment of risk reduction benefits from various mitigation measures to reduce radon in indoor air; (3) publish a radon health risk reduction and cost analysis for possible radon Maximum Contaminant Levels (MCLs) for public comment by February 1999; (4) propose an MCLG and NPDWR for radon by August 1999; and (5) publish a final MCLG and NPDWR for radon by August 2000.

If the MCL is ''more stringent than necessary to reduce the contribution to radon in indoor air from drinking water to a concentration that is equivalent to the national average concentration of radon in outdoor air,'' EPA is also required to promulgate an alternative MCL and publish guidelines for state multimedia mitigation programs to mitigate radon levels in indoor air. The alternative MCL would ''result in a contribution of radon from drinking water to radon levels in indoor air equivalent to the national average concentration of radon in outdoor air.'' States may develop and submit to EPA for approval a multimedia mitigation program to mitigate radon levels in indoor air. EPA shall approve State multimedia mitigation programs if they are expected to achieve equivalent or greater health risk reduction benefits than compliance with the MCL. If EPA approves a State multimedia mitigation program, public water supply systems within the State may comply with the alternative MCL. If EPA does not approve a State program, or the State does not propose a program, public water supply systems may propose multimedia mitigation programs to EPA, under the same procedures outlined for States.

B. Request for Stakeholder Involvement

EPA intends for the proposed NPDWR for radon to incorporate the best available science, treatment technologies, occurrence data, cost/benefit analyses, and stakeholder input on technical and implementation issues. EPA has evaluated comments on the 1991 proposed NPDWR for radon and will be considering those comments in developing the regulation.

The meeting will cover a broad range of issues including: (1) radon in drinking water MCL development (treatment technologies, occurrence, analytical methods); (2) multimedia mitigation program; and (3) stakeholder involvement processes. Background materials on radon in drinking water issues will be sent to all registered participants in advance of the meeting. Issues for discussion and stakeholder input will be based on the materials provided and include (but may not be limited to) the following:

(1) Any new information or data;

(2) Issues and concerns related to rule development;

(3) Issues and concerns related to implementing a multimedia mitigation program from the perspective of your state, water systems, public health and safety organizations, environmental and public interest groups, and the public; and

(4) Recommendations on the most beneficial points in the process for stakeholder input and preferred approaches for stakeholder input.

EPA has announced this public meeting to hear the views of stakeholders on EPA's plans for activities to develop a NPDWR for radon. The public is invited to provide comments on the issues listed above and other issues related to the radon in drinking water regulation during the October 30, 1997 meeting or in writing by November 14, 1997.

Dated: September 23, 1997.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–25878 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5901–8]

Board of Scientific Counselors (BOSC) Subcommittee; Review of the National Center for Environmental Research and Quality Assurance

AGENCY: Environmental protection Agency (EPA).

ACTION: Notice of meeting of the Board of Scientific Counselors (BOSC) Subcommittee to Review the National Center for Environmental Research and Quality Assurance (NCERQA).

SUMMARY: Pursuant to the Federal Advisory Committee Act, Pub. L. 92–463, as amended (5 U.S.C., App. 2), notice is hereby given that the Environmental Protection Agency (EPA), Office of Research and Development (ORD), Board of Scientific Counselors (BOSC) Subcommittee will meet to review the National Center for Environmental Research and Quality Assurance on Monday, October 20 and Tuesday, October 21, 1997. The meeting will be held at the Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Room 7216, Washington, DC 20004 and will begin at 8 a.m. and recess at approximately 5 p.m. on Monday, October 20, 1997. On Tuesday, October 21, 1997, a Subcommittee writing session will begin at 8 a.m. and adjourn at 1 p.m. Following the writing session, a warp-up discussion summarizing the preliminary findings and conclusions of the Subcommittee will be held from 1 p.m.–3 p.m. on Tuesday. The BOSC Subcommittee Review meeting will adjourn at 3 p.m. All times are Eastern time. The meeting is open to the public. Any member of the public wishing to make comments at the meeting should contact Shirley R. Hamilton, Designated Federal Official, Office of Research and Development (8701R), 401 M Street, S.W., Washington, DC 20460; by telephone at (202) 564–6853. In general, each individual making an oral presentation will be limited to three minutes. Anyone desiring a draft BOSC meeting agenda may fax their request to Shirley R. Hamilton at (202) 565–2444.

DATES: The meeting will be held October 20–21, 1997.

ADDRESSES: The meeting will be held in the EPA Ariel Rios Building, 1200 Pennsylvania Avenue, N.W., Room 7216, Washington, DC 20004.

FOR FURTHER INFORMATION CONTACT: Shirley R. Hamilton, Designated Federal Official, Office of Research and Development (8701R), 401 M Street, S.W., Washington, DC 20460; by telephone at (202) 564–6853.

Dated: September 19, 1997.

Henry L. Longest II,

Acting Assistant Administrator for Research and Development.

[FR Doc. 97–26180 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5902–4]

Fuel Economy Retrofit Devices; Announcement of Fuel Economy Retrofit Device Evaluation for Vehicle Exhaust Emission Control Device (VEECD) (Now Known as EVEC™)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of fuel economy retrofit device evaluation.

SUMMARY: This document announces the completion of EPA evaluation of Vehicle Exhaust Emission Control Device (VEECD) under provision of Section 32918 of Title 49 U.S.C. This notice also announces EPA's findings, conclusions, and the availability of the report.

FOR FURTHER INFORMATION CONTACT: Henry Johnson, Vehicle Programs and Compliance Division, Office of Mobile Sources, Environmental Protection Agency, 2565 Plymouth Rd., Ann Arbor, Michigan 48105, Telephone: (313) 741–7893.

SUPPLEMENTARY INFORMATION:

I. Background

Section 32918 of Title 49 U.S.C. requires that:

(b)(1) ''Upon application of any manufacturer of a retrofit device (or prototype thereof), upon the request of the Federal Trade Commission pursuant to subsection (a), or upon her own motion, the EPA Administrator shall evaluate, in accordance with rules prescribed under subsection (d), any retrofit device to determine whether the retrofit device increases fuel economy and to determine whether the representations (if any) made with respect to such retrofit devices are accurate.''

(c) ''The EPA Administrator shall publish in the **Federal Register** a summary of the results of all tests conducted under this section, together with the EPA Administrator's conclusions as to—

(1) The effect of any retrofit device on fuel economy:

(2) The effect of any such device on emissions of air pollutants: and

(3) Any other information which the Administrator determines to be relevant in evaluating such device.''

EPA published final regulations establishing procedures for conducting evaluations of fuel economy retrofit devices on March 23, 1979 (44 FR 17968). These regulations were later amended May 1, 1984 (49 FR 18486) to explicitly include fuel additives within the definition of a retrofit device and to improve administration. They were also amended May 3, 1984 (49 FR 18837) to clarify that the manufacturer of the device must pay the cost of any EPA testing.

II. Origin of Request for Evaluation, Device Descriptions, and Report Identification

On January 17, 1997, EPA received an application from Hawtal Whiting Environmental Ltd. requesting evaluation of the VEECD as a hydrocarbon (HC) and carbon monoxide (CO) emission reduction device. The VEECD is an air bleed retrofit device which is fitted to the vacuum brake line and acts to optimize the air/fuel mixture during idle and deceleration. The device is intended to be fitted to vehicles produced without any or with earlier technology emission control systems. It is not compatible with newer complex engine management systems or closed loop three-way catalyst systems. It is claimed to significantly reduce HC and CO without substantially increasing CO_2 or NO_X emissions. In addition, incidental city fuel economy enhancement was claimed. The report, ''Emissions and Fuel Economy Effects of Vehicle Emission Control Device'' (Report Number EPA–VPCD–32918–RD–97–1), contains the test data, analysis, conclusions and consists of 52 pages including Appendices.

III. Availability of Evaluation Report

Copies of this report may be obtained from the National Technical Information Service by using the above report number. Address requests to: National Technical Information Service, U.S. Department of Commerce, Springfield, VA 22161, Telephone (703) 487–4650.

Dated: September 25, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 97–26182 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5902–9]

Proposed Administrative Settlements Under Section 122(h)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act; In Re: Brockton Gas Works I Superfund Site, Brockton MA; Brockton Gas Works II Superfund Site, Brockton, MA; and Taunton Gas/Rogers Ave. Superfund Site, Taunton, MA

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of proposed cost recovery agreements and request for public comment.

SUMMARY: The Environmental Protection Agency (EPA) is proposing to enter into three separate cost recovery settlement agreements to address claims under the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.* This document is being published to inform the public of the proposed settlements and of the opportunity to comment. The settlements are intended to resolve liability under CERCLA of the Bay State Gas Company for costs incurred by EPA in initiating and overseeing removal actions at the following three Superfund Sites: Brockton Gas Works I in Brockton, Massachusetts; Brockton Gas Works II in Brockton, Massachusetts; and Taunton Gas/Rogers Ave. in Taunton, Massachusetts.

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

ADDRESSES: Comments should be addressed to the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts 02203, and should refer to: The Agreement for Payment of Response Costs Re: (a) Brockton Gas Works I Superfund Site, Brockton, Massachusetts, U.S. EPA Docket No. CERCLA–I–97–1076; (b) Brockton Gas Works II Superfund Site, Brockton, Massachusetts, U.S. EPA Docket No. CERCLA–I–97–1077; or (c) Taunton Gas/Rogers Ave. Superfund Site, Taunton, Massachusetts, U.S. EPA Docket No. CERCLA–I–97–1078.

FOR FURTHER INFORMATION CONTACT: Tina Hennessy, U.S. Environmental Protection Agency, J.F.K. Federal Building, Mailcode HBR, Boston, Massachusetts 02203, (617) 573–5701.

SUPPLEMENTARY INFORMATION: In accordance with the Comprehensive

Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. 9601 *et seq.*, notice is hereby given of three proposed cost recovery settlement agreements under section 122(h)(1) of CERCLA concerning the following three Superfund Sites: (a) Brockton Gas Works I in Brockton, Massachusetts; (b) Brockton Gas Works II in Brockton, Massachusetts, and (c) Taunton Gas/Rogers Ave. in Taunton, Massachusetts. EPA Region I approved the settlements, subject to review by the public pursuant to this document. The Bay State Gas Company of Westborough, Massachusetts, has executed signature pages for each settlement, committing the company to participate in the settlements. Under each of the proposed settlements, the Bay State Gas Company will pay money to the EPA Hazardous Substance Superfund to reimburse EPA for response costs that EPA incurred while initiating and overseeing removal actions at the three Sites. Bay State Gas Company will pay $230,710 to reimburse EPA for response costs at the Brockton Gas Works I Site, $169,582 to reimburse EPA for response costs at the Brockton Gas Works II Site, and $154,708 to reimburse EPA for response costs at the Rogers Ave. Site. EPA believes the settlements are fair and in the public interest.

EPA is entering into these agreements under the authority of CERCLA section 122(h)(1) which provides EPA with authority to consider, compromise, and settle a claim under section 107 of CERCLA for costs incurred by the United States if the claim has not been referred to the U.S. Department of Justice for further action. EPA has not sought U.S. Department of Justice approval of these settlements because the response costs do not exceed $500,000 for any one Site. EPA will receive written comments relating to these settlements for thirty (30) days from the date of publication of this document.

A copy of the proposed administrative settlement may be obtained in person or by mail from Catherine S. Smith, U.S. Environmental Protection Agency, JFK Federal Building, Mailcode SES, Boston, Massachusetts 02203, (617) 565–4873.

The Agency's response to any comments received will be available for public inspection with the Docket Clerk, U.S. Environmental Protection Agency, Region I, JFK Federal Building, Mailcode RCH, Boston, Massachusetts (U.S. EPA Docket Numbers CERCLA–I–97–1076, CERCLA–I–97–1077, or CERCLA–I–97–1078.

Dated: September 25, 1997.

Harley F. Laing,

Director, Office of Site Remediation and Restoration.

[FR Doc. 97–26192 Filed 10–1–97; 8:45 am]

BILLING CODE 6560–50–P

COUNCIL ON ENVIRONMENTAL QUALITY

Notice of Meeting; Postponement

AGENCY: Council on Environmental Quality.

ACTION: Notice of meeting; postponement.

SUMMARY: The Council on Environmental Quality (CEQ) is postponing a public meeting it had previously scheduled for October 3, 1997, to discuss development of a memorandum of understanding (MOU) on coordinating environmental response actions with natural resource restoration under the Comprehensive Environmental Response, Compensation, and Liability Act and other laws. 62 FR 48657 (Sept. 16, 1997). In response to numerous requests, CEQ is rescheduling the meeting for December 2, 1997. The meeting will be an opportunity for members of the public to offer suggestions on the scope and content of the MOU and discuss their suggestions with the members of the federal interagency task force developing the MOU. If you are interested in making an oral presentation at the meeting, you must submit a written request and summary of your comments by October 29, 1997, so that CEQ can prepare an appropriate agenda and structure the presentations. If you have suggestions but do not wish to make an oral presentation, you may simply provide written comments, so long as CEQ receives them by October 29, 1997.

MEETING TIME AND PLACE: The meeting will be held on December 2, 1997, from 10:00 to 4:00 in the Truman Room of the White House Conference Center, 726 Jackson Place, Washington, D.C.

WRITTEN COMMENTS: Send written comments in duplicate to Mary Morton, CEQ, Room 360, Old Executive Office Building, Washington, D.C. 20502.

FOR FURTHER INFORMATION CONTACT: Mary Morton at (202) 395–5750.

Bradley M. Campbell,

Associate Director.

[FR Doc. 97–26239 Filed 10–1–97; 8:45 am]

BILLING CODE 3125–01–P

FEDERAL COMMUNICATIONS COMMISSION

[CC Docket No. 90–571]

Notice of Telecommunications Relay Services (TRS) Applications for State Certification Accepted

September 26, 1997.

Notice is hereby given that the states listed below have applied to the Commission for State Telecommunications Relay Service (TRS) Certification. Current state certifications expire July 25, 1998. Applications for certification, covering the five year period of July 26, 1998 to July 25, 2003, must demonstrate that the state TRS program complies with the Commission's rules for the provision of TRS, pursuant to Title IV of the Americans with Disabilities Act (ADA), 47 U.S.C. § 225. These rules are codified at 47 CFR §§ 64.601–605.

Copies of applications for certification are available for public inspection at the Commission's Common Carrier Bureau, Network Services Division, Room 235, 2000 M Street, N.W., Washington, D.C., Monday through Thursday, 8:30 AM to 3:00 PM (closed 12:30 to 1:30 PM) and the FCC Reference Center, Room 239, 1919 M Street, N.W., Washington, D.C., daily, from 9:00 AM to 4:30 PM. Interested persons may file comments with respect to those applications on or before November 14, 1997. Comments should reference the relevant state file number of the state application that is being commented upon. One original and five copies of all comments must be sent to William F. Caton, Acting Secretary, Federal Communications Commission, 1919 M Street, N.W., Washington, D.C. 20554. Two copies also should be sent to the Network Services Division, Common Carrier Bureau, 2000 M Street, N.W., Room 235, Washington, D.C. 20554.

Applicants for State Certification

File No. TRS–97–03, Applicant: Alabama Public Service Commission, State of Alabama

File No. TRS–97–04, Applicant: Michigan Public Service Commission, State of Michigan

File No. TRS–97–05, Applicant: Oregon Public Utility Commission, State of Oregon

File No. TRS–97–06, Applicant: Georgia Public Service Commission, State of Georgia

For further information, contact Al McCloud, (202) 418–2499, amccloud@fcc.gov, or Andy Firth, (202) 418–2224 (TTY), afirth@fcc.gov, at the Network Services Division, Common

Carrier Bureau, Federal Communications Commission.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–26052 Filed 10–1–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2228]

Petitions for Reconsideration and Clarification of Action in Docketed Proceedings

September 25, 1997.

Petitions for reconsideration and clarification have been filed in the Commission's docketed proceeding listed in this public notice and pursuant to 47 CFR Section 1.106. The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed on or before October 9, 1997, and replies to oppositions on or before October 20, 1997. The Commission is hereby waiving the filing deadlines established in accordance with 47 CFR Section 1.106 (g) and (h). However, all other requirements established in 47 CFR Section 1.106 are applicable. In addition, this proceeding will continue to be a non-restricted proceeding in which *ex parte* presentations are permitted, provided they are disclosed in conformance with Commission *ex parte* rules. See Sections 1.1202 and 1.1206(a) of the Commission's rules (47 CFR 1.1202, 1.1206(a)).

Subject: Application of Ameritech Michigan Pursuant to Section 271 of the Communications Act of 1934, as amended, To Provide In-Region, InterLATA Services In Michigan (CC Docket No. 97–137).

Number of Petitions Filed: 3.

Federal Communications Commission.

Shirley Suggs,

Chief, Publications Branch.

[FR Doc. 97–26054 Filed 10–1–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2229]

Petitions for Reconsideration of Action In Rulemaking Proceedings

September 25, 1997.

Petitions for reconsideration have been filed in the Commission's rulemaking proceedings listed in this Public Notice and published pursuant to 47 CFR Section 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, N.W., Washington, D.C. or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed October 17, 1997. See Section 1.4(b)(1) of the Commission's rule (47 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Amendment of Parts 2, 15, and 97 of the Commission's Rules To Permit Use of Radio Frequencies Above 40 GHz for New Radio Applications (ET Docket No. 94–124, RM–8308).

International Harmonization or Frequency Bands Above 40 GHz.

Petition of Sky Station International, Inc. For Amendment of the Commission's Rules To Establish Requirements for a Global Stratospheric Telecommunications Service in the 47.2–47.5 GHz and 47.9–48.2 GHz Frequency Bands (RM–8784).

Number of Petitions Filed: 1.

Subject: The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of Rules to Incorporate the Forfeiture Guidelines (CI Docket 95–6).

Number of Petitions Filed: 2.

Federal Communications Commission.

Shirley Suggs,

Chief, Publications Branch

[FR Doc. 97–26055 Filed 10–1–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 16, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Arrendale Undiversified Family Limited Partnership, Baldwin, Georgia; its general partners, Thomas A. Arrendale, III, Gainsville, Georgia; Cynthia Bussey, Altanta, Georgia; and Thomas A. Arrendale, Jr., Clarkesville, Georgia; Thomas A. Arrendale, III, and Cynthia Bussey, in their individual capacities; to acquire voting shares of Habersham Bancorp, Cornelia, Georgia, and thereby indirectly acquire Habersham Bank, Clarkesville, Georgia.

2. J. Alton Wingate, Cornelia, Georgia; to retain 31.17 percent of the voting shares of Community Bankshares, Inc., Cornelia, Georgia, and thereby indirectly retain Community Bank & Trust-Jackson, Commerce, Georgia; Community Bank & Trust-Troup, LaGrange, Georgia, and Community Bank & Trust-Alabama, Union Springs, Alabama.

Board of Governors of the Federal Reserve System, September 26, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26091 Filed 10–1–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than October 17, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Richard Paul Pederson, II, Page, North Dakota; to acquire additional voting shares of Page Bank Holding Company, Page, North Dakota, and thereby indirectly acquire Page State Bank, Page, North Dakota.

Board of Governors of the Federal Reserve System, Sptember 29, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26174 Filed 10–1–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act. Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 27, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. FBOP Corporation, Oak Park, Illinois; to acquire 100 percent of the voting shares of California Bank, N.A. (in organization), Beverly Hills, California.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. Mercantile Bancorp, Inc., Quincy, Illinois, Quincy, Illinois; to merge with Golden Bancshares, Inc., Golden, Illinois, and thereby indirectly acquire Golden State Bank, Golden, Illinois, and Brown County State Bank, Mount Sterling, Illinois.

2. Mid America Banking Corporation, Columbia, Missouri; to become a bank holding company by acquiring a minimum of 98.58 percent of the voting shares of Pulaski Bancshares, Inc., Dixon, Missouri, and thereby indirectly acquire State Bank of Dixon, Dixon, Missouri.

In connection with this application, Mid America Mortgage Services, Inc., Columbia, Missouri; Mid America Mortgage Services of St. Louis, Inc., St. Louis, Missouri; and Mid America Mortgage Services of Springfield, Inc., Springfield, Missouri; also have applied to become bank holding companies by acquiring an aggregate ownership of 19 percent of the voting shares of Mid America Banking Corporation, Columbia, Missouri, and thereby indirectly acquire Pulaski Bancshares, Inc., Dixon, Missouri, and State Bank of Dixon, Dixon, Missouri.

C. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Security Bank Holding Company ESOP and Security Bank Holding Company, both of Coos Bay, Oregon; to acquire 100 percent of the voting shares of Pacific State Bank, Reedsport, Oregon. Comments regarding this application must be received by October 20, 1997.

Board of Governors of the Federal Reserve System, September 26, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26090 Filed 10–1–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

Sunshine Act Notice

TIME AND DATE: 10:00 a.m. (EDT), October 14, 1997.

PLACE: 4th Floor, Conference Room 4506, 1250 H Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED:

1. Approval of the minutes of the September 8, 1997, Board member meeting.
2. Thrift Savings Plan activity report by the Executive Director.
3. Review of KPMG Peat Marwick audit reports:

(a) ''Pension and Welfare Benefits Administration Review of the Thrift Savings Plan Account Maintenance Subsystem and Participant Support Process at the United States Department of Agriculture, National Finance Center''

(b) ''Pension and Welfare Benefits Administration Review of Access Controls and Security Over the TSP Computerized Resources at the United States Department of Agriculture, National Finance Center''

CONTACT PERSON FOR MORE INFORMATION: Thomas J. Trabucco, Director, Office of External Affairs, (202) 942–1640.

Dated: September 30, 1997.

Roger W. Mehle,

Executive Director, Federal Retirement Thrift Investment Board.

[FR Doc. 97–26286 Filed 9–30–97; 11:59 am]

BILLING CODE 6760–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Chronic Fatigue Syndrome Coordinating Committee: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Chronic Fatigue Syndrome Coordinating Committee (CFSCC).

Time and Date: 10 a.m.–5 p.m., October 22, 1997.

Place: Hubert H. Humphrey Building, Room 800, 200 Independence Avenue, SW, Washington, DC 20201.

Status: Open to the public, limited only by the space available. The meeting room will accommodate approximately 100 people.

Purpose: The Committee is charged with providing advice to the Secretary, the Assistant Secretary for Health, and the Commissioner, Social Security Administration (SSA) to assure interagency coordination and communication regarding chronic fatigue syndrome (CFS) research and other related issues; facilitating increased Department of Health and Human Services (HHS) and agency awareness of CFS research and educational needs; developing complementary research programs that minimize overlap; identifying opportunities

for collaborative and/or coordinated efforts in research and education; and developing informed responses to constituency groups regarding HHS and SSA efforts and progress.

Matters To Be Discussed: Agenda items will include updates from HHS agencies; a distance learning teleconference; a discussion of recently published articles regarding CFS; and information from the CFSCC workgroup.

Agenda items are subject to change as priorities dictate.

Public comments will be received at the meeting for approximately 60 minutes. Public statements presented at this meeting should not be repetitive of previously submitted oral or written statements. Persons wishing to make oral comments should notify the Executive Secretary, Lisa Blake-DiSpigna, by fax (404/639–4138) or by telephone (404/639–3227) no later than close of business on October 15, 1997. All requests to make oral comments should contain the name, address, telephone number, and organizational affiliation of the presenter. These comments will become a part of the official record of the meeting. Due to the time available, public comments will be limited to five minutes per person. Copies of any written comments should be provided at the meeting; please provide at least 100 copies.

Notice: In the interest of security, the Department has instituted stringent procedures for entrance to the Hubert H. Humphrey Building by non-government employees. Thus, persons without a government identification card will need to provide a photo ID and must know the subject and room number of the meeting in order to be admitted into the building. Visitors must use the Independence Avenue entrance.

Contact Person for More Information: René Ross, Division of Viral and Rickettsial Diseases, National Center for Infectious Diseases, CDC, 1600 Clifton Road, NE, M/S A30, Atlanta, Georgia 30333, telephone 404/639–3574.

Dated: September 25, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26106 Filed 10–1–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Board of Scientific Counselors, National Institute for Occupational Safety and Health: Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces the following committee meeting.

Name: Board of Scientific Counselors, National Institute for Occupational Safety and Health (BSC, NIOSH).

Time and Date: 9 a.m.–4 p.m., October 30, 1997.

Place: The Washington Court, Montpelier Room, 525 New Jersey Avenue, NW, Washington, DC 20001–1527.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 50 people.

Purpose: The BSC, NIOSH is charged with providing advice to the Director, NIOSH on NIOSH research programs.

Specifically, the Board shall provide guidance on the Institute's research activities related to developing and evaluating hypotheses, systematically documenting findings, and disseminating results.

Matters To Be Discussed: Agenda items include a report from the Director of NIOSH; a report on the NIOSH response to a review of the Health Hazard Evaluation program; an update on implementation of the National Occupational Research Agenda; reports on the status of the NIOSH/NCI Diesel Study, on special focuses in extramural programs, and on GPRA strategic and performance planning; and discussion of future activities of the Board.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Dr. Bryan D. Hardin, Executive Secretary, BSC, NIOSH, Room 715–H, Hubert H. Humphrey Building, 200 Constitution Avenue SW, Washington, DC, 20201. Telephone 202/205–8556, Fax 202/260–4464, e-mail bdh1@cdc.gov.

Dated: September 26, 1997.

Carolyn J. Russell,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–26105 Filed 10–1–97; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Privacy Act of 1974; Altered System of Records

AGENCY: Office of Child Support Enforcement, ACF, DHHS.

ACTION: Final notice.

SUMMARY: The Office of Child Support Enforcement (OCSE) is publishing a notice to amend one of its Systems of Records, ''The Federal Parent Locator System and Federal Tax Offset System (FPLS), DHHS/OCSE No. 09–90–0074. We are also amending the routine uses for this system.

DATES: The amendments made by this notice are effective October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Director, Division of Program Operations Office of Child Support Enforcement, Administration for Children and Families, 370 L'Enfant Promenade, S.W., 4th Floor East, Washington, DC 20447, (202) 401–9271.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Office of Child Support Enforcement (OCSE) is amending one of its Systems of Records, ''The Federal Parent Locator System and Federal Tax Offset System (FPLS)'', DHHS/OCSE No. 09–90–0074.

Information on this system was published for public comment at 62 FR 45659, August 28, 1997. The OCSE received no comments on the **Federal Register** publication. OCSE usually receives written responses from a number of sources. The responses are generally supportive. To the extent feasible, OCSE takes all public comments into account when preparing the final notice.

OCSE is also giving notice that OCSE is changing the name of this system to the ''Federal Parent Locator and Federal Tax Refund/Administrative Offset System'' (FPLS). Furthermore, the uses of the FPLS are being expanded pursuant to Pub. L. 104–193, the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) and pursuant to Pub. L. 104–134, the Debt Collection Improvement Act of 1996 (DCIA) and Executive Order 13019, dated September 28, 1996.

The system is divided into two subsystems: Parent Locator Service and Tax Refund/Administrative Offset (TROP/ADOP). The Parent Locator portion of the system is being expanded consistent with section 316 of the PRWORA, which authorizes the establishment of a National Directory of New Hires (NDNH) effective no later than October 1, 1997. The NDNH will be comprised of three components. First, the NDNH will maintain employment data on newly-hired employees (new hire reporting) submitted by the State Directories of New Hires (SDNH) pursuant to section 453A(g)(2)(A) of the Social Security Act (the Act) and by Federal agencies pursuant to section 453A(B)(1)(c) of the Act. Second, the NDNH will maintain quarterly wage information on individual employees, submitted by States under the authority of sections 453A(g)(2)(B) and 303(h) of the Act, and section 3304(a)(16) of the Internal Revenue Code (IRC) of 1986, as well as quarterly wage information on Federal employees pursuant to section 453(n) of the Act. Third, the NDNH will maintain unemployment compensation claims data submitted by States under the authority of sections 453A(g)(2)(B)

and 303(h) of the Act, and section 3304(a)(16) of the Internal Revenue Code of 1986. Federal agencies and States will transmit new hire and quarterly wage and data electronically to the NDNH and States will transmit claim information electronically as well.

The TROP/ADOP portion of the system is expanding the current use of Federal tax refund intercepts to assist families in collecting past-due child support, intercept certain other Federal payments owed by child support obligors, and divert the payment to obligees/States for the payment of past-due child support. Specifically, the TROP/ADOP will: (1) combine the Federal Tax Refund Offset program with the Administrative Program operated by Department of Treasury's Financial Management Service (FMS); (2) periodically match cases from the TROP/ADOP system with the NDNH; (3) conduct crossmatches with the State Department for denial of passports; (4) conduct crossmatches for asset identification with the Department of Treasury (Project 1099) against States' obligor file(s); (5) disclose information to additional sources; and (6) allow access to new authorized users.

The Social Security Act, as amended by PRWORA and the DCIA require an expansion of the uses of the FPLS. The Parent Locator portion of the FPLS will now be used to obtain and transmit information to any authorized person, for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, investigating parental kidnapping cases, or making or enforcing child custody or visitation orders. Additonally, PRWORA replaced the AFDC programs with TANF programs, and routine uses are being updated to reflect that change.

The Federal TROP/ADOP portion of the system will be used for the purposes of: collecting past-due child support from Federal tax refunds and from certain Federal payments otherwise owed to child support obligors; identifying assets of obligors; and enforcing child support orders by assisting the State Department in preventing delinquent obligors from travelling outside the country by the denial, restriction and/or revocation of passports.

Section 370 of PRWORA established a new section 452(k) of the Act which requires that after October 1, 1997, the Secretary of HHS shall transmit to the Secretary of the Department of State, certifications from State child support enforcement (CSE) agencies of individuals who owe arrearages of child support exceeding $5000 and that the Department of State may revoke, restrict or deny passports to such individuals.

Project 1099 provides State CSE agencies access to all earned and unearned income information reported to the Department of Treasury by employers and financial institutions. This information is used to locate noncustodial parents and to verify income and employment, which is essential to establishing and enforcing child support obligations.

Sections 452 and 453 of the Social Security Act require the Secretary of HHS to establish and conduct the Federal Parent Locator Service, a computerized national location network which provides address and social security number (SSN) information to State and local child support enforcement agencies (CSEAs) for purposes of locating parents to establish or enforce a child support order and to assist authorized persons in resolving parental kidnapping and child custody cases.

Pursuant to section 124(a) of the Family Support Act of 1988 (Pub. L. 100–485), the FPLS obtained access to wage and unemployment compensation claims information maintained for or by the Department of Labor (DOL) or the State Employment Security Agencies (SESAs). In January 1990, the FPLS began conducting periodic crossmatches in which the names and SSNs of child support obligors are run against SESA wage and unemployment files. OCSE is currently limited to 250,000 cases per State per bi-weekly crossmatch. The information generated from crossmatches between quarterly wage, claims and child support data, both at the State level and in the more limited FPLS context, has proven extremely beneficial for the location of child support obligors and their wages. The inclusion of quarterly wage and unemployment compensations claims data in the NDNH allows for a substantially higher volume of interstate crossmatching than is currently possible.

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 requires the Secretary to develop an expanded Federal Parent Locator Service to improve the States' ability to locate and collect child support. The OCSE, within ACF, is charged with the task of developing, implementing, and maintaining the FPLS. The Secretary will house the expanded FPLS in the Social Security Administration's National Computer Center. The Secretary and SSA believe that locating the expanded FPLS there will provide the most efficient and cost-effective mechanism for developing the expanded FPLS, as well as ensuring state-of-the-art standards for system security and confidentiality of the expanded FPLS data.

The expanded FPLS will include the NDNH (operational no later than October 1, 1997), The Federal Case Registry (FCR) (operational no later than October 1, 1998), and the capability to continue matching against existing FPLS data sources, including but not limited to, the Internal Revenue Service, Social Security Administration, Department of Defense/Office of Personnel Management, Department of Veterans Affairs, and the Federal Bureau of Investigation. The expanded FPLS will perform crossmatches between the NDNH, the FCR, and specified additional external databases. With these new expanded FPLS resources, the interstate matching of child support obligors and employment, earnings, and benefits data will flow more efficiently and quickly between States.

In addition to performing automatic matching, the system accepts and processes automated or manual information requests from State and local CSE agencies as well as the FBI, the National Center for Missing and Exploited Children, the State Department, and the Attorney General. The following information is available from Federal agencies (including the Postal Service) and the SESAs:

(1) The Social Security Administration (SSA) provides three types of information on the noncustodial or custodial parent per locate request. SSA can also provide social security number information (including identification, verification, nonverification or correction) pertaining to the noncustodial or custodial parent. When SSA is the specified agency queried, SSA provides the name and address of employers, address where the benefits check is being delivered, and date of death, as well as SSN and address information;

(2) The SESAs provide two types of information. If the noncustodial parent is employed, the SESAs provide the name and address of the most recent employer and the amount of the wages earned in the previous quarter. If the noncustodial or custodial parent is unemployed, the SESAs provide the home address where the unemployment check is or was most recently mailed;

(3) The Department of Treasury (Treasury) provides several types of information. If the noncustodial or custodial parent has filed a tax return in the last three years, Treasury provides the address reported on the most recent return. Treasury also provides the SSNs of parents listed on the tax return.

Additionally, the Project 1099 provides information to State CSE agencies to access all earned and unearned income information reported to the Treasury by employers and financial institutions. The FPLS conducts matches on data from IRS forms 1098 and 1099;

(4) The Department of Defense (DoD) provides information on noncustodial or custodial parents who are in the Army, Navy, Air Force, and Marine Corps. DoD provides the military unit address, pay grade, and date of separation from the service. FPLS conducts matches with Office of Personnel Management (OPM) through DoD. OPM provides the name and address of the payroll office for non-military and non-postal noncustodial or custodial parents who work for the Federal government, or receive retirement benefits;

(5) The Postal Service provides information on noncustodial or custodial parents who are employed by the U.S. Postal Service; and

(6) The Department of Veterans Affairs (VA) provides information on those individuals who are receiving VA benefits. The VA indicates if the noncustodial or custodial parent is receiving compensation, pension, or educational benefits, the amount of the benefit, and where the check is being delivered.

Furthermore, pursuant to the DCIA, and pursuant to Executive Order 13019, the Department of Treasury's FMS is charged with the responsibility of increasing the collection of non-tax debts owed to the Federal Government and/or States, and collecting past-due child support through administrative offsets. The OCSE will match its records against Federal payment certification records and Federal financial assistance records maintained by FMS. The purpose is to facilitate the collection of delinquent child support obligations from persons who may be entitled or eligible to receive certain Federal payments or Federal assistance. State CSE agencies submit names of delinquent child support debts to the OCSE for submission to FMS.

These cases are sent on-line, dial-up access via personal computer, tape and cartridge via mail, file transfer, or electronic data transmission. OCSE serves as a conduit between State CSE agencies and the FMS by processing weekly updates of collection data and distributing the information back to the appropriate State CSE agency. The information will be disclosed by OCSE to State CSE agencies for use in the collection of child support debts, through locate, wage withholding, or other enforcement actions.

The system of records is used for the collection of past-due child support via administrative offset, (offset of certain funds payable to an individual by the Federal Government.) (Not all Federal funds will be subject to administrative offset; see 62 FR 36205, dated July 7, 1997.) The FMS serves as the lead agency in this debt collection initiative. The FMS has a Debt Collection Operations System to maintain records of individuals and entities that are indebted and will match these records against the payment certification records of Federal departments and agencies.

In addition, the system of records is used to determine which delinquent obligors are appropriate for referral to the U.S. State Department for revocation/restriction/denial of a U.S. Passport. OCSE extracts cases with arrearages of $5,000 or greater from the certified case file. These cases are electronically submitted to SSA with name and SSN. SSA returns the file with date of birth, SSN, name, place of birth, and sex. These cases are then forwarded to the State Department via tape with date of birth, place of birth, sex, SSN, and name. These files are matched against individuals who make application for passport. Passports may be denied to those obligors owing $5,000 or greater. The State Department's system is called the Consular and Support System (CLASS) (State 26, Passport Records, published at 60 FR 148, August 2, 1995).

If there is a match, the Passport Office will notify the applicant to contact the State CSE agency that submitted his/her name. If, as a result of payment, the applicant's child support arrearage falls below the $5,000 threshold, the CSE office will issue a Notice of Withdrawal of Passport Denial requesting that the Passport Office issue a passport to the noncustodial parent if otherwise qualified.

The FPLS system of records will be comprised of records that contain the name of noncustodial or custodial parent or child, Social Security number (when available), date of birth, place of birth, sex code, State case identification number, local identification number (State use only), State or locality originating request, date of origination, type of case (TANF, non-TANF full-service, non-TANF locate only, parental kidnapping), home address, mailing address, type of employment, work location, annual salary, pay rate, quarterly wages, medical coverage, benefit amounts, type of military service (Army, Navy, Marines, Air Force, not in service), retired military (yes or no), Federal employee (yes or no), recent employer's address, known alias (last name only), offset amount, date requests sent to Federal agencies or departments (SSA, Treasury, DoD/OPM, VA, USPS, FBI, and SESAs), dates of Federal agencies' or departments' responses, date of death, record identifier, employee date of hire, employee State of hire, Federal EIN, State EIN, employer name, employer address, employer foreign address, employer optional address, and employer optional foreign address; employee SSN, employee name, employee wage amount, reporting period, claimant SSN, claimant name, claimant address, SSA/VA benefit amount, reporting period, State code, local code, case number, arrearage amount, collection amount, adjustment amount, return indicator, transfer State, street address, city and State, zip code, zip code 4, total debt, number of adjustments, number of collections, net amount, adjustment year, tax period for offset, type of offset, State code, submitting State FIPS, locate code, case ID number, case type, and court/administrative order indicator.

Safeguarding: All requests from the State IV–D Agency must certify that: (1) They are being made to locate noncustodial or custodial parents for the purpose of establishing paternity or securing child support, or in cases involving parental kidnapping or child custody determinations and for no other purpose; (2) the State IV–D agency has in effect protective measures to safeguard the personal information being transferred and received from the FPLS; and (3) the State IV–D Agency will use or disclose this information for the purposes prescribed in 45 CFR 302.70.

The records in the FPLS will be maintained in a secure manner compatible with their content and use. All Federal and State personnel and contractors will be required to adhere to the provisions of the Privacy Act and the HHS Privacy Act regulations at 45 CFR part 5b. The System Manager will control access to the data. Only authorized users whose official duties require the use of such information will have regular access to the records in this system. Authorized users are: (1) Any State or Federal government department or agency charged with the responsibility of locating custodial or noncustodial parents; (2) State agencies under agreements covered by title IV–D of the Social Security Act for the purposes of locating noncustodial and custodial parents in connection with establishing or enforcing child support obligations; (3) State agencies under agreements covered by section 463 of the Act for the purpose of locating

custodial parents or children in connection with activities by State courts and Federal attorneys and agents charged with making or enforcing child custody and visitation determinations or conducting investigations, enforcement proceedings or prosecutions concerning the unlawful taking or restraint of children; and (4) agents and attorneys of the United States involved in activities in States which do not have agreements under Section 463 of the Act for the purpose of locating custodial parents in connection with activities by State courts and Federal attorneys and agents charged with making or enforcing child custody and visitation determinations or conducting investigations, enforcement proceedings or prosecutions concerning unlawful taking or restraint of children.

All microfilm and paper files are accessible only by authorized personnel who have a need for the information in the performance of their official duties. Safeguards for automated records have been established in accordance with the HHS Information Resources Management Manual, Part 6, Automated Information Systems Security Program Handbook.

Storage: Records are maintained on disk and magnetic tape, and hard copy.

Retrievability: System records can be accessed by either a State assigned case identification number or Social Security Number.

Data stored in computers will be accessed through the use of ''passwords'' known only to authorized users. Rooms where records are stored are locked when not in use. During regular business hours rooms are unlocked but are controlled by on-site personnel.

Information will not be disclosed to any person if the disclosure would contravene the national or security interest of the United States or the confidentiality of census data.

Information will not be disclosed to any person if the State has notified the Secretary that the State has reasonable evidence of domestic violence or child abuse and the disclosure of such information could be harmful to the custodial parent or the child of such parent.

Information received or transmitted pursuant to this section shall be subject to the safeguard provisions contained in section 454(26) of the Act.

Retention and Disposal; Quarterly wage data supplied to the FPLS will be retained for eight calendar quarters and then destroyed. New hire information supplied to the FPLS will be kept in an active file for two years. New hire information will then be stored for an additional three years before being destroyed.

Tax refund and administrative offset information will be maintained for six years in an active master file for purposes of collection and adjustment. After this time, records of cases for which there was no collection will be destroyed. Records of cases with a collection will be stored on-line in an inactive master file.

Records pertaining to passport denial will be updated and/or deleted as obligors meet satisfactory restitution or other State approved arrangements.

Records of information provided by the FPLS to authorized users will be maintained only long enough to communicate the information to the appropriate State or Federal agent. Thereafter, the information provided will be destroyed. However, records pertaining to the disclosures, which include information provided by States, Federal agencies contacted, and an indication of the type(s) of information returned, will be stored on a history tape and in hard copy for five years and then destroyed.

System Manager(s) and Address: Director, Program Operations Division, Ofice of Child Support Enforcement, Department of Health and Human Services, 370 L'Enfant Promenade, SW., 4th Floor, Washington, DC 20447.

Record Access Procedures: Same as notification procedures. Requesters should also specify the record contents being sought.

Contesting Record Procedures: Contact the official at the address specified under system manage above, and identify record and specify the information to be contested.

Record Source Categories: Information is obtained from departments, agencies, or instrumentalities of the United States or any State.

Systems Exempted From Certain Provisions of the Privacy Act: None.

Routine Uses of Records Maintained in the System, Including Categories of Users and the Purpose of Such Users:

The current routine uses for this system of records are:

(1) Request the most recent home and employment addresses and SSN of the noncustodial parents from any State or Federal government department, agency or instrumentality which might have such information in its records; (2) Provide the most recent home and employment addresses and SSN to State CSE agencies (including the FBI and the Center for Missing and Exploited Children) for the purpose of locating noncustodial parents in connection with establishing or enforcing child support obligations; (3) Provide the most recent home and employment addresses and SSN to State CSE agencies under agreements covered by section 463 of the Social Security Act (42 U.S.C. 663) for the purpose of locating noncustodial parents or children in connection with activities by State courts and Federal attorneys and agents charged with making or enforcing child custody determinations or conducting investigations, enforcement proceedings or prosecutions concerning the unlawful taking or restraint of children; (4) Provide the most recent home and employment addresses and SSN to agents and attorneys of the United States, involved in activities in States which do not have agreements under section 463 of the Act for purposes of locating noncustodial parents or children in connection with Federal investigations, enforcement proceedings or prosecutions involving the unlawful taking or restraint of children; and (5) provide to the State Department the name and SSN of noncustodial parents in international child support cases, and in cases inolving The Hague Convention on the Civil Aspects of International Child Abduction.

The PRWORA amends Federal law and authorizes new uses and disclosures for the expanded FPLS. The new routine uses proposed for this system are compatible with the stated purposes of the system and include the following:

(1) Pursuant to section 453(j) (2)&(3) of the Social Security Act, State agencies may access data in the NDNH for the purpose of administering the Child Support Enforcement Program and the Temporary Assistance for Needy Families (TANF) program; (2) Pursuant to section 453(j)(4) of the Act, the Commissioner of Social Security may access information in the NDNH for the purpose of verifying reported SSNs and other purposes; (3) Pursuant to section 453(i)(3) of the Act, the Secretary of the Treasury may access information in the NDNH for purposes of administering advance payment of the earned income tax credit and verifying a claim with respect to employment in a tax return; (4) Pursuant to section 453(j)(5) of the Act, the Secretary of Health and Human Services may provide researchers with access to the new hire data for research efforts that would contribute to the TANF and CSE programs.

Information disclosed may not contain personal identifiers; (5) Under section 6103(el)(6) of the Internal Revenue Code of 1986, records may be disclosed to any agent of an agency that is under contract with the State CSE

agency to assist in locating individuals for the purposes of establishing, modifying, and enforcing child support obligations; (6) Under section 453(j) of the Act, records in the NDNH may be disclosed to State CSE agencies in order to locate individuals for the purpose of establishing paternity and for establishment, modification, or enforcement of a support order; (7) Pursuant to section 453(a) of the Act, records may be disclosed to State CSE agencies for the purpose of locating individuals for the purpose of enforcing child custody and visitation orders; (8) Pursuant to section 453(j) of the Act, new hire information may also be disclosed to the State agency administering the Medicaid, Unemployment Compensation, Food Stamp, SSI, and territorial cash assistance programs for income eligibility verification, and to State agencies administering unemployment and workers' compensation programs to assist determinations of the allowability of claims; (9) OCSE will disclose information to the Treasury Department for the offset of certain Federal payments in order to collect past due child support obligations. The Federal payments included in the Administrative Offset System are: Federal salary, wage and retirement payments; vendor payments; expense reimbursement payments; and travel payments; and (10) Pursuant to section 452(k) of the Act, information from the FPLS may be disclosed to the Secretary of State to revoke, restrict, or deny a passport to any person certified by State CSE agencies as owing a child support arrearage greater than $5,000.

Dated: September 26, 1997.

Anne F. Donovan,

Acting Deputy Director.

09–90–0074

SYSTEM NAME:

Federal Parent Locator and Federal Tax Refund/Administrative Offset System (FPLS), HHS, OCSE.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATION:

Office of Child Support Enforcement, 370 L'Enfant Promenade, SW, 4th Floor East, Washington, DC 20447;

Social Security Administration, 6200 Security Boulevard, Baltimore, Maryland 21235.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Records will be maintained to locate individuals for the purpose of establishing parentage, establishing, setting the amount of, modifying, or enforcing child support obligations, or enforcing chid custody or visitation orders: (1) Information on, or facilitating the discovery of, or the location of any individual: (A) Who are under an obligation to pay child support or provide child custody or visitation rights; (B) against whom such an obligation is sought; and (C) to whom such an obligation is owed including the individual's social security number (or numbers), most recent address, and the name, address, and employer identification number of the individual's employer; and (2) information on the individual's wages (or other income) from, and benefits of, employment (including rights to enrollment in group health care coverage); and (3) information on certain Federal disbursements payable to a delinquent obligor which may be offset for the purpose of collecting past-due child support.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system will comprise records that contain the name of noncustodial or custodial parent or child, Social Security number (when available), date of birth, place of birth, sex code, State case identification number, local identification number (State use only), State or locality originating request, date of origination, type of case (TANF, non-TANF full-service, non-TANF locate only, parental kidnapping), home address, mailing address, type of employment, work location, annual salary, pay rate, quarterly wages, medical coverage, benefit amounts, type of military service (Army, Navy, Marines, Air Force, not in service), retired military (yes or no), Federal employee (yes or no), recent employer's address, known alias (last name only), offset amount, date requests sent to Federal agencies or departments (SSA, IRS, DoD/OPM, VA, USPS, FBI, and SESAs), dates of Federal agencies' or departments' responses, date of death, record identifier, employee date of hire, employee State of hire, Federal EIN, State EIN, employer name, employer address, employer foreign address, employer optional address, and employer optional foreign address; employee SSN, employee name, employee wage amount, reporting period, claimant SSN, claimant name, claimant address, SSA/VA benefit amount, reporting period, State code, local code, case number, arrearage amount, collection amount, adjustment amount, return indicator, transfer State, street address, city and State, zip code, zip code 4, total debt, number of adjustments, number of collections, net amount, adjustment year, tax period for offset, type of offset, State code, submitting State FIPS, locate code, case ID number, case type, and court/administrative order indicator.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Sections 452 and 453 of the Social Security Act required the Secretary of HHS to establishment and conduct the Federal Parent Locator Service, a computerized national location network whch provides address and SSN information to State and local Child Support Enforcement Agencies (CSE).

Section 124(a) of the Family Support Act of 1988 authorized the Secretary of HHS to obtain access to wage and unemployment compensation claims information maintained for or by the Department of Labor (DOL) or the State Employment Security Agencies (SESAs).

The FPLS is being expanded pursuant to: Social Security Act amendments promulgated as section 316 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA); the Debt Collection Improvement Act of 1996 (DCIA); and Executive Order 13019. These provisions give the Secretary of Health and Human Services the authority to expand the Federal Parent Locator Service to improve the States' ability to locate and collect child support.

PURPOSE(S):

The purpose of the system is to expand the Federal Parent Locator Service (FPLS) to improve States' ability to locate parents and collect child support. A large database, the National Directory of New Hires, will be established. Through this database, the interstate matching of child support obligors and employment, earnings, and benefit data will flow more efficiently and quickly between States. The National Directory of New Hires (NDNH) will contain the following:

(1) New hire information on employees commencing employment in either the public or private sector;

(2) Quarterly wage data on private and public sector employees; and

(3) Information on unemployment compensation benefits. Federal agencies are also required to submit both new hire and quarterly wage information. Names and social security numbers submitted for both new hire and quarterly wage information will be verified by the Social Security Administration to ensure that the social security number provided is correct.

In October of 1998, a second database will be established, the Federal Case

Register (FCR), which will be derived from State level case registry information and will contain abstracts on all participants involved in child support enforcement cases. The NDNH and the FCR will be matched against each other on an on-going basis to determine if an employee is a participant in a child support case anywhere in the country. If the FPLS identifies a person as being a participant in a State child support case, that State will be notified of the participant's current employer.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES

The current routine uses in this system of records are maintained to: (1) Request the most recent home and employment addresses and SSN of the noncustodial or custodial parents from any State or Federal government department, agency or instrumentality which might have such information in its records; (2) Provide the most recent home and employment addresses and SSN to State CSE agencies for the purpose of locating noncustodial parents in connection with establishing or enforcing child support obligations; (3) Provide the most recent home and employment addresses and SSN to State CSE agencies under agreements covered by Section 463 of the Social Security Act (42 U.S.C. 663) for the purpose of locating noncustodial parents or children in connection with activities by State courts and Federal attorneys and agents charged with making or enforcing child custody determinations or conducting investigations, enforcement proceedings or prosecutions concerning the unlawful taking or restraint of children; and (4) Provide the most recent home and employment addresses and SSN to agents and attorneys of the United States, involved in activities in States which do not have agreements under section 463 of the Act for purposes of locating noncustodial parents or children in connection with Federal investigations, enforcement proceedings or prosecutions involving the unlawful taking or restraint of children; and (5) provide to the State Department the name and SSN of noncustodial parents in international child support cases, and in cases inolving he Hague Convention on the Civil Aspects of International child Abduction.

The PRWORA amends Federal law and authorizes new uses and disclosures for the expanded FPLS. The new routine uses for this system are compatible with the stated purposes of the system and include the following: (1) State agencies may access data in the NDNH for the purpose of administering the Child Support Enforcement Program and the Temporary Assistance for Needy Families (TANF) program; (2) The Commissioner of Social Security may access information in the NDNH for the purpose of verifying reported SSNs and other purposes; (3) The Secretary of the Treasury may access information in the NDNH for purposes of administering advance payment of the earned income tax credit and verifying a claim with respect to employment in a tax return; (4) The Secretary of Health and Human Services may provide researchers with access to the new hire data for research efforts that would contribute to the TANF and CSE programs. Information disclosed may not contain personal identifiers; (5) Records may be disclosed to any agent of an agency that is under contract with the State CSE agency to assist in locating individuals for the purposes of establishing paternity and for establishing, modifying, and enforcing child support obligations; (6) Records in the NDNH may be disclosed to State CSE agencies in order to locate individuals for the purpose of establishing paternity and for establishment, modification, or enforcement of a support order; (7) Records may be disclosed to State CSE agencies for the purpose of locating individuals for the purpose of enforcing child custody and visitation orders; (8) New hire information may be disclosed to the State agency administering the Medicaid, Unemployment Compensation, Food Stamp, SSI, and territorial cash assistance programs for income eligibility verification, and to State agencies administering unemployment and workers' compensation programs to assist determinations of the allowability of claims; (9) OCSE will disclose information to the Treasury Department for the offset of certain Federal payments in order to collect past due child support obligations. The Federal payments included in the Administrative Offset System are: Federal salary, wage and retirement payments; vendor payments; expense reimbursement payments; and travel payments; and (10) Pursuant to section 452(k) of the Act, information from the FPLS may be disclosed to the Secretary of State to revoke, restrict, or deny a passport to any person certified by State CSE agencies as owing a child support arrearage greater than $5,000.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

FPLS records are maintained on disc and computer tape, and hard copy.

RETRIEVABILITY:

System records can be accessed by either a State assigned case identification number or Social Security Number.

SAFEGUARDS:

1. *Authorized Users:* All requests from the State IV–D Agency must certify that: (1) They are being made to locate non-custodial and custodial parents for the purpose of establishing paternity or securing child support, or in cases involving parental kidnapping or child custody and visitation determinations and for no other purpose; (2) the State IV–D agency has in effect protective measures to safeguard the personal information being transferred and received from the Federal Parent Locator Service; and (3) the State IV–D Agency will use or disclose this information for the purposes prescribed in 45 CFR 302.70.

2. *Physical Safeguards:* For computerized records electronically transmitted between Central Office and field office locations (including organizations administering HHS programs under contractual agreements), safeguards include a lock/unlock password system. All input documents will be inventoried and accounted for. All inputs and outputs will be stored in a locked receptacle in a locked room. All outputs will be labeled ''For Official Use Only'' and treated accordingly.

3. *Procedural and Technical Safeguards:* All Federal and State personnel and contractors, are required to take a nondisclosure oath. A password is required to access the terminal. All microfilm and paper files are accessible only by authorized personnel who have a need for the information in the performance of their official duties.

These practices are in compliance with the standards of Chapter 45–13 of the HHS General Administration Manual, ''Safeguarding Records Contained in Systems of Records,'' and the Department's Automated Information System Security Program Handbook.

RETENTION AND DISPOSAL:

Quarterly wage data supplied to the FPLS will be retained for eight calendar quarters and then destroyed. New hire information supplied to the FPLS will

be kept in an active file for two years. New hire information will then be stored for an additional three years before being destroyed.

Tax refund and administrative offset information will be maintained for six years in an active master file for purposes of collection and adjustment. After this time, records of cases for which there was no collection will be destroyed. Records of cases with a collection will be stored on-line in an inactive master file.

Records pertaining to passport denial will be updated and/or deleted as obligors meet satisfactory restitution or other State approved arrangements.

Records of information provided by the FPLS to authorized users will be maintained only long enough to communicate the information to the appropriate State or Federal agent. Thereafter, the information provided will be destroyed. However, records pertaining to the disclosures, which include information provided by States, Federal agencies contacted, and an indication of the type(s) of information returned, will be stored on a history tape and in hard copy for five years and then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Division of Program Operations Office of Child Support Enforcement Administration for Children and Families 370 L'Enfant Promenade, SW., 4th Floor East Washington, DC. 20447.

NOTIFICATION PROCEDURES:

To determine if a record exists, write to the System Manager listed above. The requester must provide his or her full name and address. Additional information, such as your Social Security Number, date of birth or mother's maiden name, may be requested by the system manager in order to distinguish between individuals having the same or similar names.

RECORD ACCESS PROCEDURES:

Write to the System Manager specified above to attain access to records. Requesters should also reasonably specify the record contents they are seeking.

CONTESTING RECORD PROCEDURE:

Contact the official at the address specified under system manager above, and reasonably identify the record and specify the information to be contested and corrective action sought with supporting justification to show how the record is inaccurate, incomplete, untimely or irrelevant.

RECORD SOURCE CATEGORIES:

Information is obtained from departments, agencies, or instrumentalities of the United States or any State.

SYSTEMS EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 97–26049 Filed 10–1–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). At least one portion of the meeting will be closed to the public.

Name of Committee: Circulatory System Devices Panel of the Medical Devices Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA regulatory issues.

Date and Time: The meeting will be held on October 24, 1997, 9:30 a.m. to 6 p.m.

Location: Gaithersburg Marriott Washingtonian Center, Salons C and D, 9751 Washingtonian Blvd., Gaithersburg, MD.

Contact Person: John E. Stuhlmuller, Center for Devices and Radiological Health (HFZ–450), Food and Drug Administration, 9200 Corporate Blvd., Rockville, MD 20850, 301–443–8243, ext. 157, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 12625. Please call the Information Line for up-to-date information on this meeting.

Agenda: The committee is being asked to provide input to the agency regarding the design of clinical trials to support premarket approval applications for devices intended to treat atrial septal defects, patent foramen ovale, and patent ductus arteriosus. Of particular concern are the following issues: What are the appropriate controls to be used in such trials? What are the appropriate safety and efficacy measures? When should assessments of these measures be made?

Procedure: On October 24, 1997, from 12:30 p.m. to 6 p.m., the meeting is open to the public. Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person by October 14, 1997. Oral presentations from the public will be scheduled between approximately 12:30 p.m. and 1:30 p.m. Time allotted for each presentation may be limited. Those desiring to make formal oral presentations should notify the contact person before October 14, 1997, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation.

Closed Committee Deliberations: On October 24, 1997, from 9:30 a.m. to 12:30 p.m., the meeting will be closed to permit discussion and review of trade secret and/or confidential information (5 U.S.C. 552b(c)(4)). FDA staff will present trade secret and/or confidential information regarding pending and future circulatory system device submissions.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: September 25, 1997.

Michael A. Friedman,

Deputy Commissioner for Operations.

[FR Doc. 97–26113 Filed 10–1–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Care Financing Administration

[HCFA–382]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Health Care Financing Administration, HHS.

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: Extension of a currently approved collection; *Title of Information Collection:* ESRD Beneficiary Selection and Supporting Regulations Contained in 42 CFR 414.330; *Form No.:* HCFA–382 (OMB# 0938–0372); *Use:* ESRD facilities have each new home dialysis patient select one of two methods to handle Medicare reimbursement. The intermediaries pay for the beneficiaries selecting Method I and the carriers pay for the beneficiaries selecting Method II. This system was developed to avoid duplicate billing by both intermediaries and carriers. *Frequency:* Other (One time only); *Affected Public:* Individuals or Households, Business or other for-profit, and Not-for-profit institutions; *Number of Respondents:* 3,100; *Total Annual Responses:* 3,100; *Total Annual Hours:* 259.

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 and phone number, to Paperwork@hcfa.gov, or call the Reports Clearance Office on (410) 786–1326. Written comments and recommendations for the proposed information collections must be mailed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, Attention: Allison Eydt, New Executive Office Building, Room 10235, Washington, D.C. 20503.

Dated: September 24, 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. 97–26158 Filed 10–1–97; 8:45 am]

BILLING CODE 4120–03–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by agencies of the U.S. Government and are available for licensing in the United States in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for U.S. companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 24, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220: A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Genes for Niemann-Pick Type C Disease

DA Tagle, ED Carstea, JA Morris, PG Pentchev, WJ Pavan, MA Rosenfeld, SK Loftus (NINDS/NHGRI)
Serial No. 60/051,682 filed 03 Jul 97
Licensing Contact: Leopold J. Luberecki, Jr., 301/496–7735 ext. 223

Niemann-Pick disease is a class of inherited lipid storage diseases. Niemann-Pick Type C disease is an autosomal recessive neurovisceral lipid storage disorder which leads to systemic and neurological abnormalities including ataxia, seizures, and loss of speech. Patients with the disease typically die as children. The biochemical hallmark of Niemann-Pick Type C cells is the abnormal accumulation of unesterified cholesterol in lysosomes, which results in the delayed homeostatic regulation of both uptake and esterification of low density lipoprotein (LDL) cholesterol. Niemann-Pick Type C is characterized by phenotypic variability. The disease appears at random in families that have no history of the disorder, making diagnosis problematic. This invention provides the human gene for Niemann-Pick Type C disease and the nucleic acid sequences corresponding to the human gene for Niemann-Pick Type C disease. Also provided is the mouse homolog of the human gene. The invention could lead to improved diagnosis and the design of therapies for the disease and improved means of detection of carriers of the gene. In addition, this invention may contribute to the understanding and development of treatments for atherosclerosis, a more common disorder associated with cholesterol buildup that involves the accumulation of fatty tissue inside arteries that blocks blood flow, leading to heart disease and stroke. The invention may also lead to additional discoveries concerning how cholesterol is processed in the body.

AIB–1, A Steroid Receptor Co-Activator Amplified in Breast and Ovarian Cancer

PS Meltzer, JM Trent (NHGRI)
OTT Reference No. E–018–97/0 filed 17 Jun 97
Licensing Contact: Ken Hemby, 301/496–7735 ext. 265

Breast cancer is the number one cancer in U.S. women, with over 185,000 cases in 1996 and an estimated 44,560 deaths in the past year. Breast cancer arises from estrogen-responsive breast epithelial cells. Estrogen activity is though to promote the development of breast cancer, and many breast cancers are initially dependent on estrogen at the time of diagnosis. Anti-estrogen compositions have therefore been used to threat breast cancer.

AIB–1 (Amplified in Breast Cancer–1) is a novel gene that is pivotal to a crucial metabolic pathway linked to the growth and progression of human breast cancer. In many cancers, especially breast cancer, tumor cells have amplified copies of genes that can give the cancer a growth advantage. AIB–1, located on the long arm of chromosome 20, is one such amplified gene. High-level AIB–1 amplification and overexpression have been observed in several estrogen receptor (ER) positive breast and ovarian cancer cell lines, as well as in uncultured breast cancer specimens. AIB–1 has also been found to be expressed in prostate epithelial cells.

AIB–1 is the most recently identified member of a gene family known as SRC–1 (steroid receptor coactivator), all of which interact with genes for steroid hormone receptors, ultimately enhancing tumor cell growth.

This invention provides the gene for AIB–1, a novel steroid receptor co-activator which is overexpressed in breast cancer cells. It also encompasses diagnostic assays for steroid hormone-responsive cancers and screening assays to identify compounds which inhibit interactions of the co-activator with steroid hormone receptors and other proteins in this pathway.

Methods and Compositions for Inhibiting Inflammation and Angiogenesis

K Kelly (NCI)
Serial No. 60/027,871 filed 25 Oct 96

Licensing Contact: J. Peter Kim, 301/496–7056 ext. 264

The invention provides compositions and methods directed to isolated α subunits of the 7TM protein CD97. CD97 is a heterodimer existing in three isoforms, namely three forms of α subunit and one invariant β subunit. The invention provides compositions and methods for detecting a subunit of CD97, a T-cell protein which is unregulated in activated T-cells and is involved in the onset and maintenance of inflammation and angiogenesis. The invention provides an isolated protein comprising a soluble CD97 α subunit, and an isolated nucleic acid encoding a soluble Cd97 α subunit protein. The invention also provides methods for identifying compounds which inhibit soluble CD97 α subunit expression. The invention may be used to inhibit angiogenesis associated with chronic inflammation in a mammal by administering a therapeutically effective amount of a CD97 antagonist. Another application includes determining the degree of inflammation at a site in a mammal with an antibody composition specifically reactive to a soluble CD97 α subunit. Further, it should be noted that these compositions and methods further have in vitro utility in the construction of proteins and subsequences thereof for the construction of antibodies, and nucleic acids and subsequences thereof for use as probes.

Peptides With Laminin Activity

Y Yamada, JO Graf, Y Iwamoto, F Robey, HK Kleinman,
M Sasaki, GR Martin (NIDR)
U.S. Patent 5,092,885 issued 03 Mar 92
Licensing Contact: Jaconda Wagner, 301/496–7735, ext. 284

Peptides with laminin activity, including YIGSR, are claimed. These peptides block angiogenesis, alter the formation of capillary structures by endothelial cells, prevent the formation of excess blood vessels in tissue and inhibit in vivo tumor cell colonization of tissues. These peptides can be used, among other things, to inhibit metastasis.

This research has been described in B.J. Cancer 73:589, 1996; Cancer Res 54:5005, 1994; Semin Cancer Biol 1993 Aug; 4(4):259–65; Cancer Res 1993 Aug 1;53(15):3459–61; Cell 1987 Mar 27;48(6):989–9.

Laminin A Peptides

Y Yamada, HK Kleiman, M Sasaki, GR Martin (NIDR)
U.S. Patent 5,211,657 issued 18 May 93
Licensing Contact: Jaconda Wagner, 301/496–7735, ext. 284

This invention relates to peptides and derivatives thereof having laminin-like activity, as well as a pharmaceutical composition of the peptide. The peptides claimed include Serine-Isoleucine-Lysine-Valine-Alanine-Valine (SIKVAV). Methods for promoting increased adhesion and migration of epithelial cells is also disclosed. The peptides have wide usage in research, nerve regeneration and cancer treatment. For example, this invention may be useful as an adhesion and regeneration agent for nerve guides and as an adhesion agent for vascular prothesis.

This research had been described in Bioorganic Medinal Chem Lett 5:711, 1995; J Neurosci Res 1995 Oct 15;42(3):314–22; Cancer Res 1995 Jun 1;55(11):2476–80; FEBS Lett 1995 May 29;365(2–3):227–3; J Cell Physiol 1994 Jul;160(1):185–93; Cell Immunol 1994 Jan; 153(1):94–104.

Dated: September 25, 1997.

Barbara M. McGarey,

Deputy Director, Office of Technology Transfer.

[FR Doc. 97–26171 Filed 10–1–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting of the National Cancer Institute Special Emphasis Panel (SEP) meeting:

Name of SEP: Efficacy Studies of Chemopreventive Agents in animal Models and Evaluation of Chemopreventive Agents by in Vivo Screening Assays.

Date: October 20–21, 1997.

Time: 8:30 a.m. to 5:00 p.m.

Place: Double Tree Hotel—Rockville, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Courtney M. Kerwin, Ph.D., M.P.H., Scientific Review Administrator, National Cancer Institute, NIH, Executive Plaza North, Room 630I, 6130 Executive Boulevard, MSC 7405, Bethesda, MD 20892–7405, Telephone: 301/496–7421.

Purpose/Agenda To review and evaluate proposals submitted in response to master agreement announcements.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control.)

Dated: September 26, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26167 Filed 10–1–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 United States Code Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Duration of Labor and Cesarean Delivery in Association With Epidural Analgesia in Nullipara (Teleconference).

Date: September 30, 1997.

Time: 11:00 a.m. (ET)—adjournment.

Place: 6100 Executive Boulevard, 6100 Building—Room 5E01, Rockville, Maryland 20852.

Contact Person: Hameed Khan, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building—Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1696.

Purpose/Agenda: To provide concept review of proposed contract solicitations.

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(9)(B), Title 5 U.S.C. The discussions could reveal the specific details of future requests for contract proposals (RFPs), the disclosure of which would significantly frustrate implementation of the agency's proposed contract activities by giving unfair competitive advantage to private firms or individuals.

This notice is published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research Mothers and Children], National Institutes of Health)

Dated: September 25, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26099 Filed 10–1–97; 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 Committee: National Institute on Aging Review Group Sociology of Aging Review Committee.
Date of Meeting: October 16, 1997.
Time of Meeting: 1:30 p.m. to adjournment.
Place of Meeting: Radisson Barcelo Hotel, 2121 P Street, N.W., Washington, D.C. 20037.
Purpose/Agenda: To review and evaluate grant applications.
Contact Person: Dr. Mary Ann Guadagno, 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 NIA Small Grant Review—Psychology and Sociology.
Date of Meeting: October 17, 1997.
Time of Meeting: 8:00 a.m. to adjournment.
Place of Meeting: Radisson Barcelo Hotel, 2121 P Street, N.W., Washington, D.C. 20037.
Purpose/Agenda: To review small grant applications in psychology and sociology.
Contact Person: Dr. Paul Lenz, Scientific Review Administrators, Gateway Building, Room 2C212, National Institute of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel NIA Small Grant Review—Economics.
Date of Meeting: October 17, 1997.
Time of Meeting: 9:00 a.m. to adjournment.
Place of Meeting: Radisson Barcelo Hotel, 2121 P Street, N.W., Washington, D.C. 20037.
Purpose/Agenda: To review small grant applications in economics and demography.
Contact Person: Dr. Mary Ann Guadagno, Scientific Review Administrator, Gateway Building, Room 2C212, National Institute of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel Economics in Aging II Small Grant Applications (Teleconference).
Date of Meeting: October 20, 1997.
Time of Meeting: 1:00 p.m. to adjournment.
Place of Meeting: Gateway Building, 7201 Wisconsin Avenue, Bethesda, Maryland 20892.
Purpose/Agenda: To review two small grant (R03) applications in the economics and demography of aging.
Contact Person: Dr. Paul Lenz, 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 Prevention of Alzheimer's Dementia and Cognitive Decline.
Date of Meeting: November 11, 1997.
Time of Meeting: 1:30 p.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.

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 25, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26101 Filed 10–1–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; 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 General Medical Sciences meeting:

Committee Name: Minority Program Review Committee MARC, Minority Access to Reach Careers Sub-Committee.
Date: October 13–15, 1997.
Time: 8:30 a.m.–8:00 p.m.
Place: Holiday Inn Downtown-Superdome, 330 Loyola Avenue (at Gravier Street), New Orleans, LA 70112.
Contact Person: Richard I. Martinez, Ph.D., Scientific Review Administrator, NIGMS, 45 Center Drive, Room 1AS–19G, Bethesda, MD 20892–6200, 301–594–2849.
Purpose: To review institutional research training grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and the discussions of these could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS])

Dated: September 26, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26166 Filed 10–1–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Neurological Disorders and Stroke, Division of Extramural Activities; Notice of Closed Meeting

Pursuant to Section 10(d) of Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting:

Name of Committee: National Institute of Neurological Disorders and Stroke Special Emphasis Panel (Telephone Conference Call).
Date: October 23, 1997.
Time: 3:30 p.m.
Place: National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, Maryland 20892.
Contact Person: Dr. Paul Sheehy/Mr. Phillip Wiethorn, Scientific Review Administrator, National Institutes of Health, 7550 Wisconsin Avenue, Room 9C10, Bethesda, Maryland 20892, (301) 496–9223.
Purpose/Agenda: To review and evaluate RFP Contract Proposal(s).

The meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.853, Clinical Research Related to Neurological Disorders; No. 93.854, Biological Basis Research in the Neurosciences)

Dated: September 26, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26168 Filed 10–1–97; 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: Chemistry and Related Sciences.
Date: October 22, 1997.
Time: 1:00 p.m.
Place: Hotel Sofitel, Washington, DC.
Contact Person: Dr. Chhandra Ganguly, Scientific Review Administrator, 6701 Rockledge Drive, Room 5156, Bethesda, Maryland 20892, (301) 435–1739.

Name of SEP: Chemistry and Related Sciences.
Date: November 7, 1997.
Time: 2:00 p.m.
Place: NIH, Rockledge 2, Room 5156, Telephone Conference.
Contact Person: Dr. Chhandra, Scientific Review Administrator, 6701 Rockledge Drive, Room 5156, Bethesda, Maryland 20892, (301) 435–1739.

Name of SEP: Multidisciplinary Sciences.
Date: November 7, 1997.
Time: 8:30 a.m.
Place: Hyatt Regency, Bethesda, MD.
Contact Person: Dr. Mohindar Poonian, Scientific Review Administrator, 6701 Rockledge Drive, Room 4198, Bethesda, Maryland 20892, (301) 435–1218.

Name of SEP: Biological and Physiological Sciences.
Date: November 16–17, 1997.
Time: 7:00 p.m.
Place: Georgetown Holiday Inn, Washington, DC.
Contact Person: Dr. Syed Quardri, 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 25, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26100 Filed 10–1–97; 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 Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting that is being held to review grant applications:

BIOBEHAVIORAL AND SOCIAL SCIENCES INITIAL REVIEW GROUP

Study section/contact person	October 1997 meeting	Time	Location
Community Prevention & Control, Dr. Robert Weller, 301–435–1261.	Oct. 16–17	8:00 a.m	Governor's House Hotel, Washington, DC.

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 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 25, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26102 Filed 10–1–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Institutes of Health; Notice of Listing of Members of the National Institutes of Health's Senior Executive Service Performance Review Board (PRB)

The National Institutes of Health (NIH) announces the persons who will serve on the National Institutes of Health's Senior Executive Service Performance Review Board. This action is being taken in accordance with Title 5, U.S.C., Section 4314 (c)(4), which requires that members of performance review boards be appointed in a manner to ensure consistency, stability and objectivity in performance appraisals, and requires that notice of the appointment of an individual to serve as a member be published in the **Federal Register**.

The following persons will serve on the NIH Performance Review Board, which oversees the evaluation of performance appraisals of NIH Senior Executive Service (SES) members:

Ruth L. Kirschstein, M.D., Chairperson
Wendy Baldwin, Ph.D.
Henning Birkedal-Hansen, D.D.S., Ph.D.
Noami Churchill, Esq.
William T. Fitzsimmons
Michael M. Gottesman, M.D.
Richard J. Hodes, M.D.
Anthony L. Itteilag
Marvin Kalt, Ph.D.
Stephen I. Katz, M.D., Ph.D,
Thomas J. Kindt, Ph.D.
Sheila E. Merritt
W. Sue Shafer, Ph.D.

For further information about the NIH Performance Review Board, contact the Office of Human Resource Management, Division of Senior Systems, National Institutes of Health, Building 31/B3C12, Bethesda, Maryland 20892, telephone (301) 496–1443 (not a toll-free number).

Dated: September 24, 1997

Ruth L. Kirchstein,

Deputy Director, NIH.

[FR Doc. 97–26170 Filed 10–1–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

National Toxicology Program

National Toxicology Program (NTP) Board of Scientific Counselors' Meeting; Review of Substances for Listing in or Delisting from the 9th Report on Carcinogens.

Pursuant to Pub. L. 92–463, notice is hereby given of the next meeting of the NTP Board of Scientific Counselors' Report on Carcinogens Subcommittee to be held on October 30 & 31, 1997, in the Conference Center, Building 101, South Campus, National Institute of Environmental Health Sciences (NIEHS), 111 Alexander Drive, Research Triangle Park, North Carolina. The meeting will begin at 8:30 a.m. both days and is open to the public. The agenda are the peer review of substances nominated for listing in or delisting from the 9th Report on Carcinogens (formerly the Biennial Report on Carcinogens), and provision of an opportunity for public input.

Background

Over the past three years, there was an extensive public and Federal interagency review of the process for the preparation of the Report on Carcinogens (RC) to broaden input to its preparation, broaden the scope of scientific review, and provide review of the criteria used for inclusion in or removal of substances from the Report. As a result, the criteria were revised and approved in September 1996 by the Secretary, Department of Health and Human Services. The major change in the RC which occurred as a result of the criteria revision was to include consideration of all relevant information, including mechanistic data, in the decision to list substances in or delist substances from future volumes. To broaden the scope of scientific review, a new standing subcommittee of the NTP Board of Scientific Counselors was established. A November 1996 meeting of the Report on Carcinogens (RC) Subcommittee was the first where public review of nominations took place, and using the revised criteria. Thus, the current review process for review of petitions considered by the NTP for listing in or delisting from the Report begins with initial scientific review by the NIEHS/NTP Report on Carcinogens Review Committee (RG1). The RG1 makes a formal recommendation for those petitions determined to contain sufficient information for listing or delisting in the Report. The second scientific review is done by the NTP Executive Committee's Working Group for the Report on Carcinogens (RG2). RG2 is comprised of representatives of the Federal health research and regulatory agencies on the NTP Executive Committee. Following external scientific peer review by the RC Subcommittee in public session and solicitation of public comments through announcements in the **Federal Register** and other media, the independent recommendations of the three review groups and all public comments are presented to the NTP Executive Committee for review and comment. The Director, NTP, receives the four independent recommendations and makes the final decision to submit the Report to the Secretary for review and approval.

Agenda

Tentatively scheduled to be peer reviewed on October 30 & 31, are 14 agents, substances, mixtures or exposure circumstances listed alphabetically, along with supporting information in the attached table. The table lists the nominations in the tentative order of their presentation and review, and gives their primary uses or exposures and the category for which they were originally nominated. Background summary documents on each of the substances will be provided to reviewers around October 1, and will be available to the public at that time as well. Background documents include (1) a summary of the background data and information used to evaluate the nomination, and (2) the recommendation for: listing as ''known to be a human carcinogen'' or as ''reasonably anticipated to be a human carcinogen''; the upgrading of a current listing; or the removal from the Report. Copies of draft background documents can be obtained, as available, from: the Executive Secretary, Dr. Larry G. Hart, P.O. Box 12233, Research Triangle Park, NC 27709 (telephone 919/541–3971; FAX 919/541–0295; email hart@niehs.nih.gov.

Public Input Encouraged

The entire meeting is open to the public and time will be provided for public comment on each of the substances being reviewed. In order to facilitate planning for the meeting, persons wanting to make a formal presentation regarding a particular nominated substance must notify the Executive Secretary by telephone, by FAX, by mail, or by email no later than October 23, 1997, and provide a written copy in advance of the meeting. Written statements should supplement and may expand on the oral presentation, or may be submitted in lieu of an oral presentation, and should be received by October 27 so copies can be made for distribution to Subcommittee members and staff and made available for the public. *Oral presentation should be limited to no more than five minutes. Should the requests for time exceed the likely available time, the time may have to be limited to three minutes and presenters will be contacted.*

The program would welcome receiving carcinogenesis information from completed, ongoing, or planned studies by others, as well as current production data, human exposure information, and use patterns for any of the substances listed in this announcement. Please contact Dr. C.W. Jameson, Report on Carcinogens, MD EC–14, P.O. Box 12233, Research Triangle Park, NC 27709 (919/541–4096; FAX 919/541–2242).

The Executive Secretary, Dr. Larry G. Hart, at the address given above, will furnish agenda and a roster of Subcommittee members prior to the meeting. Summary minutes subsequent to the meeting will be available upon request.

Dated: September 23, 1997.

Samuel H. Wilson,

Deputy Director, National Toxicology Program.

SUMMARY DATA FOR AGENTS, SUBSTANCES, MIXTURES OR EXPOSURE CIRCUMSTANCES TENTATIVELY SCHEDULED FOR REVIEW AT THE MEETING OF THE NTP BOARD OF SCIENTIFIC COUNSELORS' REPORT ON CARCINOGENS SUBCOMMITTEE OCTOBER 30, AND 31, 1997

Substance or exposure circumstance/CAS No.	Primary uses or exposures	Nominated for [1]	Tenative review order
Dyes metabolized to benzidine (Benzidine dyes as a class).	Benzidine-based dyes are used primarily for dyeing textiles, paper and leather products. More than 250 benzidine-based dyes have been reported by the Society of Dyers and Colorists.	Listing as Known to be a Human Carcinogen in the 9th Report.	14
1,3-Butadiene/106–99–0	Used primarily as a chemical intermediate and polymer component in the manufacture of synthetic rubber.	Upgrading current listing to Known to be a Human Carcinogen in the 9th Report.	4
Cadmium and cadmium compounds/7440–43–9.	Used in batteries, coating and plating, plastic and synthetic products and in alloys.	Upgrading current listing to Known to be a Human Carcinogen in the 9th Report.	2
Chloroprene/126–99–8	Used as a monomer for neoprene elastomers, industrial rubber products, and as a component of adhesives in food packaging.	Listing as Reasonably Anticipated to be a Human Carcinogen in the 9th Report.	3
Phenolphthalein/77–09–8	Used as a laboratory reagent and acid-base indicator and as a cathartic drug in over-the-counter laxative preparations.	Listing as Reasonably Anticipated to be a Human Carcinogen in the 9th Report.	10
Saccharin/281–44–9	Used primarily as a nonnutritive sweetening agent	Removal from the Report on Charcinogens.	11
Smokeless tobacco	Oral use of smokeless tobacco products	Listing as Known to be a Human Carcinogen in the 9th Report.	7
Strong inorganic acid mists containing sulfuric acid.	Used in the manufacture of fertilizers, rayon, and other fibers, pigments and colors, explosives, plastics, coal-tar products such as dyes and drugs, storage batteries, synthetic detergents, natural and synthetic rubber, pulp and paper, cellophone and catalysts. It is also used in petroleum refining, pickling iron, steel and other metals and in ore concentration.	Listing as Known to be a Human Carcinogen in the 9th Report.	8
Tamoxifen/10540–29–1	Used as an anti-estrogen drug and in the palliative treatment of breast cancer.	Listing as Known to be a Human Carcinogen in the 9th Report.	9
2,3,7,8-Tetrachorodibenzo-P-Dioxin (TCDD)/1746–01–6.	Not used commercially, used only as a research chemical. Potential exposure from municipal incinerators, dump sites and contaminated soil.	Upgrading current listing to Known to be a Human Carcinogen in the 9th Report.	12
Tetrafluoroethylene/116–14–3	Used in the production of polytetrafluoroethylene (Teflon) and other polymers. Has also been used as a propellant for food product aerosols.	Listing as Reasonably Anticipated to be a Human Carcinogen in the 9th Report.	1
Tobacco smoking	Inhalation of tobacco smoke	Listing as Known to be a Human Carcinogen in the 9th Report.	6
Tricholoroethylene/79–01–6	Used as an industrial solvent for vapor degreasing and cold cleaning of fabricated metal parts. Has also been used as a carrier solvent for the active ingredients of insecticides and fungicides, as a solvent for waxes, fats, resins, and oils, as an anesthetic for medical and dental use, and as an extractant for spice oleoresins and for caffeine from coffee.	Listing as Reasonably Anticipated to be a Human Carcinogen in the 9th Report.	13
UV radiation	Solar and artificial sources of ultraviolent radiation	Listing as Known to be a Human Carcinogen in the 9th Report.	5

[1] Nomination does not necessarily reflect the final recommendaiton of the two NTP Scientific Review Committees for the Report on Carcinogens.

[FR Doc. 97–26169 Filed 10–1–97; 8:45 am]
BILLING CODE 4140–01–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.*):

PRT–834504

Applicant: Zoological Society of San Diego, San Diego, CA

The applicant requests a permit to import one captive-born Black-footed cat (*Felis nigripes nigripes*) from the Frankfurt Zoo, Frankfurt, Germany, for the purpose of enhancement of the species through captive propagation.

PRT–831854

Applicant: Thure Cerling, University of Utah, Salt Lake City, UT

The applicant requests a permit to import molar fragments from Black rhinoceros (*Diceros bicornis*) collected in the wild in Kenya, from skeletal remains found in the National Parks of Kenya, or from existing material archived in the National Museums of Kenya, for scientific research.

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 26, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–26097 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Receipt of Application for Endangered Species Permit

The following applicant has 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: Dr. Arthur V. Brown, University of Arkansas, Fayetteville, PRT–834518.

The applicant requests authorization to take (harass) the Ozark cavefish, *Amblyopsis rosae,* and the gray bat, *Myotis grisescens,* in Cave Springs Cave, Cave Springs, Arkansas, while conducting surveys for the Ozark cavefish, for the purpose of enhancement of survival of the species.

Written data or comments on these applications should be submitted to: Regional Permit Biologist, U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345. All data and comments must be received by November 3, 1997.

Documents and other information submitted with this application 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, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679–7313; Fax: 404/679–7081.

Dated: September 25, 1997.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 97–26124 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Permits Issued From September 1996 Through August 1997

Notice is hereby given that the U.S. Fish and Wildlife Service, Southeast Region, has issued the following permits in regard to applications received pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Each permit listed as issued was granted only after it was determined that it was applied for in good faith, that by granting the permit it will not be to the detriment of the endangered or threatened species, and that it will be consistent with the purposes and policy set forth in the Endangered Species Act.

TABLE 1.—SUBPERMIT AUTHORIZATIONS ISSUED BY REGION 4 UNDER REGIONAL DIRECTOR'S PERMIT, PRT–697819, SEPTEMBER 1996 THROUGH AUGUST 1997

Permittee	Permit No.	Action [1]	Issuance date
Jacqueline Britcher	SA 95–04	A	08–Oct–96.
Kathleen Franzreb	SA 95–11	A	30–Oct–96.
Kathleen Franzreb	SA 95–11	A	11–Apr–97.
Jim Tisdale	SA 95–20	A	29–Oct–96.
Robert Bowker	SA 95–22	A	26–Feb–97.
Bob Johnson	SA 95–26	A	13–Mar–97.
M. Skippy Reeves	SA 96–06	A	28–Oct–96.
Dick Biggins	SA 96–18	N	06–Dec–96.
Dick Biggins	SA 96–18	A	08–May–97.
Peter Swiderek	SA 96–23	A	29–Oct–96.
Mark Dutton	SA 96–27	R, A	01–Oct–96.
Elizabeth LeMaster	SA 96–30	N	28–Oct–96.
Elizabeth LeMaster	SA 96–30	A	11–Apr–97.
Elizabeth LeMaster	SA 96–30	A	30–Apr–97.
Paul Hartfield	SA 96–31	N	11–Oct–96.
K. Jack Killgore	SA 96–32	N	22–Nov–96.
Scott C. Gunn	SA 96–33	N	26–Feb–97.
Robert Joslin	SA 96–40	A	06–Feb–97.
Dwight LeBlanc	SA 97–01	R	05–Nov–96.
Richard M. Pace	SA 97–02	R	05–Nov–96.
Paul L. Davidson	SA 97–03	R	05–Nov–96.
Terry Rabot	SA 97–04	R	05–Nov–96.
Kenneth Moore	SA 97–05	R	30–Oct–96.
Joseph Wunderle	SA 97–06	R, A	17–Dec–96.
Jacqueline Britcher	SA 97–07	R	16–Dec–96.
Lonnette Edwards	SA 97–08	R, A	29–Jan–97.
Daniel Wyrick	SA 97–09	N	16–Jan–97.
Patrick B. Walsh	SA 97–10	N	23–Jan–97.
Daniel Pagan Rosa	SA 97–11	R	18–Jun–97.
Jim Tisdale	SA 97–12	R	26–Feb–97.

TABLE 1.—SUBPERMIT AUTHORIZATIONS ISSUED BY REGION 4 UNDER REGIONAL DIRECTOR'S PERMIT, PRT–697819, SEPTEMBER 1996 THROUGH AUGUST 1997—Continued

Permittee	Permit No.	Action [1]	Issuance date
Melvin L. Warren	SA 97–13	N	11–Mar–97.
Thomas C. Emmel	SA 97–15	R, A	06–May–97.
Robert Montgomery	SA 97–16	N	10–Mar–97.
Ruth R. McDonald	SA 97–17	N	10–Apr–97.
Francisco Vilella	SA 97–18	N	08–Apr–97.
Joseph Reinman	SA 97–19	R	21–Apr–97.
Michael Stroeh	SA 97–20	R	10–Apr–97.
Carol Johnston	SA 97–21	N	24–Mar–97.
Richard Neves	SA 97–22	N	14–Mar–97.
Patrick Rakes	SA 97–23	R, A	12–May–97.
Lee Barcley	SA 97–24	N	12–May–97.
Bob Johnson	SA 97–25	R, A	09–Jul–97.
Don Anderson	SA 97–26	N	08–Jul–97.
James Layzer	SA 97–27	N	09–Jul–97.
David R. Smith	SA 97–29	N	01–Jul–97.
Joan L. Morrison	SA 97–30	N	21–Jul–97.
Elise Irwin	SA 97–31	N	15–Aug–97.
K. Jack Killgore	SA 97–33	R	26–Aug–97.

1—A, amend existing permit.
N, issue new permit.
R, renew existing permit.

TABLE 2.—INDIVIDUAL PERMITS ISSUED BY REGION 4, SEPTEMBER 1996 THROUGH AUGUST 1997

Permittee	Permit No.	Action [1]	Issuance date
Steve Conners	763740	R	01–Aug–97.
Douglas Shelton	791799	A	09–Oct–96.
Barry A.Vittor	791801	R	20–Feb–97.
Mulligan's Snakery	792837	A	09–Oct–96.
Mulligan's Snakery	792837	A	08–May–97.
T. Bently Wigley	797352	R	17–Jan–97.
Wendell Neal	797420	R	20–Feb–97.
Nicholas Holler	800196	R	14–Jan–97.
Nicholas Holler	800196	A	10–Feb–97.
Robert H.Mount	801591	R	13–Dec–96.
Peter Vickery	801597	R, A	18–Mar–97.
L. Jay Levine	802461	R, A	18–Mar–97.
Wayne A. Rosso	805609	R	04–Nov–96.
Richard D. Brown	807671	R	17–Mar–97.
Stuart McGregor	810270	N	12–Dec–96.
Dean Letta	814175	A	02–Jul–97.
Vernon Compton	815492	N	16–Sep–96.
Jeffry Hohman	816862	N	21–Nov–96.
Jeffry Hohman	816862	A	17–Mar–97.
Dennis Giardina	816863	A	31–Jul–97.
Benny Herring	816864	N	02–Oct–96.
Claude D. Baker	818717	N	12–Dec–96.
Susanne Shipper	818721	N	04–Nov–96.
Ken Gordon	818775	N	28–Feb–97.
Sam W. Rosso	818777	N	17–Apr–97.
Dennis M. Sargent	819525	A	16–Oct–96.
Charles V. Rabolli	819901	N	26–Nov–96.
White Crane Trading	819903	N	03–Feb–97.
Alejandro Lima	820585	N	23–Dec–96.
Leslie Colley	820586	N	17–Dec–96.
Little Rock Zoological Garden	820589	N	10–Oct–96.
Gary D. Schnell	820707	A	18–Dec–96.
Elizabeth McCartney	821996	N	23–Dec–96.
Kenneth Faint	821999	N	26–Nov–96.
Kenneth Faint	821999	A	05–Jun–97.
Timothy Brophy	822001	N	21–Nov–96.
Joe McGlincy	822525	N	16–Jan–97.
Brock Durham	822658	N	17–Dec–96.
Bruce R. Bodson	822887	N	24–Jan–97.
Darrell Ragan	823479	N	20–Feb–97.
Reed Bowman	824723	N	19–Mar–97.
Oscar J. Pung	824727	N	17–Mar–97.

TABLE 2.—INDIVIDUAL PERMITS ISSUED BY REGION 4, SEPTEMBER 1996 THROUGH AUGUST 1997—Continued

Permittee	Permit No.	Action [1]	Issuance date
D. Patrick Ferral	824729	N	17–Mar–97.
Roy S. DeLotelle	825431	N	20–May–97.
Roy S. DeLotelle	825431	A	27–Aug–97.
Jonathan Milberg	826913	N	27–Mar–97.
Kevin W. Markham	826915	N	20–Jun–97.
Kathleen McKeown	827365	N	21–May–97.
Kathleen McKeown	827365	A	27–Aug–97.
James Kaehn	827371	N	21–Apr–97.
Robert J. Bruce	828143	N	21–Apr–97.
Gregory Crenko	828147	N	21–Apr–97.
Gregory Crenko	828147	A	23–Jun–97.
Wendell Neal	828153	N	17–Jun–97.
Gordon Bailey	828931	N	08–Jul–97.
Grant L. Kemmerer	829991	N	23–Jun–97.
Rob Carmichael	829992	N	23–Jun–97.
Kenneth Abramowitz	831195	N	02–Jul–97.
Graham T. Hall	831710	N	23–Jul–97.
Gregg Shalan	832542	N	31–Jul–97.
Steve Hollaway	832544	N	31–Jul–97.
Rich Chomiczewski	832868	N	07–Aug–97.
Robert James Bruce	833250	N	18–Aug–97.
Michael Hinds	833251	N	18–Aug–97.

1—A, amend existing permit.
N, issue new permit.
R, renew existing permit.

Additional information on these permit actions may be requested by contacting the U.S. Fish and Wildlife Service, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: David Dell, Permit Biologist). Telephone: 404/679-7313; Facsimile: 404/679–7081.

Dated: September 25, 1997.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 97–26126 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Availability of an Application Submitted by South Carolina Department of Natural Resources for a Statewide Incidental Take Permit Associated With Implementation of a ''Safe Harbor'' Program

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The South Carolina Department of Natural Resources (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for an incidental take permit (ITP) pursuant to Section 10(a)(1)(B) of the Endangered Species Act of 1973, as amended (Act). The proposed ITP would authorize the incidental take of a federally endangered species, the red-cockaded woodpecker, Picoides borealis (RCW). The permit would authorize incidental take only on land that is enrolled in the proposed ''safe harbor'' program. (See the SUPPLEMENTARY INFORMATION section below.)

The Service also announces the availability of an environmental assessment (EA) and habitat conservation plan (HCP) for the incidental take application. Copies of the EA and/or HCP may be obtained by making a request to the Regional Office (see **ADDRESSES**). Requests must be in writing to be processed. This notice also advises the public that the Service has made a preliminary determination that issuing the ITP is not a major Federal action significantly effecting the quality of the human environment within the meaning of Section 102(2)(C) of the National Environmental Policy Act of 1969, as amended (NEPA). The Finding of No Significant Impact (FONSI) is based on information contained in the EA and HCP. The final determination will be made no sooner than 30 days from the date of this notice. An excerpt of the FONSI appears in the **SUPPLEMENTARY INFORMATION** section of this notice. This notice is provided pursuant to Section 10(c) of the Act and National Environmental Policy Act Regulations (40 CFR 1506.6).

Although an EA has been prepared for this permit application, the Service is considering a Categorical Exclusion on the action (see **SUPPLEMENTARY INFORMATION**). The Service is soliciting public comments and review on the applicability of a Categorical Exclusion to this application and HCP.

The Service specifically requests comment on the appropriateness of the ''No Surprises'' assurances should the Service determine that an ITP will be granted based upon the submitted HCP. Although not explicitly stated in the Service's EA or HCP, the Service has, since August 1994, announced its intention to honor a ''No Surprises'' policy for applicants seeking ITPs. Copies of the Service's ''No Surprises'' policy may be obtained by making a written request to the Regional Office (see **ADDRESSES**).

DATES: Written comments on the permit application, EA/FONSI, and HCP should be sent to the Service's Regional Office (see **ADDRESSES**) and should be received on or before November 3, 1997.

ADDRESSES: Persons wishing to review the application, HCP, and EA may obtain a copy by writing the Service's Southeast Regional Office, Atlanta, Georgia. Documents will also be available for public inspection by appointment during normal business hours at the Regional Office, 1875 Century Boulevard, Suite 200, Atlanta, Georgia 30345 (Attn: Endangered Species Permits), or at the following Field Offices: Field Supervisor, U.S. Fish and Wildlife Service, Post Office Box 12559, Charleston, South Carolina 29422–2559 (telephone 803/727–4707); Red-cockaded Woodpecker Recovery Coordinator, U.S. Fish and Wildlife

Service, College of Forest and Recreational Resources, 261 Lehotsky Hall, Box 341003, Clemson, South Carolina 29634–1003 (telephone 864/656–2432). Written data or comments concerning the application, EA, or HCP should be submitted to the Regional Office. Comments must be submitted in writing to be processed. Please reference permit number PRT–834071 in such comments, or in requests of the documents discussed herein.

FOR FURTHER INFORMATION CONTACT: Mr. Rick G. Gooch, Regional Permit Coordinator, (see **ADDRESSES** above), telephone: 404/679–7110; or Ms. Lori Duncan, Fish and Wildlife Biologist, Charleston Field Office, (see **ADDRESSES** above), telephone: 803/727–4707 ext. 21.

SUPPLEMENTARY INFORMATION: The RCW is a territorial, nonmigratory cooperative breeding bird species. RCWs live in social units called groups which generally consist of a breeding pair, the current year's offspring, and one or more helpers (normally adult male offspring of the breeding pair from previous years). Groups maintain year-round territories near their roost and nest trees. The RCW is unique among the North American woodpeckers in that it is the only woodpecker that excavates its roost and nest cavities in living pine trees. Each group member has its own cavity, although there may be multiple cavities in a single pine tree. The aggregate of cavity trees is called a cluster. RCWs forage almost exclusively on pine trees and they generally prefer pines greater than 10 inches diameter at breast height. Foraging habitat is contiguous with the cluster. The number of acres required to supply adequate foraging habitat depends on the quantity and quality of the pine stems available.

The RCW is endemic to the pine forests of the Southeastern United States and was once widely distributed across 16 States. The species evolved in a mature fire-maintained ecosystem. The RCW has declined primarily due to the conversion of mature pine forests to young pine plantations, agricultural fields, and residential and commercial developments, and to hardwood encroachment in existing pine forests due to fire suppression. The species is still widely distributed (presently occurs in 13 southeastern States), but remaining populations are highly fragmented and isolated. Presently, the largest known populations occur on federally owned lands such as military installations and national forests.

In South Carolina, there are an estimated 1,000 active RCW clusters as of 1992; 53 percent are on Federal lands, 7 percent are on State lands, and 40 percent are on private lands.

There has not been a complete inventory of RCWs in South Carolina so it is difficult to precisely assess the species' overall status in the State. However, the known populations on public lands are regularly monitored and generally considered stable. While several new active RCW clusters have been discovered on private lands over the past few years, many previously documented RCW clusters have been lost. It is expected that the RCW population on private lands in South Carolina will continue to decline, especially those from small tracts isolated from other RCW populations.

The Service and several other agencies/organizations are working cooperatively to develop an overall conservation strategy for the RCW population and the ecosystem upon which it depends. One component of this strategy is the proposed HCP that will implement the ''safe harbor'' program. The Service recognizes that landowners presently have no legal or economic incentive to undertake proactive management actions, such as hardwood midstory removal, prescribed burning, or protecting future cavity trees, that will benefit and help recover the RCW. Indeed, landowners actually have a disincentive to undertake these actions because of land use limitations that could result if their management activities attract RCWs. However, some of South Carolina's private landowners may be willing to take or permit actions that would benefit the RCW on their property if the possibility of future land use limitations could be reduced or eliminated.

Thus, the Service is proposing the ''safe harbor'' program, which is designed to encourage voluntary RCW habitat restoration or enhancement activities by relieving a landowner who enters into a cooperative agreement with the Service from any additional responsibility under the Act beyond that which exists at the time he or she enters into the agreement; i.e., to provide a ''safe harbor.'' The cooperative agreement will identify any existing RCW clusters and will describe the actions that the landowner commits to take (e.g., hardwood midstory removal, cavity provisioning, etc.) or allows to be taken to improve RCW habitat on the property, and the time period within which those actions are to be taken and maintained. Participating landowners who enter into cooperative agreements with the Service will be included within the scope of the ITP by Certificates of Inclusion administered by the South Carolina Department of Natural Resources. A participating landowner must maintain the baseline habitat requirements on his/her property (i.e., any existing RCW groups and associated habitat), but will be allowed to incidentally take RCWs at some point in the future on other habitat on the property if RCWs are attracted to the site by the proactive management measures undertaken by the landowner. No incidental taking of any existing RCW group is permitted under this program except under the special circumstances that are described in the HCP. Further details about this program are found in the HCP.

The EA considers the environmental consequences of three alternatives, including the preferred alternative—to implement the ''Safe Harbor'' program. The likely effects of the no-action alternative are the continued decline of the RCW on private land and the continued lack of management of many of the natural pine stands that remain in the State. The third alternative involves offering interested landowners financial, rather than regulatory, incentives to undertake the desired land management activities for RCWs. This alternative is not being pursued because the Service is presently unable to fund such a program. The proposed action alternative is the issuance of an incidental take permit and implementation of the ''Safe Harbor'' program.

On Thursday, January 16, 1997, the Service published a notice in the **Federal Register** announcing the Final Revised Procedures for implementation of NEPA (NEPA Revisions), (62 FR 2375–2382). The NEPA Revisions update the Service's procedures, originally published in 1984, based on changing trends, laws, and consideration of public comments. Most importantly, the NEPA Revisions reflect new initiatives and Congressional mandates for the Service, particularly involving new authorities for land acquisition activities, expansion of grant programs and other private land activities, and increased Endangered Species Act permit and recovery activities. The revisions promote cooperating agency arrangements with other Federal agencies; early coordination techniques for streamlining the NEPA process with other Federal agencies, Tribes, the States, and the private sector; and integrating the NEPA process with other environmental laws and executive orders. Section 1.4 of the NEPA Revisions identify actions that may qualify for Categorical Exclusion. Categorical exclusions are classes of

actions which do not individually or cumulatively have a significant effect on the human environment. Categorical exclusions are not the equivalent of statutory exemptions. If exceptions to categorical exclusions apply, under 516 DM 2, Appendix 2 of the Departmental Manual, the departmental categorical exclusions cannot be used. Among the types of actions available for a Categorical Exclusion is for a ''low effect'' HCP/incidental take permit application. A ''low effect'' HCP is defined as an application that, individually or cumulatively, has a minor or negligible effect on the species covered in the HCP [Section 1.4(C)(2)].

The Service may consider the Applicant's project and HCP such a Categorical Exclusion. The Service is soliciting for public comments on this determination. Based upon public comments, the Service may make a final determination that this action is categorically excluded.

The Service has made a preliminary determination that the issuance of the ITP is not a major Federal action significantly effecting the quality of the human environment within the meaning of Section 102(2)(C) of NEPA. This preliminary information may be revised due to public comment received in response to this notice and is based on information contained in the EA and HCP. An appropriate excerpt from the FONSI reflecting the Service's finding on the application is provided below:

Based on the analysis conducted by the Service, it has been determined that:

1. Issuance of an ITP would not have significant effects on the human environment in the project area.

2. The proposed take is incidental to an otherwise lawful activity.

3. The Applicant has minimized impacts on the project site to the extent practicable.

4. Other than impacts to the threatened species as outlined in the documentation of this decision, the indirect impacts which may result from issuance of the ITP are addressed by other regulations and statutes under the jurisdiction of other government entities. The validity of the Service's ITP is contingent upon the Applicant's compliance with the terms of the permit and all other laws and regulations under the control of State, local, and other Federal governmental entities.

The Service will also evaluate whether the issuance of a Section 10(a)(1)(B) ITP complies with Section 7 of the Act by conducting an intra-Service Section 7 consultation. The results of the biological opinion, in combination with the above findings, will be used in the final analysis to determine whether or not to issue the ITP.

Dated: September 25, 1997.

Judy L. Jones,

Acting Regional Director.

[FR Doc. 97–26125 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permit for Marine Mammals

On July 24, 1997, a notice was published in the **Federal Register**, Vol. 62, No. 142, Page 39854, that an application had been filed with the Fish and Wildlife Service by Maurice Sterner, Spring Grove, PA for a permit (PRT–832102) to import a sport-hunted polar bear (*Ursus maritimus*) trophy, taken from the Baffin Bay population, Northwest Territories, Canada for personal use.

Notice is hereby given that on September 17, 1997, as authorized by the provisions of the Marine Mammal Protection Act of 1972, *as amended* (16 U.S.C. 1361 *et seq.*) the Fish and Wildlife Service authorized the requested permit subject to certain conditions set forth therein.

Documents and other information submitted for these applications are available for review by any party who submits a written request to the U.S. Fish and Wildlife Service, Office of Management Authority, 4401 North Fairfax Drive, Rm 430, Arlington, Virginia 22203. Phone (703) 358–2104 or Fax (703) 358–2281.

Dated: September 26, 1997.

Karen Anderson,

Acting Chief, Branch of Permits, Office of Management Authority.

[FR Doc. 97–26098 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Operation and Maintenance Rate Adjustment: Fort Belknap Irrigation Project, Montana

ACTION: Notice of proposed irrigation operation and maintenance (O&M) rate adjustment.

SUMMARY: The Bureau of Indian Affairs proposes to change the assessment rates for operating and maintaining the Fort Belknap Irrigation Project for 1998, 1999, 2000, 2001, 2002 and subsequent years. The following table illustrates the impact of the rate adjustment.

FORT BELKNAP IRRIGATION PROJECT; IRRIGATION RATE PER ASSESSABLE ACRE

[N/A—Not Applicable]

Year	Present 1997	Proposed 1998	Proposed 1999	Proposed 2000	Proposed 2001	Proposed 2002
Non-Indian	$12.50	N/A	N/A	N/A	N/A	N/A
Indian	6.25	N/A	N/A	N/A	N/A	N/A
Rate (all)	N/A	$12.50	$13.00	$13.50	$14.00	$14.50

FOR FURTHER INFORMATION CONTACT: Area Director, Bureau of Indian Affairs, Billings Area Office, 316 North 26th Street, Billings, Montana 59101–1362, telephone (406) 247–7998.

DATES: Interested parties may submit comments on the proposed rate adjustment. Comments must be submitted on or before November 3, 1997.

ADDRESSES: All comments concerning the proposed rate change must be in writing and addressed to: Director, Office of Trust Responsibilities, Attn: Irrigation and Power, MS#4513–MIB, Code 210, 1849 ''C'' Street, NW, Washington, D.C. 20240, Telephone (202) 208–5480.

SUPPLEMENTARY INFORMATION: The authority to issue this document is vested in the Secretary of the Interior by 5 U.S.C. 301 and the Act of August 14, 1914 (38 Stat. 583, 25 U.S.C. 385). The Secretary has delegated this authority to the Assistant Secretary-Indian Affairs

pursuant to part 209 Departmental Manual, Chapter 8.1A and Memorandum dated January 25, 1994, from Chief of Staff, Department of the Interior, to Assistant Secretaries, and Heads of Bureaus and Offices.

This notice is given in accordance with § 171.1(e) of part 171, Subchapter H, Chapter 1, of Title 25 of the Code of Federal Regulations, which provides for the fixing and announcing the rates for annual operation and maintenance assessments and related information of the Fort Belknap Irrigation Project for Calendar Year 1998 and subsequent years.

The assessment rates are based on a prepared estimate of the cost of normal operation and maintenance of the irrigation project. Normal operation and maintenance means the expenses we incur to provide direct support or benefit to the project's activities for administration, operation, maintenance, and rehabilitation. We must include at least:

(a) Personnel salary and benefits for the project engineer/manager and our employees under his management/control;

(b) Materials and supplies;

(c) Major and minor vehicle and equipment repairs;

(d) Equipment, including transportation, fuel, oil, grease, lease and replacement;

(d) Capitalization expenses;

(e) Acquisition expenses; and

(f) Other expenses we determine necessary to properly perform the activities and functions characteristic of an irrigation project.

Payments

The irrigation operation and maintenance assessments become due based on locally established payment requirements. No water will be delivered to any of these lands until all irrigation charges have been paid.

Interest and Penalty Fees

Interest, penalty, and administrative fees will be assessed, where required by law, on all delinquent operation and maintenance assessment charges as prescribed in the Code of Federal Regulations, Title 4, Part 102, Federal Claims Collection Standards; and 42 BIAM Supplement 3, part 3.8 Debt Collection Procedures. Beginning 30 days after the due date interest will be assessed at the rate of the current value of funds to the U.S. Treasury. An administrative fee of $12.50 will be assessed each time an effort is made to collect a delinquent debt; a penalty charge of 6 percent per year will be charged on delinquent debts more than 90-days old and will accrue from the date the debt became delinquent. No water will be delivered to any farm unit until all irrigation charges have been paid. After 180-days a delinquent debt will be forwarded to the United States Treasury for further action in accordance with Debt Collection Improvement Act of 1996 (Pub. L. 104–134).

Dated: September 24, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–26161 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–02–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–933–1430–01; IDI–8659]

Termination of Recreation and Public Purpose Act Classification; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: This notice terminates a Recreation and Public Purpose Act Classification on 160 acres so the lands can be clear listed to the State of Idaho pursuant to Sections 2275 and 2276, Revised Statutes, as amended (43 U.S.C. 851 and 852).

EFFECTIVE DATE: October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Catherine D. Foster, BLM Idaho State Office, 1387 S. Vinnell Way, Boise, Idaho 83709, 208–373–3863.

SUPPLEMENTARY INFORMATION: On June 21, 1974, 160 acres were classified as suitable for Recreation and Public Purposes. The classification is hereby terminated and the segregation for the following described lands is hereby terminated:

T. 45 N., R. 2 W., B.M.

Section 2: SE¼SW¼ (formerly Lot 13), SW¼SE¼.

Section 14: NE¼NE¼, NE¼SW¼.

The area described above aggregates 160 acres in Benewah County.

At 9:00 a.m. on October 2, 1997, the Recreation and Public Purposes Classification will be terminated. However these lands will remain closed to location and entry under the public land laws and the mining laws, as they are currently segregated from appropriation by virtue of a valid In Lieu Selection application by the State of Idaho.

Dated: September 22, 1997.

Jimmie Buxton,

Branch Chief, Lands and Minerals.

[FR Doc. 97–26156 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–66–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–924–5420–00–E027; MTM 86650]

Application for Recordable Disclaimer of Interest; Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States of America, pursuant to the provisions of Section 315 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1745 (1994)), proposes to disclaim all interest in the following described land to Ruth O'Connell, the owner of record:

A tract of land located in the SW¼, sec. 36, T. 12 N., R. 6 W., Principal Meridian, Montana, more particularly described as follows:

Beginning at the southwesterly corner of Brewery Lode, M.S. 1355 also known as Corner No. 4; thence N 13°48′26″ W, 522.92 feet along the westerly boundary of said M.S. No. 1355; thence N 74°51′58″ E, 278.46 feet along the southerly boundaries of Blocks 4 and 5 of the Brewery Lode addition to Marysville; thence along a 335.00-foot radius curve to the left having an arc length of 198.33 feet, along the southerly boundaries of Blocks 3 and 4 of the Brewery Lode addition to Marysville; thence S 13°09′41″ E, 249.76 feet along the easterly boundary of M.S. No. 1355 to Corner No. 1 of M.S. No. 1355; thence S 39°42′56″ W, 258.00 feet along the southerly boundary of M.S. No. 1355 to NE corner of Tract F of the Brewery Lode addition to Marysville; thence S 76°16′34″ W, 107.65 feet along the northerly boundary of Tract F of the Brewery Lode addition to Marysville; thence S 13°47′26″ E, 79.64 feet along the westerly boundary of Tract F of the Brewery Lode addition to Marysville; thence S 39°42′56″ W, 181.60 feet along the southerly boundary of M.S. No. 1355 to the point of beginning.

The land described contains 3.77 acres in Lewis and Clark County.

DATES: Comments or objections should be received by December 31, 1997.

ADDRESSES: Comments or objections should be sent the State Director, Montana State Office, Bureau of Land Management, P.O. Box 36800, Billings, Montana 59107.

FOR FURTHER INFORMATION CONTACT: Sandra Ward, BLM Montana State Office, P.O. Box 36800, Billings, Montana 59107, 406–255–2949.

SUPPLEMENTARY INFORMATION: The above-described land is a portion of the

Brewery Lode mining claim which was patented on August 24, 1889. The Bureau of Land Management (BLM) has determined that the United States has no claim to or interest in the land described and issuance of the proposed recordable disclaimer of interest would remove a cloud on the title to the land. If no objections are received, the disclaimer will be issued.

Dated: September 19, 1997.

Thomas P. Lonnie,

Deputy State Director, Division of Resources.

[FR Doc. 97–26157 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–DN–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–110–6350–00; GP9–029]

Notice of Realty Action

ACTION: Notice of realty action, direct sale, Jackson County, Oregon—OR 53422.

SUMMARY: The following land is suitable for direct sale under Section 203 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713, and at no less than the appraised fair market value. The land will not be offered for sale until at least 60 days after publication of this notice.

Willamette Meridian, Oregon

T. 39 S., R. 2 E., Section 1, NW¼NE¼; Section 17, SE¼NE¼, NE¼SE¼

Containing 120.50 acres.

The above described lands are hereby segregated from appropriation under the public land laws, including the mining laws, but not from sale under the above cited statute, for 270 days or until title transfer is completed or the segregation is terminated by publication in the **Federal Register**, whichever occurs first.

This land is difficult and uneconomical to manage as part of the public lands and is not suitable for management by another federal agency. No significant resource values will be affected by this disposal. The sale is consistent with the Medford District's Resource Management Plan for the land involved and the public interest will be served by the sale.

Purchasers must be United States citizens, 18 years of age or older, a state or state instrumentality authorized to hold property, or a corporation authorized to own real estate in the state in which the land is located.

The land is being offered to James C. Miller, III using the direct sale procedure authorized under 43 CFR 2711.3–3. Direct sale is appropriate since the lands are isolated and lack legal access. Mr. Miller is one of three adjoining landowners, however, the others have stated they have no interest in acquisition of the lands. It has been determined that the subject parcels contain no known mineral values. Acceptance of a direct sale offer will constitute an application for conveyance of those mineral interests having no known value. The applicant will be required to pay a $50.00 non-refundable filing fee for conveyance of said mineral interest. The land will not be offered for sale until at least 60 days after publication of this in the **Federal Register**.

A quit claim deed when issued, will contain the following reservation to the United States:

A right-of-way thereon for ditches or canals constructed by the authority of the United States pursuant to the act of August 30, 1890 (43 U.S.C. 945).

FOR FURTHER INFORMATION CONTACT: Jan Miller, Realty Specialist, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504, (541) 770–2221.

For a period of 45 days from the date of publication of this notice in the **Federal Register**, interested parties may submit comments to the District Manager, Medford District Office, Bureau of Land Management, 3040 Biddle Road, Medford, Oregon 97504. In the absence of timely objections, this proposal shall become the final determination of the Department of the Interior.

Dated: September 22, 1997.

David A. Jones,

District Manager.

[FR Doc. 97–26075 Filed 10–1–97; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–018–1220–00/G010–G7–0254]

Amendment to a Notice of Availability of a Draft Coordinated Resource Management Plan (CRMP) and Environmental Impact Statement (EIS); Taos Resource Area, New Mexico and San Luis Resource Area, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Amendment to notice.

SUMMARY: The Bureau of Land Management (BLM) Albuquerque District, Taos Resource Area and Cãnon City District, San Luis Resource Area have completed a Draft CRMP/EIS, and a Taos Resources Management Plan Amendment. This notice amends the Notice of Availability published in the **Federal Register** on Friday, June 27, 1997 (Vol. 62, No. 124, 34771–72), and an amended Notice of Availability published on Tuesday, July 29, 1997 (Vol. 62, No. 145, 40540), and extends the public comment period through December 20, 1997, to accommodate public requests.

DATES: Written comments must be postmarked no later than December 20, 1997, and should be addressed to the CRMP Team Leader at the address below.

FOR FURTHER INFORMATION CONTACT: CRMP Team Leader, Taos Resource Area, 226 Cruz Alta Road, Taos, NM 87571; phone (505) 758–8851.

Dated: September 26, 1997.

Sue E. Richardson,

Acting District Manager.

[FR Doc. 97–26108 Filed 10–01–97; 8:45 am]

BILLING CODE 4310–A6–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 337–TA–372 (Enforcement Proceeding)]

Notice of Commission Determination Concerning Remedy, the Public Interest, and Bonding

In the Matter of: Certain Neodymium-Iron-Boron Magnets, Magnet Alloys, and Articles Containing Same.

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission (''the Commission'') determined to impose a civil penalty of $ 1,550,000 on respondents San Huan New Materials High Tech, Inc., Ningbo Konit Industries, Inc., and Tridus International, Inc. for violation of a previously-issued consent order. The Commission also determined to revoke the aforementioned consent order effective upon approval of the President of a newly-issued permanent limited exclusion order and a newly-issued permanent cease and desist order to Tridus International, Inc.

FOR FURTHER INFORMATION CONTACT: Jay H. Reiziss, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–205–3116.

SUPPLEMENTARY INFORMATION: The patent-based section 337 investigation that preceded this enforcement proceeding was instituted on March 9,

1995, based on a complaint filed by Crucible Materials Corporation (''Crucible''), alleging infringement of claims 1–3 of Crucible's U.S. Letters Patent 4,588,439 (''the 439 patent''). On October 11, 1995, the investigation was terminated as to respondents San Huan New Materials High Tech, Inc. (''San Huan''), Ningbo Konit Industries, Inc. (''Ningbo''), and Tridus International, Inc. (''Tridus'') (collectively ''respondents'') based on the Commission's grant of respondents unilateral motion for issuance of a consent order wherein those respondents agreed not to sell for importation, import, or sell after importation magnets ''which infringe any of claims 1–3 of the 439 Patent.'' On May 16, 1996, the Commission instituted a formal enforcement proceeding based on an enforcement complaint filed by Crucible alleging that respondents had violated that consent order by importing or selling magnets that infringed the claims in issue of the 439 patent. On December 24, 1996, following an evidentiary hearing, the presiding administrative law judge (''ALJ'') issued a recommended determination (''RD'') finding that respondents had violated the consent order on 33 different days and recommending that the Commission impose a civil penalty of $1,625,000 on respondents. The Commission adopted the bulk of the RD's findings on violation on April 8, 1997, and issued an opinion explaining that determination on April 15, 1997, finding that respondents had violated the consent order on 31 days between October 11, 1995, and October 10, 1996.

The Commission invited the parties to submit briefs on the appropriate remedy, public interest, and the amount of bond to be imposed during any Presidential review period required, and directed Crucible and the Commission investigative attorney (''IA'') to submit proposed remedial orders.

Having considered the RD, the exceptions thereto, and proposed alternative findings of fact and conclusions of law, as well as the entire record in this proceeding, the Commission determined to impose a civil penalty of $ 1,550,000 on respondents San Huan, Ningbo, and Tridus. The Commission also has determined to revoke the consent order effective upon approval by the President of a permanent limited exclusion order directed to foreign respondents San Huan and Ningbo and a permanent cease and desist order directed to domestic respondent Tridus. The Commission determined that the statutory public interest factors enumerated in 19 U.S.C. § 1337(d) and (f) do not preclude issuance of the aforementioned remedial orders. Since revocation of the consent order is contingent on Presidential approval of the alternative remedial measures, respondents were not required to post a bond for importations or sales of infringing products during the Presidential review period. The Commission also denied Crucible's request for attorneys' fees and its request that the Commission reconsider its determination regarding the effect of the U.S. Court of Appeals for the Federal Circuit's decision in Maxwell v. J. Baker, Inc. 86 F.3d 1098, 29 U.S.P.Q.2d 1001 (Fed. Cir.), reh'g denied, suggestion of reh'g in banc declined (1996), cert. denied, 117 S. Ct. 1244 (1997), on the Commission's doctrine of equivalents infringement analysis. Finally, the Commission denied respondents' request to have Crucible file periodic reports concerning its status as a domestic industry.

This action is taken under the authority of section 337 of the Tariff Act of 1930, as amended (19 U.S.C. § 1337), and section 210.75 of the Commission's Rules of Practice and Procedure (19 CFR § 210.75).

Issued: September 26, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–26163 Filed 10–01–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Office of the Assistant Attorney General for Civil Rights

Certification of the Maine Human Rights Act Under the Americans With Disabilities Act

AGENCY: Department of Justice.

ACTION: Notice of preliminary determination of equivalency and certification hearings.

SUMMARY: The Department of Justice (Department) has determined that the State of Maine Human Rights Act, 5 MRSA § 4553 *et seq.*, as implemented by the Maine Accessibility Regulations (together, the Maine law), meets or exceeds the new construction and alterations requirements of title III of the Americans with Disabilities Act of 1990 (ADA). The Department proposes to issue a final certification, pursuant to 42 U.S.C. § 12188(b)(1)(A)(ii) and 28 CFR § 36.601 *et seq.*, which would constitute rebuttable evidence, in any enforcement proceeding, that a building constructed or altered in accordance with the Maine law meets or exceeds the requirements of the ADA. The Department will hold informal hearings on the proposed certification in Washington, D.C. and Augusta, Maine.

DATES: To be assured of consideration, comments must be in writing and must be received on or before December 1, 1997. The hearing in Augusta, Maine is scheduled for Friday, October 17, 1997 at 10:00 AM, Eastern Time. The hearing in Washington, D.C. is scheduled for Tuesday, December 2, 1997 at 2:00 PM, Eastern Time.

ADDRESSES: Comments on the preliminary determination of equivalency and on the proposal to issue final certification of equivalency of the Maine law should be sent to: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, D.C. 20035–6738.

The hearings will be held at:

Augusta, Maine: Room 113, State Office Building, Augusta, Maine.

Washington, D.C.: Disability Rights Section, 1425 New York Avenue, N.W., Suite 4039, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, D.C. 20035–6738. Telephone number (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

Copies of this notice are available in formats accessible to individuals with vision impairments and may be obtained by calling (800) 514–0301 (Voice) or (800) 514–0383 (TDD). Copies of the Maine law and supporting materials may be inspected by appointment at 1425 New York Avenue, N.W., Suite 4039, Washington, D.C. by calling Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

The ADA authorizes the Department of Justice, upon application by a State or local government, to certify that a State or local law that establishes accessibility requirements meets or exceeds the minimum requirements of title III of the ADA for new construction and alterations. 42 U.S.C. § 12188(b)(1)(A)(ii); 28 CFR § 36.601 *et seq.* Final certification constitutes rebuttable evidence, in any ADA enforcement action, that a building constructed or altered in accordance with the certified code complies with the new construction and alterations requirements of title III of the ADA.

By letter dated July 21, 1995, the Maine Human Rights Commission requested that the Department of Justice (Department) certify that the Maine Human Rights Act, 5 MRSA § 4553 *et seq.*, as implemented by the Maine Accessibility Regulations (together, the Maine law), meets or exceeds the new construction and alterations requirements of title III of the ADA.

The Department has analyzed the Maine law and has preliminarily determined that it meets or exceeds the new construction and alterations requirements of title III of the ADA. By letter dated September 23, 1997, the Department notified the Maine Human Rights Commission of its preliminary determination of equivalency.

Effect of Certification

The certification determination will be limited to the version of the Maine law that has been submitted to the department. The certification will not apply to amendments or interpretations that have not been submitted and reviewed by the Department.

Certification will not apply to buildings constructed by or for State or local government entities, which are subject to title II of the ADA. Nor does certification apply to accessibility requirements that are addressed by the Maine law that are not addressed by the ADA Standards for Accessible Design.

Finally, certification does not apply to variances or waivers granted under the Maine law. Therefore, if a builder receives a variance, waiver, modification, or other exemption from the requirements of the Maine law for any element of construction or alternations, the certification determination will not constitute evidence of ADA compliance with respect to that element.

Procedure

The department will hold informal hearings in Washington, D.C. and Augusta, Maine to provide an opportunity for interested persons, including individuals with disabilities, to express their views with respect to the preliminary determination of equivalency of the Maine law. Interested parties who wish to testify at a hearing should contact Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

The hearing sites will be accessible to individuals with disabilities. Individuals who require sign language interpreters or other auxiliary aids should contact Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

Dated: September 22, 1997.

Isabelle Katz Pinzler,

Acting Assistant Attorney General for Civil Rights.

[FR Doc. 97–25993 Filed 10–1–97; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Office of the Assistant Attorney General for Civil Rights

Certification of the Maine Human Rights Act Under the Americans With Disabilities Act

AGENCY: Office of the Assistant Attorney General for Civil Rights, Department of Justice.

ACTION: Notice of hearings.

SUMMARY: The Department of Justice will hold informal hearings on the proposed certification that the Maine Human Rights Act, 5 MRSA § 4553 *et seq.*, as implemented by the Maine Accessibility Regulations, meets or exceeds the new construction and alterations requirements of title III of the Americans with Disabilities Act (ADA) in Washington, D.C. and Augusta, Maine.

DATES: The hearing in Augusta, Maine is scheduled for Friday, October 17, 1997 at 10:00 AM, Eastern Time. The hearing in Washington, D.C. is scheduled for Tuesday, December 2, 1997, at 2:00 PM, Eastern Time.

ADDRESSES: The hearings will be held at:

Augusta, Maine: Room 113, State Office Building, Augusta, Maine.

Washington, D.C.: Disability Rights Section, 1425 New York Avenue, N.W., Suite 4039, Washington, D.C.

FOR FURTHER INFORMATION CONTACT: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, D.C. 20035–6738. Telephone number (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

Copies of this notice are available in formats accessible to individuals with vision impairments and may be obtained by calling (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the Department of Justice (Department) is publishing a notice in the **Federal Register** announcing that it had preliminarily determined that the State of Maine Human Rights Act, 5 MRSA § 4533 *et seq.*, as implemented by the Maine Accessibility Regulations (together, the Maine law), meets or exceeds the new construction and alterations requirements of title III of the ADA. The Department also noted that it intended to issue final certification of the Maine law and requested written comments on the preliminary determination and the proposed final certification. Finally, the Department noted that it intended to hold informal hearings in Washington, D.C. and Augusta, Maine.

The purpose of the informal hearings is to provide an opportunity for interested persons, including individuals with disabilities, to express their views with respect to the preliminary determination of equivalency of the Maine law. Interested parties who wish to testify at a hearing should contact Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

The meeting sites will be accessible to individuals with disabilities. Individuals who require sign language interpreters or other auxiliary aids should contact Tito Mercado at (202) 307–-0663 (Voice/TDD). This is not a toll-free number.

Dated: September 22, 1997.

Isabelle Katz Pinzler,

Acting Assistant Attorney General for Civil Rights.

[FR Doc. 97–25994 Filed 10–1–97; 8:45 am]

BILLING CODE 4410–13–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

[Application No. D–10159, et al.]

Proposed Exemptions; State Street Bank and Trust

AGENCY: Pension and Welfare Benefits Administration, Labor.

ACTION: Notice of proposed exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or request for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone

number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and request for a hearing (at least three copies) should be sent to the Pension and Welfare Benefits Administration, Office of Exemption Determinations, Room N–5649, U.S. Department of Labor, 200 Constitution Avenue, N.W., Washington, D.C. 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5507, 200 Constitution Avenue, N.W., Washington, D.C. 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978 (43 FR 47713, October 17, 1978) transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

State Street Bank and Trust Company Located in Boston, Massachusetts

[Application No. D–10159]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a)(1) (A) through (D) and 406 (b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code,[1] shall not apply to the lending of securities to State Street Bank and Trust Company (State Street), acting through its Financial Markets Group (FMG) (formerly the Money Market Division of the Capital Markets Area) or acting through any other division or U.S. affiliate of State Street that is a successor to the activities of FMG; and shall not apply to the lending of securities to any U.S. registered broker-dealers affiliated with State Street (the Affiliated Broker Dealers)[2] by employee benefit plans (the Client Plans or the Client Plan), including commingled investment funds holding plan assets for which State Street, through its Master Trust Services Division (the Trust Division) acts as directed trustee or custodian, and for which State Street, through its Global Securities Lending Division or any other similar division of State Street or U.S. affiliate of State Street or of its parent (collectively, GSL) acts as securities lending agent (or sub-agent); and shall not apply to the receipt of compensation by GSL in connection with the proposed transactions, provided that the following conditions are met:

a. Neither State Street, the SSB Group, GSL, nor any other division or affiliate of State Street has or exercises discretionary authority or control with respect to the investment of the assets of Client Plans involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received) or renders investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to such assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan;

b. Before a Client Plan participates in a securities lending program and before any loan of securities to the SSB Group is effected, the fiduciary of such plan who is independent of State Street, GSL, the SSB Group, and any other division or affiliate of State Street must have:

(1) Authorized and approved the securities lending authorization agreement with GSL (the Agency Agreement), where GSL is acting as the direct securities lending agent; or

(2) Authorized and approved the primary securities lending authorization agreement (the Primary Lending Agreement) with the primary lending agent, where GSL is lending securities under a sub-agency arrangement with the primary lending agent[3]; and

(3) Approved the general terms of the securities loan agreement (the Loan Agreement) between such Client Plan and the borrower, the SSB Group, the specific terms of which are negotiated and entered into by GSL;

c. A Client Plan may terminate the Agency Agreement or the Primary Lending Agreement at any time, without penalty to such plan, on five (5) business days notice;

d. The Client Plan will receive from the SSB Group (either by physical delivery or by book entry in a securities depository, wire transfer or similar means) by the close of business on or before the day the loaned securities are delivered to the SSB Group, collateral consisting of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities, or irrevocable bank letters of credit issued by a person other than State Street or an affiliate thereof, or any combination thereof, or other collateral permitted under PTCE 81–6 (as amended from time to time or, alternatively, any additional or superseding class exemption that may be issued to cover securities lending by employee benefit plans);

e. The market value of the collateral must, as of the close of business on the

[1] For purposes of this proposed exemption, references to specific provisions of Title I of the Act, unless otherwise specified, refer also to the corresponding provisions of the Code.

[2] FMG, any division or U.S. affiliate of State Street that becomes a successor to the activities of FMG, and the Affiliated Broker Dealers are collectively referred to, herein, as the SSB Group.

[3] The Department, herein, is not providing relief for securities lending transactions engaged in by primary lending agents, other the GSL, beyond that provided, pursuant to Prohibited Transaction Class Exemption 81–6 (PTCE 81–6) and Prohibited Transaction Class Exemption 82–63 (PTCE 82–63). PTCE 81–6 was granted 46 FR 7527, January 23, 1981, as amended at 52 FR 18754, May 19, 1987. The Notice of Proposed Exemption for application numbers D–5598 and D–5776 was published at 46 FR 10570, February 3, 1981. PTCE 82–63 was granted 47 FR 14804, April 6, 1982. The Notice of Proposed Class Exemption was published at 46 FR 7518, January 23, 1981, as amended at 46 FR 10570, February 3, 1981.

preceding business day, initially equal at least 102 percent (102%) of the market value of the loaned securities. If the market value of the collateral falls below 100 percent (100%) (or such greater percentage agreed to by the parties) of the loaned securities, GSL will require the SSB Group to deliver additional collateral by the close of business on the following day such that the market value of the collateral will again equal at least 102 percent (102%). The Loan Agreement will give the Client Plans a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral. GSL will monitor the level of the collateral daily;

f. All GSL's procedures regarding the securities lending activities will at a minimum conform to the applicable provisions of PTCE 81–6 and PTCE 82–63;

g. State Street will agree to indemnify and hold harmless each lending Client Plan (including the sponsor and fiduciaries of such Client Plan) against any and all damages, losses, liabilities, costs, and expenses (including attorneys' fees) which the Client Plan may incur or suffer directly arising out of the lending of the securities of such Client Plan to the SSB Group;

h. The Client Plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of any loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions;

i. Prior to any Client Plan's approval of the lending of its securities to the SSB Group, a copy of this Notice of Proposed Exemption and a copy of the final exemption, if granted, will be provided to the Client Plan;

j. Only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the SSB Group;

k. The terms of each loan of securities by the Client Plans to the SSB Group will be at least as favorable to such plans as those of a comparable arm's-length transaction between unrelated parties;

l. Each Client Plan will receive monthly reports on the transactions, including but not limited to the information described in paragraph 26 below, so that an independent fiduciary of such plan may monitor the securities lending transactions with the SSB Group;

m. Before entering into the Loan Agreement and before a Client Plan lends any securities to the SSB Group, an independent fiduciary of such Client Plan will receive sufficient information, concerning the financial condition of State Street, including but not limited to audited and unaudited financial statements of State Street's parent corporation; and

n. The SSB Group will provide to a Client Plan prompt notice at the time of each loan by such plan of any material adverse changes in State Street's financial condition, since the date of the most recently furnished financial statements.

Summary of Facts and Representations

1. State Street is a wholly-owned subsidiary of State Street Boston Corporation, a bank holding company organized in 1970 under the laws of the Commonwealth of Massachusetts. As a Massachusetts trust company and a member bank of the Federal Reserve System, State Street is a ''bank,'' as defined in both section 202(a)(2) of the Investment Advisers Act of 1940 and section 581 of the Code. As of December 31, 1994, State Street's total assets were $21.7 billion, of which $16 billion (or 74%) were investment securities and money market assets and $3.2 billion (or 15%) were loans.

2. State Street, through its Trust Division, provides custodial services, trustee, and related fiduciary services to its customers. In this regard, the Trust Division has more than $1.6 trillion of assets under custody and, as custodian, services $664 billion of pension and other assets for U.S. pension plans, government plans, and other tax exempt investors in North American. In addition, with $675 billion of mutual fund assets under custody, it is represented that the Trust Division services 36 percent (36%) of registered funds. It is represented that at year-end 1994, the Trust Division also had $210 billion of bonds under trusteeship and $160 billion of assets under management.

3. State Street, acting through GSL, also provides securities lending services to many of State Street's institutional clients. GSL, on behalf of State Street's securities lending clients, negotiates the terms of loans with borrowers, pursuant to a client-approved form of loan agreement the terms of which may be modified from time to time with the approval of the client, and otherwise acts as a liaison between the lender and the borrower to facilitate the lending transaction. As securities lending agent, GSL also has responsibility for monitoring receipt of all required collateral and for marking such collateral to market daily, so that adequate levels of collateral are maintained. To the extent agreed upon with the client, GSL is also responsible for investing the cash collateral after securities have been loaned and collateral received. GSL also monitors and evaluates on a continuing basis the performance and creditworthiness of the borrowers of securities.

GSL also may be retained from time to time by primary securities lending agents to provide securities lending services in a sub-agency capacity with respect to portfolio securities of the clients of such primary lending agents. As securities lending sub-agent, GSL's role in the lending transaction (*i.e.*, negotiating the terms of loans with borrowers, pursuant to a client-approved form of loan agreement the terms of which may be modified from time to time with the approval of the client, monitoring receipt of collateral, marking to market required collateral, and investing cash collateral) parallels the role under lending transactions in which GSL acts as primary lending agent on behalf of its clients.

The borrowers with whom GSL usually transacts as agent for the lender are typically broker-dealers who use borrowed securities to satisfy their trading requirements or to ''re-lend'' securities to other broker-dealers, and others who need a particular security for various periods of time. All such borrowing by broker-dealers is required to conform to the Federal Reserve Board's Regulation T. Borrowing purposes which are permitted, pursuant to Regulation T, include the delivery of securities in the case of short sales, the failure of a broker to receive securities it is required to deliver, or other similar situations.

4. State Street itself, however, acting through the SSB Group, is also a borrower of securities, and indeed acts in this capacity, after full disclosure and consent, with respect to many of GSL's institutional clients, such as public pension plans which are not covered by the Act. The SSB Group, as borrower, uses borrowed securities to meet its obligations to deliver securities in connection with its short sales, trade fails, or other similar situations, and to engage in repurchase transactions with third parties.[4] Acting as principal, the SSB

Group actively engages in the borrowing and lending of securities, with a daily outstanding loan volume averaging $2 billion.

5. It is represented that GSL currently does not lend to the SSB Group the

[4] It is represented that Regulation T of the Federal Reserve Board does not apply to the borrowing of securities by the SSB Group, because the SSB Group is part of a bank.

securities of any of State Street's trust or custody clients covered by the Act, although as noted above, after full disclosure and consent, GSL does lend U.S. government securities to the SSB Group for certain of its clients who are *not* covered by the Act. It is represented that the SSB Group and GSL have each developed an accounting system and safeguards to service the needs of its respective client base. It is represented that whenever trades are effected between GSL, acting as securities lending agent, and the SSB Group, as borrower, such trades are accomplished in the same manner as between completely independent third parties. In this regard, such trades take place pursuant to an established protocol, primarily over the telephone and through computer trading screens used by all participants in the industry.

6. State Street proposes to offer to Client Plans, for which the Trust Division of State Street serves as directed trustee or custodian, and GSL serves as securities lending agent (or sub-agent), the opportunity to lend securities to the SSB Group.[5] In addition, State Street proposes that GSL and the SSB Group receive compensation in connection with such securities lending transactions. It is represented that State Street is a party in interest and a fiduciary with respect to the Client Plans, pursuant to section 3(14)(A) of the Act, and a service provider to such plans, pursuant to section 3(14)(B) of the Act. Because the Trust Division, GSL, and the SSB Group are all part of the same legal entity, State Street, the lending of securities to the SSB Group by Client Plans for which the Trust Division serves as directed trustee or custodian and for which GSL serves as securities lending agent (or sub-agent) could be deemed to be a prohibited transaction under section 406(a)(1) (A) through (D) of the Act for which exemptive relief would be necessary. In addition, because State Street, through GSL, would be acting as securities lending agent (or sub-agent) and, through the SSB Group, would be the borrower of securities from the Client Plans, the proposed transactions could be deemed to be prohibited under section 406 (b)(1) and (b)(2) of the Act, as well.

[5] For the sake of simplicity, future references to GSL's performance of services as securities lending agent should be deemed to include its parallel performance as securities lending sub-agent and references to Client Plans should be deemed to refer to plans for which GSL is acting as sub-agent with respect to securities lending activities, unless otherwise indicated specifically or by the context of the reference.

7. With respect to various prohibited transactions which arise in certain situations involving securities lending, there are two relevant class exemptions, PTCE 81–6 and PTCE 82–63. PTCE 81–6 provides an exemption under certain conditions from section 406(a)(1) (A) through (D) of the Act and the corresponding provisions of section 4975(c) of the Code for the lending of securities that are assets of an employee benefit plan to certain broker-dealers or banks which are parties in interest. In this regard, condition number one of PTCE 81–6 requires, in part, that neither the borrower nor an affiliate of the borrower has discretionary authority or control with respect to the investment of the plan assets involved in the transaction. PTCE 82–63 provides an exemption under specified conditions from section 406(b)(1) of the Act and section 4975(c)(1)(E) of the Code for the payment of compensation to a plan fiduciary for services rendered in connection with loans of plan assets that are securities. In this regard, PTCE 82–63 permits the payment of compensation to a plan fiduciary for the provision of securities lending services, only if the loan of securities itself is not prohibited under section 406(a) of the Act (*i.e.* a loan of securities to a non-party in interest).

Under the proposed arrangement, because GSL would have discretion to lend securities of the Client Plans to the SSB Group, and because both GSL and the SSB Group are divisions of State Street, the lending of securities to the SSB Group by the Client Plans for which GSL serves as securities lending agent (or sub-agent) may be outside the scope of relief provided by PTCE 81–6 and by PTCE 82–63. Accordingly, State Street has requested the Department to grant relief from section 406(a)(1) (A) through (D), (b)(1), and (b)(2) of the Act and the corresponding provisions of the Code which would permit the SSB Group to borrow securities from those Client Plans for which State Street, through its Trust Division will be acting as directed trustee or custodian, and through GSL will be acting as securities lending agent (or sub-agent).

In addition, State Street has requested relief from section 406(a)(1) (A) through (D), (b)(1), and (b)(2) and the corresponding provisions of the Code which would permit GSL and the SSB Group to receive compensation from a Client Plan in connection with the proposed securities lending transactions. In this regard, it is represented that the SSB Group will be compensated as any other independent borrower of Client Plan securities would be (*e.g.*, by receiving an agreed rebate payment). In no event, will rates paid to the SSB Group be less favorable to the Client Plan than a loan of such securities made at the same time and under the same circumstances to an unaffiliated borrower.

8. If the requested exemption is granted, GSL represents that it intends to employ the same procedures currently used in the case of securities loans to unrelated third party borrowers and which GSL has already incorporated into similar arrangements with institutional clients not covered by the Act. Specifically, it is represented that State Street will adopt and implement procedural safeguards that all trades affected will take place at the same ''arms'' length'' prices that would have been negotiated with similarly-situated third party borrowers. In this regard, it is represented that the SSB Group, as borrower, will receive a rebate fee comparable to the fee received by independent borrowers, and GSL, as lender's agent for Client Plans, will receive a fee specified in the agreement with such plans for securities lending services. In this regard, it is represented that such securities lending services will include monitoring the collateral and acting appropriately to protect the interest of the lender in the event of default by the borrower. It is further represented that with respect to each Client Plan to which the proposed exemption would apply, neither State Street, the SSB Group, GSL, nor any other division or affiliate of State Street has or exercises discretionary authority or control with respect to the investment of the assets of the plan involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received), or renders investment advice (within the meaning of 29 CFR 2510.3–21(c) with respect to those assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan. Accordingly, it is represented that GSL will not be in a position to influence the portfolio holdings of its Client Plans in a manner that might increase or decrease the securities available for lending to the SSB Group (or any other borrower). In addition, State Street represents that the proposed lending program incorporates the relevant conditions contained in class exemptions PTCE 81–6 and PTCE 82–63.

9. Several safeguards, described more fully below, are incorporated into this exemption in order to ensure the protection of the assets of the Client Plans involved in the proposed transactions. In this regard, where GSL

is the direct securities lending agent, a fiduciary of a Client Plan who is independent of State Street, GSL, the SSB Group, and any other division or affiliate of State Street will sign the Agency Agreement before such Client Plan participates in a securities lending program. The Agency Agreement will, among other things, describe the operation of the lending program, prescribe the form of the Loan Agreement to be entered into on behalf of the Client Plan with borrowers, specify the securities which are available to be loaned, and prescribe that a borrower (including the SSB Group) is required to deliver collateral having a value in excess of the value of the loaned securities (*i.e.* not less than 102% or, in some cases, a higher agreed-upon percentage). In addition, the Agency Agreement will provide that the securities will be marked-to-market daily and provide a list of permissible borrowers, including the SSB Group.

The Agency Agreement will also set forth the basis and the method for GSL's compensation from a Client Plan for the performance of securities lending services. As set forth more fully below, the basis for GSL's compensation will be its fixed percentage share of the return, if any, on cash collateral or the applicable interest due on a non-cash collateral loan. The actual rate of return that will be divided between the Client Plan and GSL in such pre-agreed percentage will vary each day (and indeed during the day from time to time) according to the investment performance from each loan of securities. It is represented that GSL's share with respect to each Client Plan will be negotiated with such Client Plan and thereafter set forth in the Agency Agreement on the date such agreement is executed.

10. The Agency Agreement will contain provisions to the effect that if the SSB Group is designated by a Client Plan as an approved borrower, (i) such Client Plan will acknowledge that the SSB Group, GSL, and the Trust Division are, or may be deemed to be, the same legal entity, and (ii) GSL will represent to such Client Plan that each and every loan made to the SSB Group on behalf of such plan will be at market rates and will in no event be less favorable to such Client Plan than a loan of such securities, made at the same time and under the same circumstances, to an unaffiliated borrower.

11. When GSL is lending securities under a sub-agency arrangement, the primary lending agent will enter into a Primary Lending Agreement with a fiduciary of a Client Plan, before such plan participates in the securities lending program. It is represented that it is the responsibility of the primary lending agent to obtain the approval of the fiduciary of the Client Plan to such Primary Lending Agreement. It is represented that the primary lending agent will be independent of GSL and the SSB Group. As State Street will not be a party to the Primary Lending Agreement, it is represented that the sub-agency arrangement between GSL and the primary lending agent will obligate the primary lending agent to provide assurance that the primary lending agent was independent of the fiduciary of the Client Plan.

The Primary Lending Agreement will contain substantive provisions akin to those in the Agency Agreement relating to the description of the operation of the lending program, use of an approved form of Loan Agreement, specification of securities which are available to be loaned, prescription that a borrower is required to deliver collateral having a specified value in excess of the value of the loaned securities, and a list of approved borrowers (including the SSB Group). The Primary Lending Agreement will specifically authorize the primary lending agent to appoint sub-agents, including GSL, to facilitate its performance of securities lending agency functions. Where GSL is appointed to act as such a sub-agent, GSL would require that the primary lending agent represent to GSL that the primary lending agent has received prior approval of or has the authority to make the decision to hire GSL.

The Primary Lending Agreement will also set forth the basis and the method for the primary lending agent's compensation from the Client Plan for the performance of securities lending services and will authorize the primary lending agent to pay a portion of its fee, as the primary lending agent determines in its sole discretion, to any sub-agent(s) it retains pursuant to the authority granted under such agreement.

Pursuant to its authority to appoint sub-agents, the primary lending agent will enter into a securities lending sub-agency agreement (the Sub-Agency Agreement) with GSL under which the primary lending agent will retain and authorize GSL, as sub-agent, to lend the securities of the primary lending agent's Client Plans, in a manner consistent with the terms and conditions as specified in the Primary Lending Agreement. It is represented that the Primary Lending Agreement and the Sub-Agency Agreement will not necessarily have identical terms, because the procedures that State Street uses in operating its lending program will be spelled out in its form agreement, and these may not be identical to how the primary lending agent operates its own program. For example, State Street may require that its Sub-Agency Agreement contain certain specific provisions which the primary lending agent may not have requested from the Client Plan. One such requirement is that collateral initially equal 102 percent (102%) of the value of the loaned securities, whereas the primary lending agent may have been authorized to make loans of securities at less than 102 percent (102%) collateral. State Street may also require recordkeeping in addition to that specified in the Primary Lending Agreement and may require different notice provisions.

GSL represents that the Sub-Agency Agreement will contain provisions which are in substance comparable to those described in paragraphs 9 and 10 above, which would appear in an Agency Agreement in situations where GSL is the primary lending agent. In this regard, GSL will make representations in the Sub-Agency Agreement, as described in paragraph 10 above, with respect to arm's-length dealing with the SSB Group. The Sub-Agency Agreement will also set forth the basis and method for GSL's compensation to be paid by the primary lending agent.

12. In all cases, GSL will maintain records sufficient to assure compliance with its representation that all loans to the SSB Group are effectively at arm's-length terms. Such records will be provided to the appropriate independent fiduciary of a Client Plan in the manner and format agreed to with such fiduciary and without charge to such Client Plan. A Client Plan may terminate the Agency Agreement at any time, without penalty to such plan, on five (5) business days notice. It is further represented that the Primary Lending Agreement may be subject to a similar termination provision, if the primary lending agent is relying on PTCE 81–6.

13. GSL, on behalf of the Client Plans, will enter into a Loan Agreement with the SSB Group that is in substantially similar form to the one used from time to time, with all other borrowers. It is represented that the Loan Agreement cannot be identical to that used with an unrelated party, in part because, special disclosures must be made to Client Plans, regarding the relationship between GSL, the SSB Group, and the Trust Division, as operations divisions of State Street. However, it is represented that the economic terms and procedures required by the Loan Agreement will be identical to those negotiated with unrelated borrowers.

Although GSL will negotiate with the SSB Group the terms of any specific loan, the general terms of the Loan Agreement, pursuant to which any loan is effected will be approved by a fiduciary of the Client Plan who is independent of State Street. The Loan Agreement will specify, among other things, the right of the Client Plan, acting through GSL, to terminate a loan at any time and such plan's rights in the event of any default by the SSB Group. The Loan Agreement will explain the basis for compensation to the Client Plan for lending securities to the SSB Group under each category of collateral. The Loan Agreement also will contain a requirement that the SSB Group must pay all transfer fees and transfer taxes related to the loans of securities.

14. Before entering into the Loan Agreement, State Street will furnish its most recent available audited and unaudited financial statements of its parent, State Street Boston Corporation, to GSL, and in turn such statements will be made available to each Client Plan before such plan is asked to approve the terms of the Loan Agreement. The Loan Agreement will contain a requirement that the SSB Group must provide to the Client Plan prompt notice at the time of a loan by such plan of any material adverse changes in State Street's financial condition, since the date of the most recently furnished financial statements. If any such changes have taken place, GSL will not make any further loans to the SSB Group, unless an independent fiduciary of such Client Plan has approved the loan in view of the changed financial condition.

15. As noted in paragraph 9 and 10, the agreement by GSL to provide securities lending services, as agent, to a Client Plan will be embodied in the Agency Agreement. The Client Plan and GSL will, prior to the commencement of any lending activity, agree to the fee arrangement, as described in paragraph 9 above, under which GSL will be compensated for its services as lending agent. Such agreed upon fee arrangement will be set forth in the Agency Agreement and thereby will be subject to the prior written approval of a fiduciary of such Client Plan who is independent of the SSB Group and GSL.

Similarly, with respect to such arrangements under which GSL is acting as securities lending sub-agent, the agreed upon fee arrangement of the primary lending agent will be set forth in the Primary Lending Agreement, and such agreement will specifically authorize the primary lending agent to pay a portion of the fee, as the primary lending agent determines in its sole discretion, to any sub-agent, including GSL, which is to provide securities lending services to the Client Plans.[6] A Client Plan will be provided with any reasonably available information which is necessary for the independent fiduciary of such plan to make a determination whether to enter into or continue to participate under the Agency Agreement (or the Primary Lending Agreement) and any other reasonably available information which such fiduciary may reasonably request.

16. Each time a Client Plan loans securities to the SSB Group, pursuant to the Loan Agreement, GSL will reflect in its records the material terms of the loan, including the securities to be loaned, the required level of collateral, and the fee or rebate payable. When a loan is collateralized with cash, the cash will be invested for the benefit of and at the risk of the Client Plan, and resulting earnings (net of a rebate rate to the borrower *and* the fee to the lending agent) comprise the compensation to such plan with respect to the loan. Where the collateral consists of obligations other than cash, the borrower will pay a fee (loan premium) directly to the Client Plan. The terms of each loan will be at least as favorable to the Client Plan as those of a comparable arm's-length transaction between unrelated parties.

17. The Client Plan will receive the equivalent of all distributions made to holders of the borrowed securities during the term of any loan, including, but not limited to, cash dividends, interest payments, shares of stock as a result of stock splits and rights to purchase additional securities, or other distributions. The Loan Agreement will provide that the Client Plan may terminate any loan at any time. Upon a termination, the SSB Group will be contractually obligated to return the loaned securities to the Client Plan within five (5) business days of notification (or such longer period of time permitted pursuant to PTCE 81–6, as amended or superseded). If the SSB Group fails to return the securities within the designated time, the Client Plan will have the right under the Loan Agreement to purchase securities identical to the borrowed securities and apply the collateral to payment of the purchase price and any other expenses of such plan associated with the sale and/or purchase.

18. GSL will establish each day separate written schedules of lending fees and rebate rates to assure uniformity of treatment among borrowing brokers and to limit the discretion that GSL would have in negotiating securities loans to the SSB Group. Loans to all borrowers of a given security on that day will be made at rates or lending fees on the relevant daily schedules or at rates or lending fees which may be more advantageous to the Client Plans. It is represented that in no case will loans be made to the SSB Group at rates or lending fees less advantageous to the Client Plans than those on the schedule. The daily schedule of rebate rates will be based on the current value of the clients' reinvestment vehicles and on market conditions, as reflected by demand for securities by borrowers other than the SSB Group. As with rebate rates, the daily schedule of lending fees will also be based on market conditions, as reflected by demand for securities by borrowers other than the SSB Group, and will generally track the rebate rates with respect to the same security or class of security.

19. GSL will adopt maximum daily rebate rates for cash collateral payable to the SSB Group on behalf of a lending Client Plan. Separate maximum daily rebate rates will be established with respect to loans of designated classes of securities such as U.S. government securities, U.S. equities and corporate bonds, international fixed income securities, and international equities. With respect to each designated class of securities, the maximum rebate rate will be the lower of: (i) The one month LIBOR rate, minus a stated percentage of such LIBOR rate and, (ii) the client's actual reinvestment rate for the relevant cash collateral, minus a stated percentage of such reinvestment rate, as pre-approved by the independent fiduciary of the Client Plan. Thus, when cash is used as collateral, the daily rebate rate will always be lower than the rate of return to the Client Plans from authorized investments for cash collateral by such stated percentage as shall be pre-approved by the independent fiduciary. GSL will submit the formula for determining the maximum daily rebate rates to an independent fiduciary of the Client Plan for approval before lending any securities to the SSB Group on behalf of such plan.

20. GSL will also adopt minimum daily lending fees for non-cash collateral payable by the SSB Group to

[6] The foregoing provisions describe arrangements comparable to conditions (c) and (d) of PTCE 82–63 which require that the payment of compensation to a ''lending fiduciary'' is made under a written instrument and is subject to prior written authorization of an independent ''authorizing fiduciary.'' In the event that a commingled investment fund participates in the securities lending program, the special rule applicable to such funds concerning the authorization of the compensation arrangement, as set forth in paragraph (f) of PTCE 82–63, must be satisfied.

GSL on behalf of the Plan. Separate minimum daily lending fees will be established with respect to loans of designated classes of securities, such as U.S. government securities, U.S. equities and corporate bonds, international fixed income securities, and international equities. With respect to each designated class of securities, the minimum lending fee will be stated as a percentage of the principal value of the loaned securities. GSL will submit such minimum daily lending fees to an independent fiduciary of the Client Plan for approval before initially lending any securities to the SSB Group on behalf of such plan.

21. For collateral other than cash, the lending fees charged the previous day will be reviewed by GSL for competitiveness. Based on the demand of the marketplace, this daily fee tends to remain constant and, with respect to domestic securities and international debt securities, is currently at least one twentieth of one percent of the principal value of the loaned securities. With respect to international equity securities, the daily fee is currently one fifth of one percent of the principal value of the loaned securities. Because 50 percent (50%) or more of securities loans by Client Plans will be to unrelated brokers or dealers,[7] the competitiveness of GSL's fee schedule will be continuously tested in the marketplace. Accordingly, loans to the SSB Group should result in a competitive rate of income to the lending Client Plan.

The method of determining the daily securities lending rates (fees and rebates), the minimum lending fees payable by the SSB Group and the maximum rebate payable to the SSB Group will be specified in an exhibit attached to the Agency Agreement to be executed between the independent fiduciary of the Client Plan and GSL in cases where GSL is the direct securities lending agent.

22. Should GSL recognize prior to the end of a business day that, with respect to new and/or existing loans, it must change the rebate rate or lending fee formula in the best interest of Client Plans, it may do so (i) with respect to borrowers other than the SSB Group, at the end of such business day, and (ii) with respect to the SSB Group, upon GSL's receipt of a written approval of the Client Plan's independent fiduciary.[8]

GSL may propose a change in the lending fee or rebate rate determination, as applicable, with respect to an outstanding loan by delivering written notice of the effective date and the new determination pursuant to which a lending fee or rebate rate, as the case may be, may be determined at least five (5) business days before the date of the proposed change. In the event that the Client Plans does not consent to such change by not providing GSL with acknowledgment of its consent in writing by such means that will ensure receipt by GSL prior to 10:00 A.M. New York time, on the effective date of the change, then GSL will not make such change. The applicant represents that allowing GSL to request a modification to the lending fee or the rebate rate formula with respect to an existing loan to the SSB Group when market conditions change will be beneficial to the Client Plans. According to the applicants, in the absence of the ability to make such modification, the SSB Group may be forced by market conditions to terminate the loan and seek better terms elsewhere. Such termination may then force the Client Plan to seek new borrowers for its securities who, in light of the changed market conditions, are likely to negotiate for the lending fee or rebate rate which the SSB Group would have received or paid had GSL had the written authority from the independent fiduciary of the Client Plan to decrease the lending fee or increase the rebate rate.

23. While GSL will normally lend securities to requesting borrowers, including, for these purposes, the SSB Group, on a ''first come, first served'' basis, as a means of assuring uniformity of treatment among borrowers, it should be recognized that in some cases it may not be possible to adhere to a ''first come, first served'' allocation. This can occur, for instance, where (a) the credit limit established for such borrower by GSL and/or the Client Plan has already been satisfied; (b) the ''first in line'' borrower is not approved as a borrower by the particular Client Plan whose securities are sought to be borrowed; or (c) the ''first in line'' borrower cannot be ascertained, as an operational matter, because several borrowers spoke to different GSL representatives at or about the same time with respect to the same security. In situations (a) and (b), loans would normally be effected with the ''second in line.'' In situation (c), securities would be allocated equitably among all eligible borrowers.

24. Under the Loan Agreement, State Street will agree to indemnify and hold harmless each lending Client Plan (including the sponsor and fiduciaries of such Client Plan) against any and all damages, losses, liabilities, costs, and expenses (including attorneys' fees) which the Client Plan may incur or suffer directly arising out of the lending of the securities of such Client Plan to the SSB Group. Accordingly, State Street will assure the Client Plan that the rate of return on each loan will at a minimum equal the transactional cost to the plan of lending securities to the SSB Group. The applicants contend that, as a result of this indemnity, the rate of return earned by Client Plans from lending to the SSB Group will, in total, exceed the return from lending securities to other brokers.

25. The Client Plan will receive collateral from the SSB Group by physical delivery, book entry in a securities depository, wire transfer, or similar means by the close of business on or before the day the loaned securities are delivered to the SSB Group. The collateral will consist of cash, securities issued or guaranteed by the U.S. Government or its agencies or instrumentalities or irrevocable bank letters of credit (issued by a person other than State Street or its affiliates) or any combination thereof, or such other types of collateral which might be permitted by the Department under PTCE 81–6, as amended or superseded, relating to securities lending activities. The market value of the collateral on the close of business on the day preceding the day of the loan will be at least 102 percent (102%) of the market value of the loaned securities. The Loan Agreement will give the Client Plan a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on the collateral. GSL will monitor the level of the collateral daily. If the market value of the collateral falls below 100 percent (100%) (or such greater percentage agreed to by the parties) of that of the loaned securities, GSL will require the SSB Group to deliver by the close of business the next day sufficient additional collateral to bring the level back to at least 102 percent (102%).

26. Each Client Plan participating in the lending program will be sent a monthly transaction report which will provide a list of all security loans outstanding and closed for a specified period. The report will identify for each open loan position, the securities involved, the value of the security for collateralization purposes, the current value of the collateral, the rebate or loan premium (as the case may be) at which the security is loaned, and the number of days the security has been on loan.

[7] It is represented that this 50 percent (50%) requirement applies regardless of the type of collateral used to secure the loan.

[8] GSL represents that it will not initiate any modification in such rates or fees which would be detrimental to the Client Plans.

In order to provide the means for monitoring lending activity, rates on loans to the SSB Group compared with loans to other brokers, and the level of collateral on the loans, it is represented that the monthly report will show, on a daily basis, the market value of all outstanding security loans to the SSB Group and to other borrowers as compared to the total collateral held for both categories of loans. Further, the monthly report will state the daily fees where collateral other than cash is utilized and will specify the details used to establish the daily rebate payable to all brokers where cash is used as collateral. The monthly report also will state, on a daily basis, the rates at which securities are loaned to the SSB Group compared with those at which securities are loaned to other brokers. This statement will give an independent fiduciary information which can be compared to that contained in the daily rate schedule.

27. With respect to the proposed transactions, GSL will make and retain for six (6) months tape recordings evidencing all securities loan transactions with the SSB Group. Also, if requested by the lending customer, GSL shall provide daily confirmations of securities lending transactions; and GSL shall provide to lending customers monthly account reports, or if requested by the customer, weekly, or daily reports, setting forth for each transaction made or outstanding during the relevant reporting period the loaned securities, the related collateral, rebates and loan premiums, and such other information in such format as shall be agreed to by the parties.

28. Only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the SSB Group. This restriction is intended to assure that any lending to the SSB Group will be monitored by an independent fiduciary of above average experience and sophistication in matters of this kind.

29. State Street represents that the proposed transactions are in the interest of the Client Plans in that the lending of securities is an attractive investment opportunity. In this regard, a Client Plan which participates in securities lending is able to earn a fee for lending the securities to the borrower while continuing to receive the economic benefits of receiving dividends, interest payments, and other distributions made with respect to the loaned securities.

It is represented that failure to grant the requested exemption will limit the number of companies to whom the Client Plans can lend securities by excluding the SSB Group, an active securities borrower that currently borrows securities in lending transactions or in connection with reverse repurchase agreements worth in excess of $5 billion daily.

30. It is represented that the proposed exemption is administratively feasible, in that it will not require any ongoing involvement by the Department. In this regard, it is represented that compliance with the requirements of the exemption can be readily monitored by the independent fiduciaries of the Client Plans, as well as by State Street's own internal audit and compliance personnel. Further, it is represented that State Street will bear the cost of filing the application for exemption and the costs associated with the transfers of the loaned securities.

31. In summary, the applicants represent that the described transactions will satisfy the statutory criteria of section 408(a) of the Act because:

(a) Neither State Street, the SSB Group, GSL, nor any other division or affiliate of State Street will have or exercise discretionary authority or control with respect to the investment of plan assets involved in the transaction (other than with respect to the investment of cash collateral after securities have been loaned and collateral received), or render investment advice (within the meaning of 29 CFR 2510.3–21(c)) with respect to those assets, including decisions concerning a Client Plan's acquisition or disposition of securities available for loan;

(b) Before a Client Plan participates in a securities lending program and before any loan of securities is effected, the fiduciary of such plan who is independent of State Street, GSL, the SSB Group, and any other division or affiliate of State Street will authorize and approve the Agency Agreement or the Primary Lending Agreement, as appropriate, and will approve the general terms of the Loan Agreement between the Client Plan and the SSB Group;

(c) a Client Plan may terminate the Agency Agreement at any time, without penalty to such plan, on five (5) business days notice;

(d) the Client Plans will receive from the SSB Group a continuing security interest in, title to, or the rights of a secured creditor with respect to the collateral and a lien on various forms of collateral on each loan to the SSB Group which initially will be worth at least 102 percent (102%) of the market value of the loaned securities, and which will be monitored daily by GSL to insure that the market value of the collateral never falls below 100 percent (100%) of the market value of the loaned securities (or such greater percentage agreed to by the parties);

(e) all the procedures under the proposed transactions will, at a minimum, conform to the applicable provisions of PTCE 81–6 and PTCE 82–63;

(f) State Street will indemnify and hold harmless each lending Client Plan (including the sponsor and fiduciaries of such Client Plan) against any and all damages, losses, liabilities, costs, and expenses (including attorneys' fees) which the Client Plan may incur or suffer directly arising out of the lending of the securities of such Client Plan to the SSB Group;

(g) the lending arrangements will permit the Client Plans to lend to the SSB Group, a major borrower of securities, and will enable such plans to diversify the list of eligible borrowers and earn additional income from the loaned securities on a secured basis, while continuing to receive any dividends, interest payments and other distributions due on those securities;

(h) prior to any Client Plan's approval of the lending of its securities to the SSB Group, a copy of this Notice of Proposed Exemption and a copy of the final exemption, if granted, will be provided to the Client Plan;

(i) only Client Plans with total assets having an aggregate market value of at least $50 million will be permitted to lend securities to the SSB Group;

(j) the terms of each loan of securities between the Client Plans and the SSB Group will be at least as favorable to such plans as those of a comparable arm's-length transaction between unrelated parties;

(k) the Client Plans will receive monthly reports, so that an independent fiduciary of such plans may monitor the securities lending transactions with the SSB Group;

(l) Before entering into the Loan Agreement and before a Client Plan lends any securities to the SSB Group, an independent fiduciary of such Client Plan will receive sufficient information, concerning the financial condition of State Street, including but not limited to audited and unaudited financial statements of State Street's parent corporation; and

(m) The SSB Group will provide to a Client Plan prompt notice at the time of each loan by such plan of any material adverse changes in State Street's financial condition, since the date of the most recently furnished financial statements.

Notice to Interested Persons

Included among those persons who may be interested in the pendency of the proposed exemption are the investment committee(s) or trustee(s) of any Client Plan(s) which are interested in lending securities to the SSB Group. It is represented that the applicant will furnish at its cost these various classes of interested persons with a copy of the Notice of Proposed Exemption (the Notice), plus a copy of the supplemental statement (Supplemental Statement), as required, pursuant to 29 CFR 2570.43(b)(2) within fifteen (15) calendar days of publication of the Notice in the **Federal Register**. Notification will be provided to all the investment committee(s) or trustee(s) of any Client Plan(s) which are interested in lending securities to the SSB Group either by hand delivery or by mailing first class of a copy of the Notice, plus a copy of the Supplemental Statement. It is represented that the applicant will at its cost provide a copy of such Notice and a copy of the final exemption, if granted, to Client Plans after the final exemption has been issued and prior to any Client Plan's approval of the lending of securities to the SSB Group.

FOR FURTHER INFORMATION CONTACT: Angelena C. Le Blanc of the Department, telephone (202) 219–8883. (This is not a toll-free number.)

Franklin & Davis, P.C. Profit Sharing Plan (the Plan) Located in Troy, Michigan

[Application No. D–10450]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to two proposed loans (the Loans) totaling $229,000 to Franklin & Davis, P.C. (F&D), the Plan's sponsor and a disqualified person with respect to the Plan, by the individual account (the Account) of Bruce W. Franklin (Mr. Franklin), provided the following conditions are satisfied: (a) The terms of the Loans are at least as favorable to the Plan as those obtainable in arm's-length transactions with an unrelated party; (b) the Loans do not exceed 25% of the assets of the Account; (c) the first Loan (Loan 1) is secured by a second mortgage on certain real property (the Property) which has been appraised by a qualified independent appraiser to have a fair market value not less than 150% of the amount of Loan 1 plus the balance of the first mortgage which it secures; (d) the second Loan (Loan 2) is secured by certain securities (the Securities) which have a fair market value not less than 200% of Loan 2; and (e) the fair market value of the collateral remains at least equal to the percentages described in conditions (c) and (d), above, throughout the duration of the Loans.[9]

Summary of Facts and Representations

1. F&D is a corporation located in Troy, Michigan, which is engaged in the practice of law. The Plan is a defined contribution plan with one participant, Mr. Franklin, who is also the Plan's trustee. As of March 31, 1997, Mr. Franklin's Account balance was approximately $916,000.

2. F&D wishes to borrow $229,000 from the Account, which represents 25% of the current fair market value of the Account. The money will be loaned to F&D in two separate Loans. The Loans will each be amortized over a 10 year period, with equal monthly payments of principal and interest over the 10 year term. The interest rate for each Loan will be 9.5% per annum. The total monthly payments for the Loans will be $2,963.20 per month. Ms. Linda Walden, Vice President of First Citizens Bank (the Bank) of Newnan, Georgia, has represented in a letter dated June 26, 1997 that the Bank would lend money to F&D at the same terms as those of the Loans.

3. Loan 1 will be secured by the Property, which consists of Mr. and Mrs. Franklin's residence, which is located at 3631 Brookside, Bloomfield Township, Michigan. The Property has been appraised by Mr. James Valiquett, an independent appraiser in Farmington, Michigan, to have a fair market value of $720,000 as of October 8, 1996. The Property has a first mortgage in the amount of $335,136. Loan 1 would be secured by a second mortgage on the Property in the amount of $144,864. Thus, the appraised fair market value of the Property would represent 150% of the total outstanding principal amount of debt secured by the Property. The applicant represents that the mortgage to the Plan will be duly recorded.

4. Loan 2, which will be in the principal amount of $84,136, will be secured by the Securities. The Securities are publicly traded stock owned by Mr. and Mrs. Franklin, and consist of 257,084 shares of Royal Silver Mines, Inc. which is traded on the NASDAQ stock exchange. The Securities are currently valued at $192,813, which represents approximately 230% of the principal amount of Loan 2. The applicant represents that the Plan's security interest in the Securities will be duly recorded.

5. In summary, the applicant represents that the proposed transactions satisfy the criteria contained in section 4975(c)(2) of the Code for the following reasons: (a) The Loans represent not more than 25% of the assets of the Account; (b) the terms of the Loans will be at least as favorable to the Plan as those obtainable in arm's-length transactions with an unrelated party, as demonstrated by the letter from the Bank; (c) Loan 1 will be secured by a second mortgage on the Property, which has been determined by a qualified, independent appraiser to have a fair market value of not less than 150% of the total principal amount of the loans that it will secure; (d) Loan 2 will be secured by the Securities, which are publicly traded securities with a current fair market value of approximately 230% of Loan 2; and (e) Mr. Franklin is the only participant in the Plan to be affected by the transactions, and he desires that the transactions be consummated.

NOTICE TO INTERESTED PERSONS: Since Mr. Franklin is the only Plan participant to be affected by the proposed transactions, the Department has determined that there is no need to distribute the notice of proposed exemption to interested persons. Comments and requests for a hearing are due within 30 days from the date of publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

The Sperry Rail, Inc. Retirement Plan (the Plan) Located in Danbury, Connecticut

[Application No. D–10452]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55

[9] Since Mr. Franklin is the sole owner of F&D and the only participant in the Plan, there is no jurisdiction under Title I of the Act pursuant to 29 CFR 2510.3–3(b). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

FR 32836, 32847, August 10, 1990). If the exemption is granted, the restrictions of sections 406(a), 406(b)(1) and (b)(2) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the proposed loan (the Loan) by the Plan of $965,000 to Sperry Rail, Inc. (Sperry), the Plan sponsor and a party in interest with respect to the Plan, provided the following conditions are satisfied: (a) The Loan does not exceed 25% of the assets of the Plan; (b) the Loan is at terms not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party; (c) the Loan is secured by personal property (the Property) that has been appraised by an independent appraiser as having a fair market value not less than 200% of the principal amount of the Loan; (d) an independent fiduciary has reviewed the proposed Loan on behalf of the Plan and has determined that the Loan is in the best interest of the Plan and its participants and beneficiaries; and (e) the Plan's independent fiduciary will monitor the Loan throughout its duration to ensure that it remains in the best interest of the Plan and continues to meet the conditions of the exemption proposed herein.

Summary of Facts and Representations

1. Sperry, the Plan sponsor, is in the railroad track inspection business and maintains its executive offices in Danbury, Connecticut. Sperry is a member of a controlled group of corporations. The other members of the controlled group are Sperry's parent corporation, Longview Holdings, Inc. (LHI), and Longview Inspection, Inc., another subsidiary of LHI. The Plan is a defined benefit plan that has approximately 192 participants and assets of $4,062,320 as of July 1, 1997.

2. Sperry has requested the exemption proposed herein to permit it to borrow $965,000 from the Plan. The Loan is to be repaid over a period of 15 years. The interest rate for the Loan is to be 1.5% plus the yield on 30 year Treasury Bonds on the outstanding balance, which is currently approximately 6.90% (which, when added to the 1.5% yields approximately 8.40%). For the first three years of the Loan, Sperry will make equal monthly payments of principal and interest in the amount of $5,361.11. The interest rate (and monthly payment amount) will be adjusted every 3 years to an amount equal to 1.5% above the then-current yield on 30 year U.S. Treasury Bonds. The applicant represents that when the interest rate is reset, it shall never be less than the interest rate applicable at the start of the Loan. Mr. J. Scott Bognar, Vice President of Putnam Trust (the Bank), a subsidiary of Bank of New York, has reviewed the proposed terms of the Loan and has determined that they constitute fair market value terms and are commercially reasonable.

3. The Loan will be secured by the Property, which consists of a Sperry Induction Detector Car bearing registration number: SRS 148, and Sperry spare parts inventory, together with all accessions, accessories, attachments, parts, equipment and repairs which may be affixed to or used in connection with the Property. The applicant represents that the Plan will have a first priority interest in the Property, and Sperry will execute such financing statements as are necessary to perfect the Plan's interest in the Property. The Property has been appraised by R.L. Banks & Associates, Inc. (Banks), Transportation Economists and Engineers, an independent expert with offices in Washington, D.C. Banks has determined that as of December 27, 1996, the fair market value of Car Number 148 was $803,720, and the value of the Sperry spare parts inventory was $1,500,000. Thus, Banks has appraised the Property to have a total fair market value of $2,303,720 as of December 27, 1996. This would represent approximately 2.4 times the principal amount of the Loan.

4. Mr. Paul Mishkin, a certified public accountant has been retained by the Plan to be its independent fiduciary with respect to the proposed Loan. Mr. Mishkin represents that he has more than 25 years' experience in both private industry and public accounting working with large publicly-held corporations as well as significant private companies. He has spent a substantial portion of that time analyzing corporate structures and evaluating financial alternatives. Mr. Mishkin represents that he has no financial interest in Sperry or its related entities, nor does he provide any services to Sperry or its affiliates. Mr. Mishkin has reviewed the terms of the proposed Loan and has determined that they are equal or more favorable to the Plan than those obtainable from an unrelated borrower. Mr. Mishkin represents that the Loan is appropriate for the Plan and in the best interest of the Plan's participants and beneficiaries and protective of their rights.

5. Mr. Mishkin represents that he will monitor and enforce compliance with the terms of the Loan. He will monitor monthly payments made by Sperry. In the event payments are not made on a timely basis, he will explore all avenues of recovery, including the right to sell the Property. Additionally, Mr. Mishkin will periodically inspect the condition of the Property, including obtaining current appraisals at Sperry's expense, to insure that the collateral maintains a value of 200% of the outstanding Loan amount at all times. If the collateral value falls below 200%, Mr. Mishkin has the authority to require Sperry to add additional collateral to restore the Plan's secured interest to 200%. Alternatively, Mr. Mishkin has the authority to accelerate repayments of principal consistent with any collateral shortfall.

6. In summary, the applicant represents that the proposed transaction satisfies the criteria of section 408(a) of the Act because: (a) The Loan represents not more than 25% of the assets of the Plan; (b) the Loan is at terms not less favorable to the Plan than those obtainable in an arm's-length transaction with an unrelated party, as demonstrated by the representation from the Bank; (c) the Loan is secured by the Property, which has been appraised by an independent appraiser as having a fair market value approximately 240% of the principal amount of the Loan; (d) Mr. Mishkin, the Plan's independent fiduciary, has reviewed the proposed Loan on behalf of the Plan and has determined that the Loan is in the best interest of the Plan and its participants and beneficiaries; and (e) the Plan's independent fiduciary will monitor the Loan throughout its duration to ensure that it remains in the best interest of the Plan and continues to meet the conditions of the exemption proposed herein.

FOR FURTHER INFORMATION CONTACT: Gary H. Lefkowitz of the Department, telephone (202) 219–8881. (This is not a toll-free number.)

Crown American Properties L.P. Retirement Savings Plan (the Plan) Located in Johnstown, Pa.

[Application No. D–10454]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 408(a) of the Act and section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the restrictions of section 406(a), 406 (b)(1) and (b)(2), and section 407(a) of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1) (A) through (E) of the Code, shall not apply to the purchase, holding or sale by participant-

directed accounts in the Plan of shares of Crown American Realty Trust (the Crown REIT), an affiliate of Crown American Properties L.P. (Crown American), the Plan's sponsor and, as such, a party in interest with respect to the Plan, provided that the following conditions are met:

(A) Any purchase or sale of the Crown REIT shares by a participant account (an Account) is made solely in accordance with the directions of the participant whose account is making the purchase or sale;

(B) Immediately following any purchase of the Crown REIT shares by an Account, the percentage of the total value of the Account invested in the Crown REIT shares does not exceed 25 percent, as measured based on the value of the assets held by such Account as of the close of the prior business day;

(C) Compliance with the terms and conditions of this proposed exemption, including the 25 percent limit described in Paragraph (B) above, is monitored by PNC Bank, National Association, as the Plan's trustee, which is independent of the Crown REIT and Crown American or any affiliate thereof;

(D) With respect to any decisions made by a Plan participant for a purchase or sale of Crown REIT shares by an Account, neither Crown American, PNC, nor any of their affiliates has discretionary authority or control with respect to the investment of the Plan assets involved in the transaction, other than as required for PNC to monitor and enforce compliance with the 25 percent limit described in Paragraph (C) above, or renders any investment advice [within the meaning of 29 CFR 2510.3–21(c)] with respect to those assets;

(E) All purchases and sales of the Crown REIT shares by the Plan are executed:

(1) for cash;

(2) on the national exchange on which the Crown REIT shares are primarily traded (the Primary Exchange); and

(3) at the prevailing market price for the Crown REIT shares on the Primary Exchange at the time of the transaction;

(F) Notwithstanding the provisions contained in (E) above, purchases and sales of the Crown REIT shares may occur between the Accounts within the Plan in order to avoid brokerage commissions and other transaction costs, provided that the price received by each Account is equal to the closing price for the Crown REIT shares on the NYSE on the date of the transaction;

(G) Crown American maintains for a period of six years the records necessary to enable the persons described below in paragraph (H) to determine whether the conditions of this exemption have been met, except that (1) a prohibited transaction will not be considered to have occurred if, due to circumstances beyond the control of Crown American, the records are lost or destroyed prior to the end of the six-year period, and (2) no party in interest other than Crown American or an affiliate shall be subject to the civil penalty that may be assessed under section 502(i) of the Act or to the taxes imposed by section 4975 (a) and (b) of the Code if the records are not maintained or are not available for examination as required by paragraph (H) below; and

(H)(1) Except as provided below in paragraph (H)(2) and notwithstanding any provisions of section 504(a)(2) of the Act, the records referred to in paragraph (G) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department or the Internal Revenue Service,

(ii) Any fiduciary of the Plan or any duly authorized employee or representative of such fiduciary, and

(iii) Any participant or beneficiary of the Plan or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described in paragraph (H)(1) (ii) and (iii) shall be authorized to examine trade secrets of Crown American, or commercial or financial information which is privileged or confidential.

Summary of Facts and Representations

1. The Plan is a defined contribution plan sponsored by Crown American. The Plan is a profit sharing plan that allows for elective deferral contributions by Plan participants in accordance with section 401(k) of the Code. Elective deferrals may not exceed 15 percent of a participant's compensation. In addition, Crown American may make matching contributions and employer contributions.

As of June 30, 1997, the Plan had approximately $5.6 million in assets and covered 449 participants and beneficiaries.

The trustee of the Plan is PNC, a banking corporation with its principal place of business in Pittsburgh, Pennsylvania. PNC is independent of Crown American and its affiliates.

Plan participants are responsible for determining how their contributions and account balances are to be allocated among the investment options available under the Plan. The eleven current investment options are an investment contract fund, two fixed income funds, two balanced funds, an S&P 500 Index Fund, two growth funds, a small-capitalization equity fund, and two international funds.

2. Crown American is a Delaware limited partnership through which the Crown REIT conducts its business operations. Crown American currently has about 400 employees who are engaged in executive, asset and property management, leasing, development, construction, financial, legal and administrative operations relating to the shopping center businesses owned by the Crown REIT.

The sole general partner of Crown American is the Crown REIT, which also owned a 74.47 percent interest in Crown American as of August 31, 1996. The other 25.53 percent interests are limited partnership interests owned by Crown Investment Trust, a Delaware business trust, and Crown American Investment Company, a Delaware corporation, each owned by the persons who developed the Crown REIT. The Crown REIT, as sole general partner, controls the management of Crown American, although Crown Investment Trust and Crown American Investment Company have approval rights over certain decisions.

3. The Crown REIT is a Maryland real estate investment trust that owns interests in a number of enclosed shopping mall properties. The Crown REIT conducts its business activities through two partnerships, one of which is Crown American.

The Crown REIT was created in 1993. The Crown REIT has one class of equity interests, entitled ''Common Shares of Beneficial Interest'' (i.e. the Shares). There were 27,667,636 Shares outstanding as of April 15, 1997. The Shares are traded on the New York Stock Exchange (NYSE), which is currently considered the Primary Exchange for purposes of the proposed exemption (see Condition (E)(2) and (E)(3) above).

The average trading volume for the Shares is currently approximately 300,000 Shares per week. The applicant states that the average daily trading volume during 1996 was 96,100 Shares, and the annual trading volume during that year was 18,696,300 Shares, or approximately $148.6 million at the current stock price of $8 per share, as of July 1997. The applicant states further that during the period from July 1996 until June 1997, the price per share of the Shares fluctuated from a low of $7.25 to a high of $8.75.[10]

[10] The applicant states that based on current Plan assets of $5.6 million, the maximum amount that could be transferred into the Shares as an

4. Crown American, as the named fiduciary of the Plan, has determined that it would be prudent and in the interests of the Plan's participants and beneficiaries to make the Shares available as an investment option under the Plan, to supplement the eleven current investment options. Crown American states that the Shares are the equivalent of ''employer securities'[11] with respect to the Plan (see discussion in Paragraph 5 below). Therefore, Crown American believes that having the Shares available as an investment option would allow the Plan participants to share in the growth of their employer's business. Crown American represents that since the Shares are currently traded daily on the NYSE, they should be considered a liquid investment that can be easily valued on a daily basis.

If the proposed exemption is granted, Plan participants will decide, as an additional investment option under the Plan, whether to invest any of their account balances (i.e. Accounts) in the Shares. Participants will be allowed to: (a) allocate a specified percentage of their elective deferral contributions to an investment in the Shares, and/or (b) transfer amounts from their investments in other Plan investment options to the Shares. The Plan will require that a Plan participant could not invest more than 25 percent of the assets in the Account in the Shares, measured at the time of any proposed investment in Shares using the Account values as of the previous business day.

Compliance with the 25 percent limitation will be monitored by PNC, the Plan's trustee, as an independent plan fiduciary. If more than 25 percent of an Account is already invested in Shares, or if a directed investment would cause the Account to exceed the 25 percent limit, PNC will not permit any additional investment by that Account in the Shares.

Purchases and sales of Shares by the Plan, which would result solely from participant contributions or investment transfer decisions, will be executed on the NYSE at the prevailing market price (subject to applicable brokerage commissions) at the time of such transactions. However, to avoid brokerage commissions and other transaction costs, purchases and sales will be made between the Accounts to the extent possible (i.e. ''netted'' transactions). Any such ''netted'' transactions will be valued at the closing market price for the Shares on the NYSE on the date of the transaction and would be executed in a non-discretionary, mechanical manner.[12] All purchases and sales of the Shares by the Plan will be for cash.

PNC will not be providing brokerage services to the Plan. PNC will place all trades of the Shares for execution through an independent broker-dealer.

Crown American states that it would not render any investment advice, within the meaning of section 3(21)(A)(ii) of the Act, to any participant regarding the investment of that participant's Account in the Shares.

5. Crown American is the employer of the employees covered by the Plan. Crown American represents that because the Crown REIT owns a 75.6 percent interest in Crown American, the Crown REIT would be considered an ''affiliate'' of Crown American within the meaning of the Act.[13]

Crown American states that the Shares are ''securities'' within the meaning of section 2(1) of the Securities Act of 1933, and as such are ''securities'' for purposes of Title I of the Act (see section 3(20) of the Act defining the term ''security''). Crown American states further that the Shares, as securities issued by the Crown REIT, would be securities issued by an affiliate of an employer of employees covered by the Plan, and thus ''employer securities'' with respect to the Plan under section 407(d)(1) of the Act (as noted previously in Footnote 1). However, under section 407(a)(1)(A), a Plan may acquire and hold only those employer securities that are ''qualifying employer securities''. In order to be a ''qualifying employer security'' (QES), section 407(d)(5) requires that an employer security must be either stock, a marketable obligation, or an interest in certain types of publicly-traded partnerships (as defined in section 7704(b) of the Code).

The applicant states that the Shares are not marketable obligations (as defined under section 407(e) of the Act) or interests in a ''publicly-traded partnership,'' as defined under the Code,[14] which would allow such Shares to meet the definition of QES under section 407(d)(5)(C) of the Act.[15] In addition, the applicant represents that it is not clear whether the Shares would be considered ''stock'' within the meaning of section 407(d)(5) of the Act because, under Maryland law, a ''share'' of a real estate investment trust is defined as a transferable unit of beneficial interest in a real estate investment trust, without any reference to the term ''stock''.[16] The applicant notes that the term ''stock'' is used under Maryland law solely in

investment option for the Plan would be $1.4 million (25 percent of $5.6 million). This amount would represent approximately .8 percent of the annual trading volume. The maximum annual projected new funds that could be invested in the Shares, based on 25 percent of annual Plan contributions, could not exceed $260,000 at current contribution rates, which would be just under .2 percent of the annual trading volume. Thus, the applicant does not anticipate that trading by the Plan in the Shares will exceed one (1) percent of annual trading volume during the first year, or .2 percent of annual trading volume during subsequent years. Since not all participants will be investing up to 25 percent of their Accounts in the Shares, and because trading will be spread out over time with transactions being netted between Accounts when possible, the applicant states that the actual percentages are likely to be much lower. Therefore, the projected impact of the Plan's trading on overall trading activity and the market value of the Shares is expected to be negligible.

[11] Section 407(d)(1) of the Act states that an ''employer security'' is a security issued by an employer of employees covered by the plan, or by an affiliate of such employer.

[12] The applicant states that purchases and sales between the Accounts would be considered intra-Plan transactions that would not create separate prohibited transactions under section 406 of the Act. In this regard, the Department is providing no opinion in this proposed exemption as to whether cross-trades of employer securities between participant accounts within a plan would violate any provisions of Part 4 of Title I of the Act. However, the Department notes that section 406(b)(2) of the Act prohibits a plan fiduciary from acting, in his individual or in any other capacity, in any transaction on behalf of a party (or represent a party) whose interests are adverse to the interests of the plan *or the interests of its participants and beneficiaries.* [emphasis added]

[13] Section 407(d)(7) of the Act states that a person other than a corporation is treated as an ''affiliate'' of another person to the extent provided by regulation. The applicant states that the Department has taken the position that in the absence of regulations, a 50 percent ownership test, which is the threshold for determining affiliation of corporations, should be used for determining whether a corporation would be an ''affiliate'' of a partnership or joint venture under section 407(d)(7). See DOL Info. Ltr. To Gary Quintiere, WSB File No. DL0398 at 2 (Feb. 25, 1994); see also ERISA Adv. Op. 80–55A (where a joint venture owning 65 percent of the interests in a corporation was considered an affiliate of the corporation). Therefore, the applicant states that the same 50 percent threshold should apply for purposes of determining affiliation among non-corporate entities. In this regard, the Department is providing no opinion herein as to whether such non-corporate entities would be considered ''affiliates'' of one another.

[14] The applicant notes that a real estate investment trust such as the Crown REIT, takes the form of a corporation, trust or association, each of which is distinguished in the Code from a partnership (see section 856(a) of the Code).

[15] The applicant also notes that to meet the requirements of section 407(d)(5)(C) of the Act, a partnership must be an ''existing partnership'' as defined in section 10211(c)(2)(A) of the Revenue Act of 1987. This provision requires that the partnership have existed or have applied for existence as a publicly-traded partnership as of December 17, 1987. Because the Crown REIT was not established until 1993, it cannot meet this definition.

[16] See Md. Corp. & Assoc. Sec. 8–101(c).

connection with describing interests in a corporation, whereas a real estate investment trust takes the form of an unincorporated trust.

The applicant states that if the Shares are not considered to be QES, the Plan cannot rely on the statutory exemption under section 408(e) of the Act to obtain relief for the prohibitions of section 406 and 407 relating to transactions involving employer securities that are QES.[17] Therefore, the applicant requests an exemption under section 408(a) of the Act to enable the Accounts in the Plan to acquire, hold, or dispose of the Shares, subject to the conditions discussed herein.

6. PNC will be retained as an independent fiduciary for the Plan for purposes of the proposed exemption. PNC represents that it is independent of Crown American and its affiliates, including the Crown REIT. PNC does have business relationships with Crown American and the Crown REIT, including certain banking services and commercial loans. However, PNC states that to the extent it has provided services to Crown American or an affiliate in the past, its annual gross income for such services was less than one-tenth of one (1) percent of its total annual gross income. In addition, PNC has made, and may continue to make, certain construction or permanent loans to the Crown REIT along with other banks in connection with properties owned by the Crown REIT. PNC states that such loans represent a de minimis percentage of PNC's outstanding loan portfolio. PNC does not expect that any such loans will affect its independence for purposes of its duties and responsibilities as an independent fiduciary for the Plan in connection with the proposed transactions involving the Shares.[18] Moreover, as discussed further in Paragraph 9, PNC is not providing any recommendations or other investment advice as a fiduciary to the Plan participants regarding whether to invest in the Shares.

7. PNC represents that it is an experienced fiduciary which currently serves as trustee of a number of participant-directed employee pension plans subject to the Act, including plans that invest in employer securities. In addition, PNC represents that it has had experience with transactions involving publicly-traded shares of a real estate investment trust.

PNC has submitted a statement, dated April 15, 1997, whereby it acknowledges that it will be acting as a fiduciary to the Plan under the Act for purposes of the proposed transactions involving the Shares, and that it understands its duties, liabilities and responsibilities under the Act.

8. The applicant has submitted a letter agreement between Crown American and PNC (the I/F Agreement), which describes the duties of PNC as the Plan's independent fiduciary in connection with the proposed transactions. The I/F Agreement states that it shall be PNC's responsibility to monitor compliance by the Accounts with all of the conditions of this proposed exemption.

PNC will purchase and sell the Shares, as the Plan's trustee, in accordance with participant instructions. PNC will execute all transactions on the NYSE at the prevailing market price for the Shares, except to the extent such transactions can be accomplished through transfers between Accounts using the NYSE closing price to value the Shares. PNC will value the Shares for the Accounts on a daily basis using the NYSE prices.

PNC will ensure that following any purchase of Shares by an Account, the percentage of the total value of the Account invested in Shares does not exceed 25 percent, as measured based on the value of the assets held by the Account as of the close of the prior business day. In this regard, PNC's recordkeeping system will monitor whether an initial investment allocation or contribution allocation would cause the Account to exceed the 25 percent limit, and will not permit the allocation if that would be the result. Any other participant-initiated transaction involving the Shares, such as a reallocation among Plan investments or reallocation of future contributions, will be requested using a paper form. The completed form will be reviewed initially by Crown and then by the responsible Client Service Officer at PNC to ensure that the 25 percent limit will not be exceeded as a result of the particular transaction. The Client Service Officer at PNC will approve the transaction as complying with this requirement before it is processed by PNC, as the Plan's trustee. However, the 25 percent limitation under the proposed exemption will not be violated if an Account's investment in Shares exceeds 25 percent of the value of the Account solely by reason of an increase in value of the Shares or a decrease in value of the other assets in the Account after such Shares are acquired by the Account.

9. PNC represents that it would be appropriate for Crown to add the Shares as an investment option for participants of the Plan for the following reasons:

(a) Participants will be able to decide whether or not to invest their Account balances in the Shares, and how much of their Account balances to invest in or transfer from such Shares. They are familiar with the issuer because they work for Crown, and they will receive quarterly financial statements and annual reports of the issuer just as any other shareholder;

(b) The Shares will be one of a series of diverse and varied investment options available to Plan participants, and as a real estate equity investment will help complement the other options as part of an overall, well-diversified portfolio;

(c) The Shares are traded on the NYSE, so that (i) participants will be able to follow any changes in the price of the Shares each business day in newspapers of general circulation, and (ii) the Plan will have a readily available avenue for purchasing or selling the Shares as determined by participant investment decisions; and

(d) A participant's investment in the Shares could not exceed 25 percent of his or her total Account balance at time of purchase, preventing the Account from becoming unduly concentrated in the Shares.

However, PNC states further that its statements regarding the Shares do not constitute a recommendation or investment advice as to whether any Plan participant should invest in the Shares as an investment option under the Plan. Thus, PNC's role as the Plan's independent fiduciary under the proposed exemption is limited to enforcing the terms and conditions stated herein and does not extend to the underlying investment decisions made by Plan participants as to whether the Shares are an appropriate investment for particular Accounts.

The applicant states that a communication statement will be sent by Crown and PNC to each Plan participant regarding the addition of the Shares as an investment option for the Plan and describing how this investment option will operate. The communication statement will describe, among other things, the information that Plan participants will receive about their Share investments on an ongoing basis and the relationships that exist between PNC and Crown or its affiliates.

10. In summary, the applicant represents that the proposed transactions will meet the statutory

[17] The Department is providing no opinion herein as to whether the proposed transactions could meet the conditions necessary for relief under section 408(e) of the Act and the regulations thereunder.

[18] The Department notes that section 404(a) of the Act requires, among other things, that a plan fiduciary act prudently and solely in the interests of the plan and its participants and beneficiaries.

criteria of section 408(a) of the Act because: (a) Plan participants will be able to invest in ''equity'' interests of the Crown REIT (i.e. the Shares), which will allow them to share in the growth of their employer's business; (b) no Plan participant will be able to invest more than 25 percent of his or her Account in the Shares, so that an Account's assets will not be unduly concentrated in Shares; (c) compliance with the terms and conditions of the proposed exemption, including the 25 percent limitation, will be monitored by an independent Plan fiduciary (i.e. PNC); (d) the Shares will be acquired and sold for cash by the Accounts; (e) the acquisition and disposition of the Shares will occur on the NYSE, except to the extent that such transactions can be ''netted'' between the Accounts to avoid brokerage commissions and other transaction costs; (f) all transactions involving the Shares will be either (i) executed on the open market at the then-current NYSE prices, or (ii) ''netted'' between the Accounts using the NYSE closing price for the Shares on the date of the transaction, as determined by PNC, as the Plan's independent fiduciary; (g) Plan participants will decide whether or not to invest their Account balances in the Shares, and how much of their Account balances to invest in or transfer from such Shares (subject to the 25 percent limit required herein), and will receive quarterly financial statements and annual reports of the issuer just as any other shareholder; and (h) PNC, as the Plan's independent fiduciary, has determined that it would be appropriate for Crown to add the Shares as an investment option for the Plan's participants to complement other investment options as part of an overall, well-diversified portfolio, but is not providing any recommendations or investment advice to Plan participants in connection with their proposed investments in the Shares.

FOR FURTHER INFORMATION CONTACT: Mr. E.F. Williams of the Department, telephone (202) 219–8194. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest of disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 26th day of September, 1997.

Ivan Strasfeld,

Director of Exemption Determinations, Pension and Welfare Benefits Administration, U.S. Department of Labor.

[FR Doc. 97–26072 Filed 10–1–97; 8:45 am]

BILLING CODE 4510–29–U

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–142]

National Environmental Policy Act; X–33 Program: Vehicle Design and Flight Demonstration

AGENCY: National Aeronautics and Space Administration (NASA).

ACTION: Notice of availability of the final environmental impact statement (FEIS) for the X–33 Advanced Technology Demonstrator Vehicle program.

SUMMARY: Pursuant to the National Environmental Policy Act of 1969 (NEPA), as amended (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality Regulations for Implementing the Procedural Provisions of NEPA (40 CFR Parts 1500–1508), and NASA policy and procedures (14 CFR Part 1216 Subpart 1216.3), NASA has prepared and issued an FEIS for continuation of Phase II of the X–33 Program, which involves the development and demonstration of the X–33 test vehicle. The FEIS addresses environmental issues associated with the testing of the X–33 technology demonstrator spaceplane, and preparation of the flight operations (launch) and landing sites. The purpose of the proposed test program is to demonstrate the feasibility of technology which could result in commercially viable Reusable Launch Vehicles (RLVs).

The reasonable alternative launch sites are located within Edwards Air Force Base (AFB) near Lancaster, California. Reasonable alternative landing sites evaluated for segments of the flight test activities are located at Silurian Lake, near Baker, California; China Lake Naval Air Weapon Station, near Ridgecrest, California; Dugway Proving Ground, near Tooele, Utah; Grant County Airport, Moses Lake, Washington; and Malmstrom AFB, Great Falls, Montana. NASA's preferred launch site is the Haystack Butte site at Edwards AFB. The preferred landing sites are at Silurian Lake, Dugway Proving Ground, and Malmstrom AFB.

NASA is the lead agency in the preparation of the environmental impact statement. The U.S. Department of Defense; the U.S. Department of the Interior, Bureau of Land Management; and the U.S. Department of Transportation, Federal Aviation Administration are acting as cooperating agencies.

DATE: NASA will take no final action on the proposed Phase II of the X–33 Program before November 3, 1997 or 30 days from the date of publication in the **Federal Register** of the U.S. Environmental Protection Agency's notice of availability of the X–33 FEIS, whichever is later.

ADDRESSES: The FEIS may be reviewed at the following locations:

(a) NASA Headquarters, Library, Room 1J20, 300 E Street SW, Washington, DC 20546.

(b) NASA, Marshall Space Flight Center, Library, Building 4200, Huntsville, AL 35812.

(c) NASA, Dryden Flight Research Center, Library, Building 4800, Room 2149, Edwards AFB, CA 93523.

(d) Jet Propulsion Laboratory, Visitors Lobby, Building 249, 4800 Oak Grove Drive, Pasadena, CA 91109 (818–354–5179).

(e) NASA, Spaceport USA, Room 2001, John F. Kennedy Space Center, FL 32899. Please call Lisa Fowler beforehand at 407–867–2468 so that arrangements can be made.

(f) Kern County Library, Boron Branch, 27070 Highway 5, Boron, CA 93516.

(g) Kern County Library, Ridgecrest Branch, 131 East Las Flores Street, Ridgecrest, CA 93555.

(h) Los Angeles County Library, Lancaster Branch, 1150 West Avenue J, Lancaster, CA 93524.

(i) Palmdale City Library, 700 East Palmdale Boulevard, Palmdale, CA 93550.

(j) San Bernadino County Library, Barstow Branch, 304 East Buena Vista, Barstow, CA 92311.

(k) Great Falls Public Library, 301 2nd Avenue North, Great Falls, MT 59401.

(l) Moses Lake Library, 418 East 5th Street, Moses Lake, WA 98837.

(m) Dugway Proving Ground Library, 5124 Kisstler Avenue, Dugway, UT 84022.

(n) Tooele Library, 47 East Vine Street, Tooele, UT 84074.

(o) Salt Lake City Library, 209 East 500 South, Business/Science Department, Salt Lake City, UT 84111.

In addition, the FEIS may be examined at the following NASA locations by contacting the pertinent Freedom of Information Act Office:

(p) NASA, Ames Research Center, Moffett Field, CA 94035 (650–604–4190).

(q) NASA, Goddard Space Flight Center, Greenbelt, MD 20771 (301–286–0730).

(r) NASA, Johnson Space Center, Houston, TX 77058 (281–483–8612).

(s) NASA, Langley Research Center, Hampton, VA 23665 (757–864–2497).

(t) NASA, Lewis Research Center, 21000 Brookpark Road, Cleveland, OH 44135 (216–433–2222).

(u) NASA, Stennis Space Center, MS 39529 (601–688–2164).

Limited copies of the FEIS are available, on a first request basis, by contacting Dr. Rebecca McCaleb at the address, telephone number, or electronic mail address provided below.

FOR FURTHER INFORMATION CONTACT: Dr. Rebecca C. McCaleb, NASA, Marshall Space Flight Center, AE01/ Building 4201, Marshall Space Flight Center, AL 35812; telephone 205–544–4367; electronic mail (X33EIS@msfc.nasa.gov).

SUPPLEMENTARY INFORMATION: The X–33 test vehicle is planned as an approximately one-half scale reusable spaceplane. The vehicle would launch vertically and land horizontally. The X–33 vehicle would consist of a lifting body airframe with two cryogenic liquid propellant tanks (liquid hydrogen (LH2) and liquid oxygen (LOX)) placed within the aeroshell, and would use two linear aerospike main engines. Water would be the primary product of the LOX/LH2 combustion. The entire spaceplane (with all fuel tanks and engines) would launch and land as a single unit.

During the landing sequence, the spaceplane would be unpowered. Flight tests would involve speeds of up to Mach 15 and altitudes up to approximately 75,800 meters (250,000 feet). None of the X–33 test flights would achieve Earth orbit. Ground operations and servicing (*e.g.*, checkout, refueling, etc.) would be conducted with ''aircraft like'' procedures and systems. After each test flight, the X–33 would be ferried back to the flight operations site by a Boeing 747 aircraft in a manner similar to that used for the transport of Space Shuttle orbiters. The test program is currently baselined for a combined total of 15 flights.

Reasonable alternatives considered for this proposed action include:

- Flight operations (launch) sites:

(a) Edwards Air Force Base, California, Space Port 2000 site, and

(b) Edwards Air Force Base, California, Haystack Butte site;

- Short-range landing sites:

(a) Armitage Airfield, China Lake Naval Air Weapons Station, California, and

(b) Silurian Lake, a dry lake bed, north of Baker, California;

- Mid-range landing sites:

(a) Michael Army Air Field, Dugway Proving Ground, Utah;

- Long-range landing sites (may serve as an alternative mid-range landing site):

(a) Malmstrom Air Force Base, Great Falls Montana, and,

(b) Grant County Airport, Moses Lake, Washington; and,—''No action.'' The ''no action'' alternative (*i.e.*, absence of the X–33 Program) would mean that the RLV Program, as planned could not proceed.

NASA's preferred launch site is the Haystack Butte site at Edwards AFB. The preferred landing sites are at Silurian Lake (short-range), Dugway Proving Ground (mid-range), and Malmstrom AFB (long-range). Based on the preferred set of landing sites, NASA analyzed three potentially reasonable flight test options:

(a) A baseline plan involving all three landing sites,

(b) A plan involving only Silurian Lake and Malmstrom AFB, and

(c) An option only involving Dugway Proving Ground and Malmstron AFB.

Comments on the draft environmental impact statement were solicited from Federal, State and local agencies, organizations, and the general public through: (a) notices published in the **Federal Register**—NASA notice on July 3, 1997 (62 FR 36081), and U.S. Environmental Protection Agency notice on July 3, 1997 (62 FR 36062; (b) notices in newspapers of general circulation in areas potentially subject to environmental impacts and (c) a series of public participation meetings. Comments received have been addressed in the FEIS.

Benita A. Cooper,

Associate Administrator for Management Systems and Facilities.

[FR Doc. 97–26130 Filed 10–1–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL COUNTERINTELLIGENCE CENTER

Privacy Act of 1974; Establishment of a New System of Records

AGENCY: National Counterintelligence Center (NACIC).

ACTION: Establishment of Privacy Act system of records including statement of routine uses and detailed description of system.

SUMMARY: On February 27, 1997, the National Counterintelligence Center (NACIC) published for public comment a notice for the establishment of a new Privacy Act system of records. It was provided in that notice that the system of records would become effective without further notice 40 days after publication unless modified by a subsequent notice in order to incorporate comments received from the public.

Although no comments were received from members of the public, reviews internally and by representatives of the Department of Justice approved the ''routine uses'' as published but otherwise suggested several clarifications to the descriptions set forth in the sections entitled ''Categories of records in the system'' and ''Exemptions claimed for the system.'' Inasmuch as the Privacy Act requires only that the portion of the system description which describes the ''routine uses'' of a system be published

for comment, the NACIC Privacy Act declaration, is set forth in its entirety below.

DATES: This system of records notice is effective October 2, 1997.

FOR FURTHER INFORMATION WRITE: Information and Privacy Coordinator, Executive Secretariat Office, National Counterintelligence Center, 3W01 NHB, Washington, DC 20505.

SUPPLEMENTARY INFORMATION: Pursuant to the Privacy Act, 5 U.S.C. 552a, NACIC hereby establishes a new system of records to be maintained at the NACIC headquarters. The purpose of this notice is to announce the creation and character of the system of records subject to the Privacy Act which is maintained by NACIC.

For the convenience of the public, the above referenced clarifications to the previously published notice include:

(a) Several modifications to the listed categories of records have been deemed appropriate for record system NACIC–1; they include:

(1) The categories numbered 1–5 and 7 in the notice are deleted in that these categories of records are neither indexed nor retrievable by name or other personal identifier and thus do not meet the basic definition of a Privacy Act system of records;

(2) The category entitled ''Publications, Training Materials and Regional Seminar Records'' and numbered 8 in the notice is clarified to include not only ''lists of speakers'' but also speaker qualifications and courses in which they have participated to the extent such data exists; it is also clarified in that the materials previously covered by the term ''case studies'' are now separately listed as a ''Counterintelligence Damage Assessments and Incident Files'';

(3) The category entitled ''Personnel files'' and numbered 9 in the notice is modified to include NACIC personnel who are independent contractors;

(4) A new category entitled ''Counterintelligence Damage Assessments and Incident Files'' is added and includes copies of the finished assessments of the damage to U.S. intelligence sources and methods resulting from significant and particular espionage cases as well as summaries of significant counterintelligence incidents including the circumstances and characteristics of the target, the circumstance of the event, and the particular threat presented;

(5) A new category entitled ''Computer and Physical Security Files'' is added and includes data such as the names, passwords, accesses and special accesses to both physical locations and computer systems, relevant audit trails for such accesses, and particular clearances and certifications of clearances; the individuals covered include all personnel assigned to NACIC as well as other individuals holding national security clearances and having authorized access to NACIC facilities and/or computer systems.

(b) Several corrections to the section of the notice entitled ''Exemptions claimed for the system'' have been determined necessary as a result of an editing error prior to submission of the notice to the **Federal Register** they include:

(1) The specific reference to Privacy Act exemption (k)(1) was inadvertently omitted from the discussion of the exemption for classified national security information and is now included;

(2) The listings of Privacy Act exemptions (k) (2)–(6) as authorized by the Act were also inadvertently omitted and are now included although their invocation, given the mission of NACIC, will be rare;

(3) And, the reference to Privacy Act exemption (j)(1) is clarified so that it applies only to that information in the joint custody of the Central Intelligence Agency (CIA) and NACIC where the Director of Central Intelligence (DCI) has determined that such information should be exempt from certain specified provisions of the Privacy Act pursuant to the National Security Act of 1947 and the CIA Act of 1949;

(c) An addition to the sections of the notice entitled ''Record access procedures'' and ''Contesting record procedures'' has also been determined to be appropriate in order specifically to inform members of the public of their right to and procedures to effect an administrative appeal in the event of a denial of their request.

Accordingly, the notice regulating the management of an public access to the Privacy Act record system maintained by NACIC are set forth in their entirety below.

Statement of General Routine Uses

The following routine uses apply to, and are incorporated by reference into each system of records maintained by NACIC. It should be noted that, before the individual record system notices begin, the blanket routine uses of the records are published below only once in the interest of simplicity, economy and to avoid redundancy.

1. *Routine Use-Law Enforcement:* In the event that a system of records maintained by NACIC to carry out its functions indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or by regulation, rule or order issued pursuant thereto, the relevant records in the system of records maybe referred, as a routine use, to the appropriate agency whether Federal, state, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation or order issued pursuant thereto.

2. *Routine Use-Disclosure When Requesting Information:* A record from a system of records maintained by this component may be disclosed as a routine use to a Federal, state, or local agency maintaining civil, criminal, or other relevant enforcement information or other pertinent information, if necessary to obtain information relevant to a component decision concerning the hiring or retention of an employee, the issuance of a security clearance, the letting of a contact, or the issuance of a license, grant or other benefit.

3. *Routine Use-Disclosure of Requested Information:* A record from a system of records maintained by this component may be disclosed to a Federal agency, in response to its request, in connection with the hiring or retention of an employee, the issuance of a security clearance, the reporting of an investigation of an employee, the letting of a contract, or the issuance of a license, grant or other benefit by the requesting agency, to the extent that the information is relevant and necessary to the requesting agency's decision on the matter.

4. *Routine Use-Congressional:* Inquiries from a system of records maintained by this component maybe made to a Congressional office from the record of an individual in response to an inquiry from the Congressional office made at the request of that individual.

5. *Routine Use-Disclosures Required by International Agreements:* A record from a system of records maintained by this component may be disclosed to foreign law enforcement, security, investigatory, or administrative authorities in order to comply with requirements imposed by, or to claim rights conferred in, international agreements and arrangements including those regulating the stationing and status in foreign countries of Department of Defense military and civilian personnel.

6. *Routine Use-disclosure to the Department of Justice for Litigation:* A record from a system of records maintained by this component may be disclosed as routine use to any component of the Department of Justice

for the purpose of representing any officer, employee or member of this component in pending or potential litigation to which the record is pertinent.

7. *Routine Use-Disclosure of Information to the Information Security Oversight Office (ISOO):* A record from a system of records maintained by this component may be disclosed as a routine use to the Information Security Oversight Office (ISOO) or any other executive branch entity authorized to conduct inspections or develop security classification policy for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

8. *Routine Use-Disclosure of Information to the National Archives and Records Administration (NARA):* A record from a system of records maintained by this component may be disclosed as a routine use to the National Archives and Records Administration (NARA) for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904 and 2906.

9. *Routine Use-Disclosure to the Merit Systems Protection Board:* A record from a system of records maintained by this component may be disclosed as a routine use to the Merit Systems Protection Board, including the Office of the Special Counsel for the purpose of litigation including administrative proceedings, appeals special studies of the civil service and other merit systems, review of OPM or component rules and regulations, investigation of alleged or possible prohibited personnel practices; including administrative proceedings involving any individual subject of investigation, and such other functions, promulgated in 5 U.S.C. 1205 and 1206, or as may be authorized by law.

10. *Routine Use-Counterintelligence Purposes:* A record from a system of records maintained by this component may be disclosed as a routine use outside the U.S. Government for the purpose of counterintelligence activities authorized by U.S. Law or executive Order or for the purpose of enforcing laws which protect the national security of the United States.

NACIC–1

SYSTEM NAME:

National Counterintelligence Center System of Records (NACIC–1)

SECURITY CLASSIFICATION:

The classification of individual records in the system range from UNCLASSIFIED to TOP SECRET Codeword.

SYSTEM LOCATION:

National Counterintelligence Center, 3W01 NHB, Washington, DC 20505

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

1. Individuals who are of foreign intelligence or foreign counterintelligence interest and relate in any manner to foreign intelligence threats to U.S. national and economic security;

2. Applicants for, and current and former personnel of NACIC who are federal employees;

3. Individuals associated with NACIC administrative operations or services including independent contractors, industrial contractor employees, or individuals otherwise associated with such operations and services;

4. And, any other individuals authorized access to NACIC information and facilities.

CATEGORIES OF RECORDS IN THE SYSTEM:

1. *Counterintelligence Damage Assessments and Incident Files:* Maintained by the NACIC Threat Assessment Office (TAO); records include copies of the finished assessments of the damage to U.S. intelligence sources and methods resulting from significant and particular espionage cases as well as summaries of significant counterintelligence incidents including the circumstances and characteristics of the target, the circumstances of the event, and the particular threat presented;

2. *Compromised Names Database:* Maintained by the NACIC Threat Assessment Office (TAO); the database is utilized to notify U.S. intelligence community personnel whose names were potentially compromised as a result of espionage or other foreign intelligence collection activity; the database contains the names of persons potentially compromised, date of the memo sent to the person or their employer informing them, and documentary reference(s) to the compromised information;

3. *Computer and Physical Security Files:* Maintained by the NACIC Executive Secretariat Office (ESO); records include the names, passwords, accesses, and special accesses to both physical locations and computer systems, relevant audit trails for such accesses, and particular clearances and certifications of clearances;

4. *Publication, Training and Seminar Files:* Maintained by NACIC's Program Integration Office (PIO) Community Training Branch; records include letters of acceptance, enrollment forms, thank you letters, lists of attendees, lists of speakers, notes, case studies, syllabi, training packets, magazine or newspaper articles, and other records used either for course development purposes or to facilitate the presentation of seminars;

5. *Personnel Files:*

a. Specific types of personnel records are maintained by the NACIC Front Office (FO); these records are maintained in individual official personnel folders and include, inter alia, papers documenting personnel actions, performance appraisals, correspondence, travel documents, contracts, justifications, memorandums, and administrative material;

b. A second type of personnel records is maintained by the NACIC Executive Secretariat Office (ESO); these records are Memorandums of Agreement between the detailee's parent organization and NACIC;

c. The third type of personnel records is maintained by the NACIC Program Integration Office/Community Training Branch (PIO/CTB); these records include the training documents;

6. *Freedom of Information Act (FOIA)/Privacy Act (PA) Requests and Legal Files:* Files created in response to public requests for information and/or amendment of records under the FOIA/PA, consisting of the original request, a copy of the reply thereto, and all related supporting files which may include the official file copy of requested record or copy thereof; also, all similar records created in response to administrative appeals and litigations predicated on such initial requests;

7. *Special Search Files:* Files created in response to official United States or foreign government requests for information which may include requests from executive, congressional, judicial, or diplomatic sectors consisting of the original tasking or request, a copy of the reply thereto, and all related supporting files which may include the official file copy of the requested record or copy thereof.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 506(a) of the Federal Records Act of 1950, codified at 44 U.S.C. 3101, and Title 36, Code of Federal Regulations, Chapter XII, which require Federal agencies to insure that adequate and proper records are made and preserved to document the organization, functions, polices, decisions, procedures and transactions and to protect the legal and financial rights of the Federal Government.

PURPOSE(S):

NACIC was established by Presidential directive for the purpose of

coordinating national level counterintelligence activities of the United States. The purposes for the maintenance of these records include: Coordinating national strategic CI planning efforts, providing strategic guidance and assessing the effectiveness of CI operations, facilitating the development of and implementing training for the CI community, producing national-level foreign intelligence threat assessments, and coordinating assessments of damage to U.S. interests resulting from espionage cases.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

See Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Files are maintained in computerized form and hard copy form; computerized form may be stored in memory, on disk storage, on computer tape, and/or on a computer printed listing.

RETRIEVABILITY:

Names and related information are retrievable by automated or hand search based on extant indices and automated capabilities utilized in the normal course of business. Under applicable law and regulations, NACIC may not permit any organization, public or private, outside the NACIC to have direct access to NACIC files; accordingly, all searchers of NACIC databases and paper files will be performed on site, within NACIC space, by NACIC personnel.

SAFEGUARDS:

Records and databases are maintained in a restricted area within NACIC and are accessed only by NACIC personnel. All employees are checked to ensure that they hold currently valid security clearances, are cautioned about divulging classified or other privileged information contained in NACIC files, and are advised that failure to abide by these provisions may constitute a violation of federal criminal law and/or give rise to civil liability. Employees who resign or retire are also cautioned about divulging information acquired in their jobs. Registered mail is used to transmit routine hard copy records while highly classified records are hand carried by individuals holding appropriate security clearances. Highly classified or sensitive privacy information, which is electronically transmitted between NACIC and other offices, is transmitted in encrypted form to prevent interception.

RETENTION AND DISPOSAL:

Records evaluated as historical and permanent will be transferred to the National Archives after established retention periods and administrative needs of the NACIC have elapsed.

SYSTEM MANAGER(S) AND ADDRESS:

Information and privacy Coordinator, Executive Secretariat Office, National Counterintelligence Center, 3W01 NHB, Washington, DC 20505.

NOTIFICATION PROCEDURE:

See record access procedures, infra.

RECORD ACCESS PROCEDURES;

A request for access to a record from the system shall be made in writing with the envelope and the letter clearly marked ''Privacy Act Request.'' Your request should include your full name, complete address, date of birth, place of birth, notarized signature (or declaration under penalty of perjury), and other identifying data you may wish to furnish to assist in making a proper search of NACIC records. A request for access to records must describe the records sought in sufficient detail to enable NACIC personnel to locate the system of records containing the record with a reasonable amount of effort. Whenever possible, a request for access should describe the nature of the record sought, and the data of the record or the period in which the record was compiled. The requester must also provide a return address for transmitting the information. Requests for access must be addressed to the System Manager as noted above.

CONTESTING RECORD PROCREDURES:

Individuals desiring to contest or amend information maintained in the system should also direct their request to the System Manager as noted above. Such requests should delineate the information believed to be incorrect and should include the information requested to be substituted or added to the record.

RECORD SOURCE CATEGORIES:

Record source categories include subject individuals pursuant to notice, official records and information disseminated to NACIC by other federal government entities, and official records and information provided to NACIC by other entities including foreign, state and local governments as well as individuals and business entities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Notice is hereby given that NACIC intends to exempt from certain provisions of the Privacy Act the following information pursuant to the following specified authority:

(a) Records or portions of records in the physical possession of NACIC which were originated by other federal agencies or which contain information originated by such agencies shall be deemed to be in the joint legal custody of and mutually maintained by both agencies. Accordingly, NACIC shall apply any applicable exemptive provisions when so informed by those agencies;

(b) Records or portions of records in the physical custody of NACIC which would reveal intelligence sources and methods in contravention of the National Security Act of 1947 are, pursuant to the exemptions previously authorized by the Director of Central Intelligence under the authority of section (j)(1), exempt from disclosure of accounting (section (c)(3)), disclosure (section (d)), notification of collection authority (section (e)(3) (A–D)), and notification of existence of records (sections (e)(4)(G) and (f)(1)); in such instances where confirmation of the existence of a record may itself jeopardize intelligence sources and methods, the Coordinator must neither confirm nor deny the existence of the record and shall advise the requester that there is no record which is available pursuant to the Privacy Act;

(c) Records or portions of records in the physical custody of NACIC which are currently and properly classified pursuant to Executive Order 12958 (or predecessor or subsequent Order) are, under the authority of section (k)(1), exempt from disclosure of accounting (section (c)(3)), disclosure (section (d)), and notification of existence of records (sections (e)(4)(G) and (f)(1));

(d) Records or portions of records in the physical custody of NACIC which are investigatory in nature and compiled for law enforcement purposes, other than material within the scope of section (j)(2) of the Act, are, under the authority of section (k)(2), exempt from disclosure (section (d)); provided however, that if an individual is denied any right, privilege, or benefit to which he/she is otherwise eligible, as a result of the maintenance of such material, then such material shall be provided to that individual except to the extent that the disclosure would reveal the identity of a source who furnished the information to the United States

Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality;

(e) Records or portions of records in the physical custody of NACIC which are maintained in connection with providing protective services to the President of the United States or other individuals pursuant to 18 U.S.C. section 3056 are, under the authority of section (k)(3), exempt from disclosure (section (d));

(f) Records or portions of records in the physical custody of NACIC which are required by statute to be maintained and used solely as statistical records are, under the authority of section (k)(4), exempt from disclosure (section (d));

(g) Records or portions of records in the physical custody of NACIC which are investigatory in nature and compiled solely for the purpose of determining suitability, eligibility, or qualifications for federal civilian employment, military service, federal contracts, or access to classified information are, under the authority of section (k)(5), exempt from disclosure (section (d)); provided that and only to the extent that disclosure would reveal the identity of a source who furnished information to the United States Government under an express promise of confidentiality, or, prior to the effective date of this section, under an implied promise of confidentiality;

(h) And, records or portions of records in the physical custody of NACIC which are testing or examination material used solely to determine individual qualifications for appointment or promotion in the federal service are, under the authority of section (k)(6), exempt from disclosure (section (d)); provided that and only to the extent that disclosure would compromise the objectivity or fairness of the testing or examination process.

Michael Waguespack,

Director, National Counterintelligence Center.

[FR Doc. 97–25952 Filed 10–1–97; 8:45 am]

BILLING CODE 6310–02–M

NATIONAL SCIENCE FOUNDATION

Notice of Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation of 1978, Public Law 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy, Permit Office, Office of Polar Programs, Rm. 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

SUPPLEMENTARY INFORMATION: On August 29, 1997, the National Science Foundation published a notice in the **Federal Register** of permit applications received. Permits were issued on September 25, 1997 to the following applicants:

Art DeVries—Permit No. 98–007
Ian Whillans—Permit No. 98–008
Theodore Day—Permit No. 98–009
Bill J. Baker—Permit No. 98–011
Donald B. Siniff—Permit Nos. 98–012 and 98–013

Nadene G. Kennedy,

Permit Officer.

[FR Doc. 97–26063 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Notice of Permit Applications Received Under the Antarctic Conservation Act of 1978 (Pub. L. 95–541)

AGENCY: National Science Foundation.

ACTION: Notice of Permit Applications Received under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permit applications received to conduct activities regulated under the Antarctic Conservation Act of 1978. NSF has published regulations under the Antarctic Conservation Act of Title 45 Part 670 of the Code of Federal Regulations. This is the required notice of permit applications received.

DATES: Interested parties are invited to submit written data, comments, or views with respect to these permit applications by October 27, 1997. Permit applications may be inspected by interested parties at the Permit Office, address below.

ADDRESSES: Comments should be addressed to the Permit Office, Room 755, Office of Polar Programs, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

FOR FURTHER INFORMATION CONTACT: Nadene G. Kennedy at the above address or (703) 306–1033.

SUPPLEMENTARY INFORMATION: The National Science Foundation, as directed by the Antarctic Conservation Act of 1978 (Pub. L. 95–541), has developed regulations that implement the ''Agreed Measures for the Conservation of Antarctic Fauna and Flora'' for all United States citizens. The Agreed Measures, developed by the Antarctic Treaty Consultative Parties, recommended establishment of a permit system for various activities in Antarctica and designation of certain animals and certain geographic areas requiring special protection. The regulations establish such a permit system to designate Specially Protected Areas and Sites of Special Scientific Interest.

The application received is follows:

1. *Applicant:* Brenda Hall and George Denton, Institute of Quaternary Studies, University of Maine, Orono, Maine 04469–5790. Permit Application No. 98–014

Activity for Which Permit is Requested

Enter Site of Special Scientific Interest

The applicants are carrying out a large mapping project to determine the former extent of a grounded ice sheet in the Ross Sea during the last glacial maximum (LGM). Much of the work has been concentrated on the Dry Valley regions where lobes of the grounded Ross Sea Ice Sheet flowed inland into the mouths of the valleys. Barwick Valley (SSSI #3) was last mapped in the 1960's. According to that work, inland ice advanced down Barwick Valley simultaneously with ice advance into Lower Victoria Valley from the Ross Sea. The Lower Victoria Valley deposits indicate the presence of a lake, not an ice tongue. Based on descriptions of Barwick Valley deposits from previous mapping and observations during last season's reconnaissance, the applicants believe a lake may have also extended into this area. The applicants have identified lacustrine sediments in Barwick Valley. A radiocarbon date of a fossil algae sample yielded an age of about 12,500 ^{14}C yr. B.P. for a high lake, similar to the age of a high lake in Victoria Valley. The lacustrine deposits may reflect the presence of lake that was part of a much larger lake that filled Victoria Valley. The applicants plan to make detailed measurements of the elevation of the lacustrine deposits in Barwick Valley, as well as collect tiny samples of fossil algae and carbonates for radiocarbon dating.

Work in the Barwick Valley will primarily involve mapping. Samples will be collected from key high-elevation lacustrine deposits to obtain fossil algae and carbonates in order to construct a radiocarbon chronology for lake level variation. The samples will be collected from 10 cm × 10 cm areas and all surface material will be replaced.

The applicants plan to backpack into Barwick Valley by foot from the Victoria Valley and will camp there for a 2–3 day period.

Location: McMurdo Station, Ross Island, Antarctica.

Dates: October 20, 1976–February 15, 1998.

2. *Applicant:* Frederick W. Taylor, Sr., Institute for Geophysics, The University of Texas at Austin, 4412 Spicewood Springs Road, #600, Austin, TX 78759–8500. Permit Application: 98–015

Activity for Which Permit is Requested

Enter Specially Protected Area

The applicant requests to enter the Byers Peninsula, Specially Protected Area (SPA #3), in order to install a Global Positioning System (GPS) to obtain data by passive electronic recording. The Global Positioning System (GPS) will be used to measure horizontal tectonic motion of the Snow Island-Livingston Island—King George Island block relative to the Antarctic Peninsula and relative to sites in South America. The floor of the Bransfield Strait is spreading causing an increase in the distance between this block and the Antarctic Peninsula at an unknown rate. There are other active tectonic boundaries between the Shetland Islands and South America across which rates of motion are also not known. The rates of ongoing motion of the Snow Island to the King George block and the role it plays in the interactions of small tectonic plates lying between South America and Antarctica are essential to understanding regional tectonic relationships.

The applicant plans to camp at the site for a 3–4 day period over the next several years. All items will be removed from the site, except for a GPS marker, the six anchor bolts and the witness post. By returning to each site two or more times over the next several years, the applicant can remeasure distances between sites, determine how much the distances have changed, and calculate rates and directions of motion for small and large tectonic plates in the region.

Location: Byers Peninsula, Livingston Island, Antarctic Peninsula.

Dates: December 1, 1997–December 31, 2000.

Nadene G. Kennedy,

Permit Officer, Office of Polar Programs.

[FR Doc. 97–26064 Filed 10–01–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Biological Sciences (BIO); Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L., 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Biological Sciences (BIO) (1110).

Date and Time: October 20, 1997, 8:45 a.m.–5:00 p.m.; October 21, 1997; 8:45 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Room 1235.

Type of Meeting: Open.

Contact Person: Dr. Mary E. Clutter, Assistant Director, Biological Sciences, Room 605, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230, Tel No.: (703) 306–1400.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: The Advisory Committee for BIO provides advice, recommendations, and oversight concerning major program emphases, directions, and goals for the research-related activities of the divisions that make up BIO.

Agenda: Long-Term Planning.

Dated: September 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26144 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes; 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 Biomolecular Process—(5138) (Panel B).

Date and Time: Wednesday, Thursday, and Friday, October 22–24, 1997 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 310, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Susan Porter Ridley, Assistant Program Manager for Biochemistry of Gene Expression, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306–1441).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Biochemistry of Gene Expression Program 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 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR. Doc. 97–26136 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Structure and Function; 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 Biomolecular Structure and Function—(1134) (Panel B).

Date and Time: Monday, Tuesday, and Wednesday, October 20, 21, and 22, 1997 8:30 a.m. to 6:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 360, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Drs. Kamal Shukla & Dagmar Ringe, Program Directors for Molecular Biophysics, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306–1444).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Molecular Biophysics Program 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 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26134 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology; 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 Cell Biology (1136)—(Panel A).

Date and Time: October 22–24, 1997, 8:30 a.m. to 6:00 p.m.

Place: Room 380, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Dr. Barbara Zain and Dr. Richard D. Rodewald, Program Directors, for the Cell Biology Program, National Science Foundation, Room 655 South, Arlington, VA 22230. Telephone: 703/306–1442.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Signal Transduction & Regulation Program 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 29, 1997.

Rebecca M. Winkler,

Committee Management Officer.

[FR Doc. 97–26135 Filed 10–1–97 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Developmental Mechanisms; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation (NSF) announces the following meeting.

Name: Advisory Panel for Developmental Mechanisms (#1141).

Date: October 22–24, 1997.

Place: NSF, Room 390, 4201 Wilson Blvd., Arlington, Va.

Type of Meeting: Part-Open.

Contact Persons: Dr. Judith Plesset and Dr. James Mahaffey, Program Directors, Developmental Mechanisms, Division of Integrative Biology and Neuroscience, Room 685, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1417.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 23, 1997; 2:00 p.m. to 2:30 p.m.—to discuss goals and assessment procedures.

Closed Session: October 22, 9:00 a.m.–5:00 p.m.; October 23, 8:30 a.m. to 2:00 p.m. and 2:30 p.m. to 5:00 p.m., and October 24, 8:30 a.m. to 12:00 noon. The panel will be reviewing and evaluating Developmental Mechanism 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 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26140 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Human Resource Development; 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 Human Resource Development (#1199).

Date and Time: October 21 and 22, 1997, 8:30 am–5:00 pm.

Place: National Science Foundation, 4201 Wilson Blvd., Arlington, VA., Room 370.

Type of Meeting: Closed.

Contact Person: Lawrene Scadden & Mary Kohlerman, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: (703) 306–1636.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Programs for Persons with Disabilities 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 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26138 Filed 10–1–97; 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: November 20 & 21, 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. Christopher Platt, Program Director, Dr. Daniel Hartline, Program Director; Division of Integrative Biology and Neuroscience; room 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1423.

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: November 21, 1997; 3:00 p.m. to 4:00 p.m., To discuss research trends and opportunities in Neuronal and Glial Mechanisms.

Closed Session: November 20, 1997; 9:00 a.m. to 6:00 p.m.; November 21, 1997, 9:00 a.m. to 3:00 p.m.; 4:00 p.m. to 6:00 p.m. To review and evaluate Neuronal and Glial Mechanisms 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 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26141 Filed 10–1–97; 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 23 & 24, 1997; 9:00 a.m. to 6:00 p.m.

Place: Hotel Monteleone, 214 Royal Street, New Orleans, LA.

Type of Meeting: Part-Open.

Contact Persons: Dr. Kathie Olsen, Program Director, Neuroendocrinology; Division of Integrative Biology and Neuroscience; room 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230; Telephone: (703) 306–1423.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: October 24, 1997; 11:00 a.m. to 12:00 p.m., To discuss research trends and opportunities in

Neuroendocrinology. Closed Session: October 23, 1997; 9:00 a.m. to 6:00 p.m.; October 24, 1997; 9:00 a.m. to 11:00 a.m.; 12:00 p.m. to 6:00 p.m. To review and evaluate Neuroendocrinology 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 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26139 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Physiology and Ethology; 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 Physiology and Ethology (#1160).

Date and Time: October 20, 21 and 22, 1997.

Place: Room 330, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia.

Type of Meeting: Part-Open.

Contact Person: Dr. Machi F. Dilworth, Program Director, Integrative Plant Biology, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, 22230. Telephone: (703) 306–1422.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: Open Session: October 22, 11:00 am to 12:00 pm. Discussion with Dr. Mary E. Clutter, Assistant Director for Biological Sciences on research trends and opportunities in Integrative Plant Biology.

Closed Session: October 20–21, 8:30 am to 5:00 pm and October 22, 8:30 am to 11:00 am and 12 noon to 5:00 pm. To review and evaluate Integrative Plant Biology proposals as part of the selection process of 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 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26142 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Social, Behavioral and Economic 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: Special Emphasis Panel in Social, Behavioral, and Economic Sciences (1766).

Date and Time: October 20, 1997; 9:00 a.m. to 5:00 p.m.

Place: Room 390, 4201 Wilson Blvd., Arlington, Va.

Type of Meeting: Open.

Contact Person: Ann Lanier, Senior Analyst, Division of Sciences Resources Studies; Research and Development Statistics Program; 4201 Wilson Blvd., Suite 965; Arlington, VA 22230; Telephone: (703) 306–1772, ext. 6937; Fax: (703) 306–0508; Internet: alanier@nsf.gov.

Minutes: May be obtained from the contact person at the above address.

Purpose of Meeting: To review and comment on issues affecting the Survey of Scientific and Engineering Research Facilities at Colleges and Universities.

Agenda: The morning will be used by the advisory panel to comment on broad data-related policy issues affecting the survey. The afternoon will be used to discuss specific data issues relevant to data users and policy people.

Dated: September 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26143 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Social, Behavioral, and Economic Sciences; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Social Behavioral, and Economic Sciences, Committee of Visitors (1171).

Date and Time: October 23–24, 1997, 9:00 a.m.–5:00 p.m.

Place: Rm. 970 & 920, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Drs. Frank P. Scioli, Jr., and Rick Wilson, Program Directors for Political Science, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1761.

Purpose of Meeting: To carry out Committee of Visitors (COV) review, including examination of decisions on proposals, reviewer comments, and other privileged materials.

Agenda: To provide oversight review of the Political Science Program.

Reason for Closing: The meeting is closed to the public because the Committee is reviewing proposal actions that will include privileged intellectual property and personal information that could harm individuals if they are disclosed. If discussions were open to the public, these matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act would be improperly disclosed.

Dated: September 29, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26137 Filed 10–1–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–325 and 50–324]

Carolina Power & Light Company; Brunswick Steam Electric Plant, Units 1 and 2; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission or NRC) is considering issuance of an exemption from the requirements of 10 CFR part 50, Appendix G, to Carolina Power & Light Company (CP&L or licensee) for the Brunswick Steam Electric Plant, Units 1 and 2 (BSEP1&2), located in Brunswick County, North Carolina.

Environmental Assessment

Identification of the Proposed Action

In accordance with 10 CFR 50.60, ''Acceptance criteria for fracture prevention measures for lightwater nuclear power reactors for normal operation,'' BSEP1&2 must meet the fracture toughness requirements for the reactor coolant pressure boundary set forth in Appendix G to 10 CFR part 50. Proposed alternatives to those requirements may be used when an exemption is granted by the Commission.

10 CFR part 50, Appendix G, ''Fracture Toughness Requirements,'' specifies fracture toughness requirements for ferritic materials of pressure-retaining components of the reactor coolant pressure boundary to provide adequate margins of safety during any condition of normal operation, including anticipated operational occurrences and system hydrostatic tests, to which the pressure boundary may be subjected over its service lifetime. Pressure-temperature (P–T) limits and minimum temperature requirements for reactor pressure

vessels (RPVs) are set forth in 10 CFR 50, Appendix G, which incorporates, by reference, P-T limits specified in Appendix G of the American Society of Mechanical Engineers (ASME) Boiler and Pressure Vessel Code, Section XI. 10 CFR 50, Appendix G, Section IV.A.2.b, requires that the P–T limits identified in 10 CFR 50, Appendix G, as ''ASME Appendix G limits'' must be at least as conservative as limits obtained by following the methods of analysis and the margins of safety of the ASME Code, Section XI, Appendix G. 10 CFR 50, Appendix G, Section I, states that ''If no edition or addenda are specified, the ASME Code edition and addenda and any limitations and modifications thereof, which are specified in 10 CFR 50.55a, are applicable.'' With respect to P–T limits, 10 CFR 50, Appendix G, does not specify the edition or addenda of the ASME Code; therefore, the editions and addenda of the ASME Code, Section XI, referred to in 10 CFR 50, Appendix G, are those specified in 10 CFR 50.55a, which include addenda through the 1988 Addenda and editions through the 1989 Edition.

The proposed exemption would allow CP&L to use the 1992 Edition of the ASME Code, Section XI, Appendix A, as an alternative to the 1989 Edition of the ASME Code, Section XI, Appendix G, for determination of BSEP1&2 RPV P–T requirements. The licensee provided information in its application for exemption that demonstrates the equivalency of the proposed alternative method for determining RPV P–T limits to that specified in the 1989 Edition of the ASME Code, Section XI, Appendix G.

The licensee's exemption request and the bases therefore are contained in a CP&L letter dated August 15, 1997. The exemption request is associated with a CP&L application for license amendments for BSEP1&2 dated January 7, 1997, as supplemented on July 25, 1997, and September 15, 1997. That application, which was noticed in the **Federal Register** on March 12, 1997 (62 FR 11485), will—

(1) Correct an error involving a transposition of P–T curves between BSEP1&2.

(2) Replace the current BSEP1&2 RPV hydrostatic test P–T curves for 8, 10, and 12 effective full power years (EFPY) with new 14 and 16 EFPY curves.

The Need for the Proposed Action

CP&L has proposed an alternative to the requirements of 10 CFR 50, Appendix G. In accordance with 10 CFR 50.60(b), an exemption must be granted by the Commission before the proposed alternative may be used by the licensee. The alternative, and thus the exemption, is needed because CP&L identified typographical errors in equations contained in both the 1989 and 1992 Editions of the ASME Code, Section XI, Appendix G. The alternative of using the 1992 Edition of the ASME Code, Section XI, Appendix A in the determination of P–T limits avoids the problem presented by the typographical errors and achieves a level of safety commensurate to that provided by use of the 1989 Edition of the ASME Code, Section XI, Appendix G. Furthermore, the alternative provides a more efficient means for the licensee to determine the P–T limits for the BSEP1&2 RPVs.

Environmental Impacts of the Proposed Action

The Commission has completed its evaluation of the proposed exemption. The exemption would authorize use of an alternative means for determining RPV P–T limits that is equivalent to that provided by 10 CFR 50, Appendix G and provides a commensurate level of safety.

The proposed action will not increase the probability or consequences of accidents, no changes are being made in the types of any effluents that may be released offsite, and there is no significant increase in the allowable individual or cumulative occupational radiation exposure. Accordingly, 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.

Accordingly, the Commission concludes that there is no significant environmental impact associated with this action.

Alternatives to the Proposed Action

Since the Commission has concluded there is no significant environmental impact associated with the proposed action, any alternatives with equal or greater environmental impact need not be evaluated. 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 for the BSEP dated January 1974.

Agencies and Persons Consulted

In accordance with its stated policy, on September 24, 1997, the staff consulted with the North Carolina State official, Mr. J. James, of the North Carolina Department of Environment, Commerce and Natural Resources, Division of Radiation Protection, regarding the environmental impact of the proposed action. The State official had no comments.

Finding of No Significant Impact

Based upon this 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 the licensee's letter dated August 15, 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 University of North Carolina at Wilmington, William Madison Randall Library, 601 College Road, Wilmington, North Carolina 28403–3297.

Dated at Rockville, Maryland, this 30th day of September, 1997.

For the Nuclear Regulatory Commission.

James E. Lyons,

Director, Project Directorate II–1, Division of Reactor Projects—I/II, Office of Nuclear Reactor Regulation.

[FR Doc. 97–26272 Filed 10–1–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Review of Dose Modeling Methods for Demonstration of Compliance With the Radiological Criteria for License Termination: Public Workshop

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of workshop.

SUMMARY: The NRC will hold a public workshop in Rockville, Maryland, to provide the NRC staff and the public

with an overview of dose modeling methods that may be useful in demonstrating compliance with dose-based radiological criteria for license termination. The objectives of the workshop are to provide information on Federally-sponsored dose models appropriate for decommissioning assessments, and to discuss selection criteria for evaluating and accepting dose models used to demonstrate compliance with the final rule on ''Radiological Criteria for License Termination'' (62 FR 39058). This information may be useful in developing regulatory guidance for decommissioning. All interested licensees and members of the public are invited to attend this workshop.

DATES: The workshop will be held on November 13–14, 1997, from 1 p.m. on Thursday, November 13 thru 5:00 p.m., and on November 14 from 9:00 a.m. until about 5 p.m.

Interested parties who are unable to attend the workshop are encouraged to provide written comments on the topic of dose model selection criteria by November 10, 1997.

ADDRESSES: The public workshop will be held in the NRC auditorium at Two White Flint North, 11545 Rockville Pike, Rockville, Maryland.

Information on the workshop program can be viewed, and comments may be posted, electronically, on the NRC Technical Conference Forum Website under the topic ''Final Rule for License Termination'' at http://techconf.llnl.gov/cgi-bin/topics. Comments submitted electronically can also be viewed at that website. The information is also available at the NRC's Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20555; telephone 202–634–3273; fax 202–634–3343.

Comments may also be mailed to the Chief, Rules and Directives Branch, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

FOR FURTHER INFORMATION: For information or questions on meeting arrangements, contact Jayne McCausland, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–6219, fax 301–415–5385, E-mail: JMM2@NRC.GOV. For technical information or questions, contact Chris Daily, Office of Nuclear Regulatory Research, U.S. Nuclear Regulatory Commission, Washington, DC 20555, telephone 301–415–6026; fax: 301–415–5385; E-mail: CXD@NRC.GOV.

SUPPLEMENTARY INFORMATION: This workshop is one of a series of interactions with the Agreement States, licensees, and the public to gather suggestions and ideas for developing a regulatory guide on ''Demonstrating Compliance With the Radiological Criteria for License Termination.'' The NRC staff are considering a range of dose models that may be appropriate for use in site-specific dose assessments for specific pathways. The workshop will begin with a brief introduction by the NRC staff on the need to use dose models for evaluating compliance with decommissioning guidelines, and the need to develop guidance for evaluating and selecting dose models. The workshop will include formal presentations by invited speakers from the DOE national laboratories, and other Federal Agencies that will address a set of questions developed by the NRC staff focusing on the capability, experience, and appropriateness of each dose model presented. The workshop will conclude with a panel discussion on questions to be considered in selecting dose models related to demonstrating compliance with the radiological criteria for license termination. A summary of the workshop proceedings in the form of a NUREG/CP is planned to be available in the Spring of 1998.

Visitor parking around the NRC building is limited; however, the workshop site is located adjacent to the White Flint Station on the Metro Red Line. Seating for the public will be on a first-come, first-served basis.

A transcript of this workshop will be available for inspection, and copying for a fee at the NRC Public Document Room, 2120 L Street, NW (Lower Level), Washington, DC 20555, on or about December 1, 1997. A copy of the NUREG/CP will also be available in the NRC's Public Document Room later in the Spring of 1998.

Dated at Rockville, Maryland this 25th day of September, 1997.

For the Nuclear Regulatory Commission.

Cheryl A. Trottier,

Chief, Radiation Protection and Health Effects Branch, Division of Regulatory Applications, Office of Nuclear Regulatory Research.

[FR Doc. 97–26159 Filed 10–1–97; 8:45 am]

BILLING CODE 7590–01–P

SECURITIES AND EXCHANGE COMMISSION

Sunshine Act Meeting

Notice is hereby given, pursuant to the provisions of the Government in the Sunshine Act, Pub. L. 94–409, that the Securities and Exchange Commission will hold the following meeting during the week of October 6, 1997.

A closed meeting will be held on Tuesday, October 7, 1997, at 2:30 p.m.

Commissioners, Counsel to the Commissioners, the Secretary to the Commission, and recording secretaries will attend the closed meeting. Certain staff members who have an interest in the matters may also be present.

The General Counsel of the Commission, or his designee, has certified that, in his opinion, one or more of the exemptions set forth in 5 U.S.C. 552b(c) (4), (8), (9)(A) and (10) and 17 CFR 200.402(a) (4), (8), (9)(i) and (10), permit consideration of the scheduled matters at the closed meeting.

Commissioner Johnson, as duty officer, voted to consider the items listed for the closed meeting in a closed session.

The subject matter of the closed meeting scheduled for Tuesday, October 7, 1997, at 2:30 p.m., will be:

Institution and settlement of injunctive actions.

Institution and settlement of administrative proceedings of an enforcement nature.

At times, changes in Commission priorities require alternations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: the Office of the Secretary at (202) 942–7070.

Dated: September 30, 1997.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–26358 Filed 9–30–97; 4:00 pm]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39137; File No. SR–OPRA–97–4]

Options Price Reporting Authority; Notice of Filing of Amendment to OPRA Plan Revising OPRA's Dial-Up Market Data Service Rider to its Vendor Agreement to Accommodate the Vendor's Provision of Dial-Up Service to Customers of OPRA Subscribers

September 26, 1997.

Pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 (''Exchange Act''), notice is hereby given that on September 11, 1997, the Options Price Reporting Authority (''OPRA'') [1]

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3–2 thereunder. *See* Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''Plan''). The amendment revises the Dial-Up Market Data Service Rider (''Rider'') to OPRA's vendor agreement to accommodate a third party vendor's provision of dial-up service to customers of an OPRA subscriber. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to add provisions to OPRA's Dial-Up Market Service Data Service Rider to the vendor agreement to accommodate the situation in which an OPRA vendor provides a dial-up service to the customers of an OPRA subscriber, rather than to its own customers. According to OPRA, several vendors and broker-dealer subscribers have recently expressed interest in such an arrangement. As this arrangement is not currently contemplated under the Rider, the proposal would amend the Rider to address the one significant difference between the traditional situation of a firm providing a dial-up service to its own customers and the recent proposals for firms to arrange for third-party vendors to provide a dial-up service for the firm's customers. In the former case, there is a direct contractual relationship between the vendor, a party to the Rider, and the vendor's customers. In the latter case, however, the vendor's subscriber, rather than the vendor, has a contractual relationship with the customer.

In its current form, the Rider imposes certain obligations on vendors who provide a dial-up service. These obligations require that contracts between vendors and their customers contain specific provisions, for the benefit of OPRA, relating to proprietary rights to OPRA data, non-retransmission of data, the absence of any guarantee of the data and a disclaimer of liability. The proposed amendment to the Rider would mandate that vendors require comparable provisions to be included in contracts between subscribers and their customers who receive a dial-up service from a third-party vendor. In a situation where the vendor, and not the subscriber, actually provides the dial-up service to the subscriber's customers, only the vendor will be a party to a Rider. Accordingly, the proposed amendment would make it a condition to a vendor's providing a dial-up service to the customers of a subscriber that the subscriber must agree, in writing, with the vendor to include the requisite provisions in its written agreements with its customers.[2]

Other than as described above, OPRA proposes no change in the way in which dial-up services may be offered to investors. OPRA represents that no new or additional OPRA fees will result from this proposed amendment and the amendment will not make any new parties subject to OPRA's existing fees.

II. Implementation of the Plan Amendment

The proposed amendment will be reflected in a revised form of Rider that will be phased in to take the place of the existing Rider, subject to Commission approval.

III. 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, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, and 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 withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All Submissions should refer to file number SR–OPRA–97–4 and should be submitted by October 23, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary,

[FR Doc. 97–26146 Filed 10–1–97; 8:45 am]

BILLING CODE 8010–01–M

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange (''AMEX''); the Chicago Board Options Exchange (''CBOE'') the New York Stock Exchange (''NYSE''); the Pacific Exchange (''PCX''); and the Philadelphia Stock Exchange (''Phlx'').

[2] The proposal would require vendors to obtain a written agreement from each OPRA subscriber whose customers will be provided the dial-up service from the vendor that the subscriber will: (1) Obtain from each of its customers to whom the vendor furnishes the service an agreement that the customer will: (a) To receive OPRA data only for such person's use, (b) to not retransmit the data to anyone else, and (c) to acknowledge that OPRA data is the property of the respective exchange or market in which a reported transaction occurred or a reported quotation was entered; (2) provide to the vendor a current list of customers entitled to receive the service from the vendor and to certify that each named customer has entered into the required agreement; (3) maintain the same customer records required to be maintained by the vendor with respect to customers; and (4) acknowledge the absence of any guarantee and the disclaimer of liability on the part of OPRA, OPRA's processor and each participating exchange.

[3] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39131; File No. SR–OPRA–97–3]

Options Price Reporting Authority; Notice of Filing and Immediate Effectiveness of Amendment to OPRA Plan Revising Professional Subscriber Fees and Eliminating the Requirement That Enterprise Rate-Based Fees Must Be Paid by Electronic Funds Transfer

September 25, 1997.

Pursuant to Rule 11Aa3–2 under the Securities and Exchange Act of 1934 (''Exchange Act''), notice is hereby given that on September 9, 1997, the Options Price Reporting Authority (''OPRA'')[1] submitted to the Securities and Exchange Commission (''SEC'' or ''Commission'') an amendment to the Plan for Reporting of Consolidated Options Last Sale Reports and Quotation Information (''Plan''). The amendment revises the device-based fees paid by professional subscribers for OPRA's Basic Service, effective January 1, 1998. In addition, the amendment eliminates a requirement that persons electing to pay the enterprise rate-based subscriber fee must arrange for payment by electronic funds transfer. OPRA has designated this proposal as establishing or changing a fee or other charge collected on behalf of all of the OPRA participants in connection with access to or use of OPRA facilities, permitting the proposal to become effective upon

[1] OPRA is a National Market System Plan approved by the Commission pursuant to Section 11A of the Exchange Act and Rule 11Aa3–2 thereunder. *See* Securities Exchange Act Release No. 17638 (Mar. 18, 1981).

The Plan provides for the collection and dissemination of last sale and quotation information on options that are traded on the member exchanges. The five exchanges which agreed to the OPRA Plan are the American Stock Exchange (''AMEX''); the Chicago Board Options Exchange (''CBOE''); the new York Stock Exchange (''NYSE''); the Pacific Exchange (''PCX''); and the Philadelphia Stock Exchange (''Phlx'').

filing pursuant to Rule 11Aa3–2(3)(i) under the Exchange Act. The Commission is publishing this notice to solicit comments from interested persons on the amendment.

I. Description and Purpose of the Amendment

The purpose of the amendment is to revise the fees payable to OPRA by professional subscribers for access to OPRA's Basic Service, which consists of market data and related information pertaining to equity and index options (''OPRA Data'').[2] Professional subscribers are those persons who subscribe to OPRA Data and do not qualify for the reduced fees charged to nonprofessional subscribers. The Basic Service professional subscriber fee was last amended in April 1997,[3] which, in turn, followed an earlier Plan amendment that initially proposed a program of fee revisions to be implemented in stages over a four-year period.[4] Subsequently, OPRA amended that filing to propose only the first stage of the fee revision program, with the understanding that the implementation of the remaining stages would be the subject of separate filings.[5] This amendment proposes the third stage of the fee revision program. Like the first two stages, this amendment is intended to increase OPRA revenues derived from device-based subscriber fees by less than 5% in order to permit a greater share of the costs of collecting, consolidating, processing and transmitting options market information to be covered by professional subscriber fees. This amendment also continues the process of simplifying the structure of the professional subscriber fee by reducing the number of member rate pricing tiers from four to three for purposes of the volume discount in the per-device fee.

Similar to the past two years' fee revisions, the proposed changes in the level of OPRA's device-based professional subscriber fee will reduce or leave the fees paid by the smallest subscribers and increase the fees paid by larger subscribers.[6] Subscriber fees charged to members will continue to be discounted by 2% for members who preauthorize payment by electronic funds transfer through an automated clearinghouse system. OPRA estimates that the overall effect of these fee revisions will be to increase revenues derived from device-based professional subscriber fees by slightly less than 5%.

OPRA proposes the fee revisions as a result of the continued implementation of systems and equipment upgrades and additions to increase the capacity and enhance the reliability and security of the OPRA system. The costs of collection, processing, consolidating and disseminating options last sale and bid/ask information have continued to increase, and further increases are anticipated. The modest increases in device-based fees provided for in the proposed amendment are intended to permit some increase in device-based revenues to cover these greater expenses.

OPRA also proposes to amend Section 2 of the Enterprise Rate Amendment to its Professional Subscriber Agreement to eliminate the requirement that the enterprise rate-based fee must be paid by electronic funds transfer. Although this requirement was originally included to simplify the billing and collection of OPRA's enterprise rate subscriber fee and thereby lower OPRA's costs of administration, OPRA's experience over the past year has suggested that a number of firms are not yet organized in a manner that facilitates electronic funds transfers. Accordingly, OPRA believes that this requirement prevented certain firms from taking advantage of the enterprise rate agreement when they might otherwise have elected to do so. To eliminate this impediment to a broader acceptance of the enterprise rate arrangement, OPRA has decided to eliminate the electronic fund transfer requirement. Instead, to encourage timely payment of the enterprise rate fees, OPRA proposes to impose interest charges on amounts not paid by the end of the month following the month in which the fees are invoiced. Interest charges will be calculated as the lesser of the prime rate plus three percent or the maximum lawful rate of interest.

Although this amendment was filed for immediate effectiveness pursuant to Rule 11Aa3–2(c)(3)(i), the revised subscriber fees will be put into effect as of January 1, 1998 to provide subscribers advance notice of the changed fees. The elimination of the electronic funds transfer requirement for payment of the enterprise rate subscriber fee will be effective immediately.

II. Solicitation of Comments

Pursuant to Rule 11Aa3–2(c)(3), the amendment is effective upon filing with the Commission. The Commission may summarily abrogate the amendment within 60 days of its filing and require refiling and approval of the amendment by Commission order pursuant to Rule 11Aa3–2(c)(2), if it appears to the Commission that such action is necessary or appropriate in the public interest; for the protection of investors and the maintenance of fair and orderly markets; to remove impediments to, and perfect the mechanisms of, a National Market System; or otherwise in furtherance of the purposes of the Exchange Act.

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, and 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 withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing also will be available at the principal offices of OPRA. All submissions should refer to file number SR–OPRA–97–3 and should be submitted by October 21, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26148 Filed 10–1–97; 8:45 am]

BILLING CODE 8010–01–P

[2] Information pertaining to foreign currency options (FCOs) is provided through OPRA's FCO Service, which fees are not affected by this filing.

[3] *See* Securities Exchange Act Release No. 38467 (April 2, 1997), 62 FR 17652 (April 10, 1997).

[4] *See* Securities Exchange Act Release No. 36364 (October 12, 1995), 60 FR 54093 (October 19, 1995).

[5] *See* Securities Exchange Act Release No. 36817 (February 7, 1996), 61 FR 5827 (February 14, 1996).

[6] The proposed tiers are as follows: (1) for 1–9 devices, members pay $15.00 per device and non-members pay $24.00 per device; (2) for 10–29 devices, members pay $15.00 per device and non-members pay $20.00 per device; (3) for 30–99 devices, members pay $12.00 per device and non-members pay $20 per device; (4) for 100–749 devices, members pay $12.00 per device and non-members pay $14.50 per device; and (5) for 750+ devices, members pay $9.40 per device and non-members pay $14.50 per device.

[7] 17 CFR 200.30–3(a)(29).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39111; File No. SR–PCX–97–33]

Self-Regulatory Organizations; Notice of Filing and Order Granting Accelerated Approval of Proposed Rule Change by the Pacific Exchange, Inc., Relating to Permanent Approval of its Lead Market Maker System

September 22, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on August 5, 1997, the Pacific Exchange, Inc. (''PCX'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is proposing to adopt its Lead Market Maker (''LMM'') Pilot Program on a permanent basis. The text of the proposed rule change is available at the Office of the Secretary, PCX 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

On January 17, 1990, the Commission approved, on a pilot basis, an Exchange proposal to establish a Lead Market Maker system. The Commission initially approved the LMM pilot program to continue for eighteen months to July 31, 1991.[3] Thereafter, the Commission granted a number of extensions to the program.[4] The program is currently set to expire on September 30, 1997. In order to make the LMM program permanent, PCX proposes to amend commentary .01 of Exchange rule 6.82, deleting the expiration date for the Lead Market Maker system.

The program was originally created in order to enhance the ability of the Exchange to compete in a multiple trading environment. It was designed primarily for new option issues and option issues with comparatively low volume. Under the existing pilot program, Members appointed as LMMs assume responsibilities and acquire rights in their appointed options classes beyond the obligations and rights of Market Makers who trade in the same options issue. In addition to the regular obligations of a Market Maker, an LMM must assume additional obligations designed to strengthen the market making in his or her designated options issue. Pursuant to Rule 6.82, the LMM is responsible for, among other things: ensuring the accurate dissemination of market quotations; determining the algorithm for the PCX's Auto-Quote System is designated option classes; assuring that each market quotation is honored consistent with certain minimum obligations; participating in the automatic execution system; being present at the designated trading post throughout each trading day; and actively promoting the Exchange as a marketplace. LMMs also receive a guaranteed 50% participation in transactions occurring on their disseminated bids and offers in their appointed issues.

The LMM pilot program is governed by PCX Rules 6.82 and 8.83.[5] On October 3, 1996, the Commission approved an Exchange proposal to modify Rule 6.82 by adding several new substantive provisions and by restructuring the rule and clarifying some of its existing provisions.[6] The Exchange notes that is has not experienced any problems or received any formal complaints due to the rule changes that were approved.

The Exchange notes that as of July 28, 1997, 309 or (55.3%) of the 559 standard equity options traded on the Options Floor, and all 3 of the indexes on which options are traded at the PCX, have been assigned to LLMs. As of June 30, 1997, those 312 issues accounted for 31.15% of the total options volume traded on the floor.

The Exchange believes, based on the pilot's performance, that the LMM system is viable and effective and that permanent approval of the LMM program is warranted based on the importance of maintaining the quality, efficiency and competitiveness of the Exchange's markets.

Basis

The Exchange believes that the proposal is consistent with Section 6(b) of the Act,[7] in general, and Section 6(b)(5),[8] in particular, in that it is designed to facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposed rule change were neither solicited nor received.

III. Commission's Findings and Order Granting Accelerated Approval of Proposed Rule Change

The Commission has closely reviewed the Lead Market Maker System and has concluded that it is appropriate to approve the system on a permanent basis. The Commission finds that the proposed rule change is consistent with the requirements of Section 6(b)(5) of the Act[9] in that it is designed to

[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 27631 (January 17, 1990), 55 FR 2462 (January 24, 1990) (approving SR–PSE–89–27 and Amendment No. 1 thereto) (''Pilot Approval Order'').

[4] *See* Exchange Act Release Nos. 31063 (August 21, 1992), 57 FR 39255 (August 28, 1992); 31635 (December 22, 1992), 57 FR 62414 (December 30, 1992); 33854 (April 1, 1994), 59 FR 16873 (April 8, 1994); 34710 (September 23, 1994), 59 FR 50306 (October 3, 1994); 36293 (September 28, 1995), 60 FR 52243 (October 5, 1995); and 37767 (September 30, 1996), 61 FR 52483 (October 7, 1996). *See also* File No. SR–PSE–93–16 (requesting permanent approval of the pilot program) and Amend. Nos. 1–3 thereto (requesting pilot program extensions while the request for permanent approval was pending). On April 20, 1994, the Exchange withdrew File No. SR–PSE–93–16 pursuant to Commission's request. *See* Letter from David P. Semak, Vice President, Regulation, PSE, to Sharon M. Lawson, Assistant Director, Division of Market Regulation, Commission, dated April 20, 1994.

[5] *Cf.* Rules 8.80 and 8.81 of the Chicago Board Options Exchange.

[6] *See* Exchange Act Release No. 37780 (October 3, 1996), 61 FR 53247 (October 10, 1996) (Order approving File No. SR–PSE–96–03).

[7] 15 U.S.C. § 78f(b).

[8] 15 U.S.C. § 78f(b)(5).

[9] 15 U.S.C. § 78f(b)(5).

facilitate transactions in securities, to promote just and equitable principles of trade, and to protect investors and the public interest. In addition, the Commission finds that the proposed rule change is consistent with Section 11A(a)(1)(C)(i) of the Act[10] in that the LMM pilot program contributes to the Exchange's maintenance of a fair and orderly market and assures economic and efficient execution of securities transactions. The Commission notes that since 1990, when PCX began operating the LMM pilot program, PCX has made a number of refinements to the program over this period and has submitted numerous reports to the SEC covering the operation of the program. During this period, the use of the LMM program has grown significantly, yet there have been only several minor complaints and rule infractions reported.[11]

The Commission finds good cause for approving the proposed rule change prior to the thirtieth after the date of publication of notice of filing thereof in the **Federal Register** in order to permit the uninterrupted continuation of the LMM program. As set forth in its most recent report to the Commission, the PCX has represented that it has not received significant complaints regarding the operation of the pilot program nor have problems arisen in connection with operation of the pilot program. Moreover, the current pilot program was subject to a full comment period last year[12] and no comments were received. Accordingly, the Commission believes it is consistent with Sections 6(b)(5) and 19(b)(2) of the Act[13] to approve the proposed rule change on an accelerated basis.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the Submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying 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 the PCX. All submissions should refer to File No. SR–PCX–97–33 and should be submitted by October 23, 1997.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[14] that the proposed rule change (SR–PCX–97–33) is hereby approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[15]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26147 Filed 10–1–97; 8:45 am]

BILLING CODE 8010–01–M

[10] 15 U.S.C. § 78k–1(a)(1)(C)(i).

[11] Reports were required to be submitted by the Exchange prior to each extension of the pilot program. In addition, the Exchange submitted a report prior to its request for permanent approval of the Lead Market Maker program. The Commission hereby incorporates by reference the findings and conclusions contained in the original approval order and subsequent extension orders for the Lead Market Maker program. Securities Exchange Act Release Nos. 27631 (January 17, 1990), 55 FR 2462; 29475 (July 23, 1991), 56 FR 36183; 31063 (August 21, 1992), 57 FR 39255; 92–36 (December 22, 1992), 57 FR 62414; 33854 (April 1, 1994), 59 FR 16873; 34710 (September 23, 1994), 59 FR 50306; 36293 (September 28, 1995), 60 FR 52242; 37767 (September 30, 1996), 61 FR 52483.

[12] Securities Exchange Act Release No. 37767 (September 30, 1996), 61 FR 52483.

[13] 15 U.S.C. § 78f(b)(5), 15 U.S.C. § 78s(b)(2).

[14] 15 U.S.C. § 78s(b)(2).

[15] 17 CFR 200.30–3(a)(12).

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 3501 *et seq.*), this notice announces that the Information Collection Request (ICR) abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICR describes the nature of the information collection and its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on July 18, 1997 [62 FR, 38605–38606].

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

FOR FURTHER INFORMATION CONTACT: Mr. Richard Weaver, Information Collection Clearance Officer, Maritime Administration, MAR–318, Room 7301, 400 Seventh Street, SW., Washington, DC 20590. Telephone 202–366–5755 or fax 202–366–3889. Copies of this collection can also be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Request for Transfer of Ownership, Registry, and Flag, or Charter, Lease, or Mortgage of U.S. Citizen Owned Documented Vessels.

Type of Request: Extension of a currently approved collection.

OMB Control Number: 2133–0006.

Affected Public: Respondents are vessel owners who have applied for foreign transfer of U.S.-flag vessels.

Abstract: MARAD is required to approve the sale, transfer, charter, lease, or mortgage of U.S. documented vessels to non-citizens, or the transfer of such vessels to foreign registry and flag, or the transfer of foreign flag vessels by their owners as required by various contractual requirements. These provisions are implemented by 46 CFR part 221.

Need: This information collection requires a vessel owner to submit an application for a prospective foreign transfer of a U.S.-flag vessel. This information will assist in the determination of whether the vessel proposed for transfer will initially require retention under the U.S.-flag statutory regulation. In such instances, the application is reviewed and cleared for approval by specialists within MARAD, Department of Commerce, and Department of Defense.

Estimated Annual Burden Hours: 440 hours.

Annual Responses: 220.

Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention MARAD Desk Officer. Comments are invited on: 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; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and 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.

Issued in Washington, DC, on September 26, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation

[FR Doc. 97–26155 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Approval of Noise Compatibility Program Fort Smith Regional Airport, Fort Smith, AR

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA) announces its findings on the noise compatibility program submitted by Fort Smith Airport Commission under the provisions of Title 49 U.S.C., Chapter 475 and CFR part 150. These findings are made in recognition of the description and nonfederal responsibilities in Senate Report No. 96–52 (1980). On March 13, 1997, the FAA determined that the noise exposure maps submitted by the Fort Smith Airport Commission, under Part 150, were in compliance with the applicable requirements. On September 9, 1997, the Administrator approved the noise compatibility program. Nine of the thirteen recommendations of the program were approved.

EFFECTIVE DATES: The effective date of the FAA's approval of the Fort Smith Regional Airport noise compatibility program is September 9, 1997.

FOR FURTHER INFORMATION CONTACT: For further information contact Mr. Tim Tandy, Department of Transportation, Federal Aviation Administration, 2601 Meacham Boulevard, Fort Worth, Texas, 76137, (817) 222–5635. Documents reflecting this FAA action may be reviewed at this same location.

SUPPLEMENTARY INFORMATION: This notice announces that the FAA has given its overall approval to the noise compatibility program for Fort Smith Regional Airport, effective September 9, 1997.

Under Title 49 USC, Section 47504 (hereinafter referred to as ''Title 49'') an airport operator who has previously submitted a noise exposure map may submit to the FAA a noise compatibility program which sets forth the measures taken or proposed by the airport operator for the reduction of existing noncompatible land uses within the area covered by the noise exposure maps. Title 49 requires such programs to be developed in consultation with interested and affected parties including local communities, government agencies, airport users, and FAA personnel.

Each airport noise compatibility program developed in accordance with Federal Aviation Regulations (FAR) part 150 is a local program, not a Federal program. The FAA does not substitute its judgment for that of the airport proprietor with respect to which measures should be recommended for action. The FAA's approval or disapproval of FAR part 150 program recommendations is measured according to the standards expressed in part 150 and Title 49 and is limited to the following determinations:

a. The noise compatibility program was developed in accordance with the provisions and procedures of FAR part 150;

b. Program measures are reasonably consistent with achieving the goals of reducing existing noncompatible land uses around the airport and preventing the introduction of additional noncompatible land uses;

c. Program measures would not create an undue burden on interstate or foreign commerce, unjustly discriminate against types of classes of aeronautical uses, violate the terms of airport grant agreements, or intrude into areas preempted by the Federal Government; and

d. Program measures relating to the use of flight procedures can be implemented within the period covered by the program without derogating safety, adversely affecting the efficient use and management of the navigable airspace and air traffic control systems, or adversely affecting other powers and responsibilities of the Administrator prescribed by law.

Specific limitations with respect to FAA's approval of an airport noise compatibility program are delineated in FAR part 150, section 150.5 Approval is not a determination concerning the acceptability of land uses under Federal, state, or local law. Approval does not by itself constitute on FAA implementing action. A request for Federal action or approval to implement specific noise compatibility measure may be required, and an FAA decision on the request may require an environmental assessment of the proposed action. Approval does not constitute a commitment by the FAA to financially assist in the implementation of the program nor a determination that all measures covered by the program are eligible for grant-in-aid funding from the FAA. Where Federal funding is sought, requests for project grants mut be submitted to the FAA Arkansas/Louisiana Airports Development Office in Fort Worth, Texas.

Fort Smith Airport Commission submitted to the FAA on August 9, 1996, the noise exposure maps, descriptions, and other documentation produced during the noise compatibility planning study conducted from July 15, 1994 through February 14, 1997. The Fort Smith Regional Airport noise exposure maps were determined by FAA to be in compliance with applicable requirements on March 12, 1997. Notice of this determination was published in the **Federal Register** on March 28, 1997.

The Fort Smith Regional Airport FAR part 150 Study contains a proposed noise compatibility program comprised of actions designed for phased implementation by airport management and adjacent jurisdictions from the date of study completion to (or beyond) the year 2000. It was requested that the FAA evaluate and approve this material as a noise compatibility program as described in Title 49. The FAA began its review of the program on March 13, 1997 and was required by a provision of the Act to approve or disapprove the program within 180 days (other than the use of new flight procedures for noise control). Failure to approve or disapprove such program within the 180-day period shall be deemed to be an approval of such program.

The submitted program contained thirteen proposed actions for noise mitigation on and off the airport. The FAA completed its review and determined that the procedural and substantive requirements of Title 49 and FAR part 150 have been satisfied. The overall program, therefore, was approved by the Administrator effective September 9, 1997.

Outright approval was granted for nine of the specific program elements.

The following four program elements were disapproved pending submittal of additional information. Element 1 recommended that high performance aircraft, including military jet fighter and trainers, be restricted to straight-out takeoffs from Runways 07 and 25 until reaching 3,000 feet mean sea level, or approximately 3 nautical miles from the runway end. Element 2 recommended that pilots of commercial and business jets be requested to fly noise abatement procedures published in FAA Advisory Circular 91–53A or procedures published by the National Business Aircraft Association. Element 3 recommended the development of procedures whereby military aircraft capable of performing afterburner

takeoffs would disengage the afterburner mode at selected points after takeoff, such as the airport boundary. Element 8 recommended the purchase of three properties within the 75 DNL contour.

The following nine elements were approved. Element 4 recommended the continuation of performing military jet engine run-ups inside hush house facilities. Element 5 recommended obtaining aviation easements from homeowners within the 65 DNL and higher contours. Element 6 recommended that the City of Fort Smith take the lead in adopting noise disclosure regulations to ensure potential buyers are aware of an existing noise issue associated with properties for sale. The approval noted that this element is contingent upon the cooperation of surrounding jurisdictions with the City of Fort Smith. Element 7 recommended that voluntary amendments be made to the Uniform Building Code, which makes provisions for noise attenuation. The approval noted that the effectiveness of this element is contingent upon the cooperation of surrounding jurisdiction with the City of Fort Smith. Element 9 recommended the establishment of noise overlay districts for the City of Fort Smith in the airport vicinity. Element 10 recommended placing responsibility for managing day to day noise issues with the Airport Commission and staff. Element 11 recommended continuation of the Advisory Committee public involvement program. Element 12 recommend the establishment of a periodic noise monitoring program. Element 13 recommended periodic review of the Part 150 Study NEMs and NCP by the Airport Commission to determine whether an update of the program is required.

These determinations are set forth in detail in a Record of Approval endorsed by the Administrator on September 9, 1997. The Record of Approval, as well as other evaluation materials and the documents comprising the submittal, are available at the FAA office listed above and at the administrative offices of the Fort Smith Airport Commission.

Issued in Fort Worth, Texas, September 22, 1997.

Noami L. Saunders,

Manager, Airports Division

[FR Doc. 97–26116 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–48]

Petitions for Exemption; Summary of Petitions Received; Disposition of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Purusant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), disposition of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 23, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 28991, 800 Independence Avenue, SW., Washington, D.C. 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, D.C. 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part II of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, D.C., on September 26, 1997.

Joseph A. Conte,

Acting Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28991.

Petitioner: Joe Brigham, Inc.

Sections of the FAR Affected: 14 CFR 133.33 (d) and (e) and 133.45(d).

Description of Relief Sought: To permit JBI to operate its Bell Model UH–1B, a restricted category helicopter, in external-load operations in congested areas subject to an approved congested area plan.

[FR Doc. 97–26092 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–13–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 McAllen-Miller International Airport, McAllen, Texas

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 McAllen-Miller International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

DATES: Comments must be received on or before November 3, 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, Forth Worth, TX 76193–0610.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Derald Lary, Director of McAllen-Miller International Airport, at the following address: Mr. Derald Lary, Director of Aviation, McAllen-Miller International Airport, 2600 Main Street, Suite 100, McAllen, TX 78503–3142.

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 McAllen-Miller International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

On September 16, 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 10, 1998.

The following is a brief overview of the application.

Level of the proposed PFC: $3.00.

Proposed charge effective date: April 1, 1998.

Proposed charge expiration date: July 1, 2000.

Total estimated PFC revenue: $1,853,711.00.

PFC application number: 97–01–C–00–MFE.

Brief description of proposed projects:

Projects to impose and use PFC's

East and West Terminal Apron, Airfield Guidance Signs and Vault Upgrade, Widen Taxiway A, Runway 13–31 Safety Improvements, Master Plan Update, Terminal Drive Relocation, GA Apron Overlay, Cargo Apron Overlay and Association Taxiway Development, and PFC Administration Fees.

Proposed class or classes of air carriers to be exempted from collecting PFCs: None.

Any person may inspect the application in person at the FAA office listed above under **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, Fort 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 McAllen-Miller International Airport.

Issued in Fort Worth, Texas on September 16, 1997.

Naomi L. Saunders,

Manager, Airports Division.

[FR Doc. 97–26117 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement; Cape Girardeau County, Missouri

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 proposed improvements to the transportation system in Cape Girardeau County, Missouri.

FOR FURTHER INFORMATION CONTACT: Donald Neumann, Programs Engineer, FHWA Division Office, P.O. Box 1787, Jefferson City, MO 65102, Telephone: (573) 636–7104 or Scott Meyer, District Engineer, Missouri Department of Transportation, P.O. Box 160, Sikeston, MO 63801, Telephone: (573) 472–5333.

SUPPLEMENTARY INFORMATION: The FHWA, in cooperation with the Missouri Department of Transportation (MoDOT), will prepare an environmental impact statement (EIS) for a proposed project to improve the transportation system in the vicinity of Missouri Route 25 in Cape Girardeau County, Missouri.

Improvements to the corridor are considered necessary to provide for a safe and efficient transportation network. Alternatives under consideration include (1) taking no action; (2) using alternative travel modes; (3) upgrading and improving the existing roadways; and (4) constructing a four-lane roadway on new or partially-new location. Design variations of grade and alignment will be incorporated into and studied with the various build alternatives. The proposed action will likely include transportation improvements from the intersection of Missouri Routes 25 and 77 northeast of Delta, Missouri to the new Route 74 interchange with Interstate 55 in Cape Girardeau, Missouri.

The scoping process will involve all appropriate federal, state, and local agencies, and private organizations and citizens who have previously expressed or are known to have interest in this proposal. A series of public meetings will be held to engaged the regional community in the decision making process, and to obtain public comment. Public meetings are tentatively scheduled for fall, 1997 and spring 1998. In addition, a public hearing will be held to present the findings of the draft EIS (DEIS). The DEIS will be available for public and agency review and comment prior to the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA or MoDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12373 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: September 22, 1997.

Donald L. Neumann, P.E.,

Programs Engineer, Jefferson City.

[FR Doc. 97–26074 Filed 10–1–97; 8:45 am]

BILLING CODE 4910–22–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–227 (Sub-No. 11X)]

Wheeling & Lake Erie Railway Company—Abandonment Exemption—in Harrison and Jefferson Counties, OH

Wheeling & Lake Erie Railway Company (W&LE) has filed a notice of exemption under 49 CFR 1152 Subpart F—*Exempt Abandonments* to abandon an approximately 11.4-mile line of railroad on the Georgetown Branch, from milepost 0.0 in Adena to milepost 0.5 at AC&NA Junction and from milepost 0.0 at AC&NA Junction to milepost 10.9 at the former Georgetown Coal Preparation Plant, in Harrison and Jefferson Counties, OH.[1] The line traverses United States Postal Service Zip Codes 43901, 43989, 43981 and 43907.

W&LE has certified that: (1) no local traffic has moved over the line for at

[1] The 0.5-mile segment of the Georgetown Branch between Adena and AC&NA was formerly the north end of W&LE's Saginaw Branch, which, according to W&LE, was abandoned south of AC&NA Junction in 1993. *See The Wheeling & Lake Erie Railway Company—Abandonment Exemption—In Jefferson, Harrison and Belmont Counties, OH,* ICC Docket No. AB–227 (Sub-No. 3X) (ICC served Apr. 5, 1993).

least 2 years; (2) any overhead traffic on the line can be rerouted; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on November 1, 1997, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[2] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[3] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by October 14, 1997. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by October 22, 1997, with: Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423.

A copy of any petition filed with the Board should be sent to applicant's representative: Thomas J. Litwiler, Oppenheimer Wolff & Donnelly, Two Prudential Plaza, 45th Floor, 180 North Stetson Avenue, Chicago, IL 60601.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

W&LE has filed an environmental report which addresses the abandonment's effects, if any, on the environment and historic resources. The Section of Environmental Analysis (SEA) will issue an environmental assessment (EA) by October 7, 1997. Interested persons may obtain a copy of the EA by writing to SEA (Room 500, Surface Transportation Board, Washington, DC 20423) or by calling SEA, at (202) 565–1545. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), W&LE shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by W&LE's filing of a notice of consummation by October 2, 1998, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Decided: September 25, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26173 Filed 10–1–97; 8:45 am]

BILLING CODE 4915–00–P

[2] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Section of Environmental Analysis in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Service Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[3] Each offer of financial assistance must be accompanied by the filing fee, which currently is set at $900. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

Federal Reserve System

Federal Deposit Insurance Corporation

Proposed Agency Information Collection Activities; Comment Request

AGENCIES: Office of the Comptroller of the Currency (OCC), Treasury; Board of Governors of the Federal Reserve System (Board); and Federal Deposit Insurance Corporation (FDIC).

ACTION: Notice and request for comment.

SUMMARY: In accordance with the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35), the OCC, the Board, and the FDIC (the ''agencies'') may not conduct or sponsor, and the respondent is not required to respond to, and information collection that has been extended, revised, or implemented on or after October 1, 1995, unless it displays a currently valid Office of Management and Budget (OMB) control number. The Federal Financial Institutions Examination Council (FFIEC), of which the agencies are members, has approved the agencies' publication for public comment of proposed revisions to the Consolidated Reports of Condition and Income (Call Report), which are currently approved collections of information. At the end of the comment period, the comments and recommendations received will be analyzed to determine the extent to which the FFIEC should modify the proposed revisions prior to giving its final approval. The agencies will then submit the revisions to OMB for review and approval.

DATES: Comments must be submitted on or before December 1, 1997.

ADDRESSES: Interested parties are invited to submit written comments to any or all of the agencies. All comments, which should refer to the OMB control number(s), will be shared among the agencies.

OCC: Written comments should be submitted to the Communications Division, Third Floor, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219; Attention: Paperwork Docket No. 1557–0081 (FAX number (202) 874–5274; Internet address: REGS.comments@occ.treas.gov). Comments will be available for inspection and photocopying at that address.

Board: Written comments should be addressed to Mr. William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, 20th and C Streets, N.W., Washington, D.C. 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).

FDIC: Written comments should be addressed to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, N.W., Washington, D.C. 20429. Comments may be hand delivered to the guard station at the rear of the 550 17th Street Building (located on F Street), on business days between 7:00 a.m. and 5:00 p.m. (Fax number: (202) 898–3838; Internet address: comments@fdic.gov).

Comments may be inspected and photocopied in the FDIC Public Information Center, Room 100, 801 17th Street, N.W., Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

A copy of the comments may also be submitted to the OMB desk officer for the agencies: Alexander Hunt, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Room 3208, Washington, D.C. 20503.

FOR FURTHER INFORMATION CONTACT: A copy of the proposed revisions to the collections of information may be requested from any of the agency clearance officers whose names appear below.

OCC: Jessie Gates, OCC Clearance Officer, (202) 874–5090, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency, 250 E Street, S.W., Washington, D.C. 20219.

Board: Mary M. McLaughlin, Board Clearance Officer, (202) 452–3829, Division of Research and Statistics, Board of Governors of the Federal Reserve System, 20th and C Streets, NW., 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, 20th and C Streets, NW., Washington, DC 20551.

FDIC: Steven F. Hanft, FDIC Clearance Officer, (202) 898–3907, Office of the Executive Secretary, Federal Deposit Insurance Corporation, 550 17th Street NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Proposal to revise the following currently approved collections of information:

Title: Consolidated Reports of Condition and Income.

Form Number: FFIEC 031, 032, 033,034.[1]

For OCC

OMB Number: 1557–0081.

Frequency of Response: Quarterly.

Affected Public: National Banks.

Estimated Number of Respondents: 2,700 national banks.

Estimated Time per Response: 40.34 burden hours.

Estimated Total Annual Burden: 435,672 burden hours.

For Board

OMB Number: 7100–0036.

Frequency of Response: Quarterly.

Affected Public: State Member Banks.

Estimated Number of Respondents: 1,002 state member banks.

Estimated Time per Response: 46.46 burden hours.

Estimated Total Annual Burden: 186,215 burden hours.

For FDIC

OMB Number: 3064–0052.

Frequency of Response: Quarterly.

Affected Public: Insured State Nonmember Commercial and Savings Banks.

Estimated Number of Respondents: 6,374 insured state nonmember commercial and savings banks.

Estimated Time per Response: 30.27 burden hours.

Estimated Total Annual Burden: 771,859 burden hours.

The estimated time per response is an average which varies by agency because of differences in the composition of the banks under each agency's supervision (e.g., size distribution of banks, types of activities in which they are engaged, and number of banks with foreign offices). The time per response for a bank is estimated to range from 15 to 400 hours, depending on individual circumstances.

General Description of Report

This information collection is mandatory: 12 U.S.C. 161 (for national banks), 12 U.S.C. 324 (for state member banks), and 12 U.S.C. 1817 (for insured state nonmember commercial and savings banks). Except for select sensitive items, this information collection is not given confidential treatment. Small businesses (i.e., small banks) are affected.

Abstract

Consolidated Reports of Condition and Income are filed quarterly with the agencies for their use in monitoring the condition and performance of reporting banks and the industry as a whole. The reports are also used to calculate banks' deposit insurance and Financing Corporation assessments and for monetary policy and other public policy purposes.

Current Actions

The reporting frequency for the ''Preferred deposits'' item would be changed from quarterly to annually and the level of detail in the trading assets and liabilities schedule generally applicable only to larger banks would be reduced. Existing items for ''high-risk mortgage securities'' and ''structured notes'' would be replaced by items for ''mortgage-backed securities backed by closed-end first lien 1–4 family residential mortgages'' and ''other securities'' whose price volatility in response to specified interest rate changes exceeds a specified threshold level. New items would be added for reporting on transactions with affiliates, low level recourse transactions, and (on the FFIEC 031 and 032 report forms only) capital requirements for market risk. The reporting requirements relating to allowances and provisions for credit losses would be clarified. For banks with foreign offices, holdings of available-for-sale securities in the domestic office assets and liabilities schedule would begin to be reported on a cost basis rather than at fair value. The categorization of securitized consumer loans for the purchase of light trucks and vans for personal use in two Memorandum items collected annually from larger banks also would be revised.

Type of Review: Revision.

The proposed revisions to the Consolidated Reports of Condition and Income (Call Report) that are discussed below have been approved for publication by the FFIEC. Unless otherwise indicated, the agencies would implement these proposed Call Report changes as of the March 31, 1998, report date and the revisions would apply to all four sets of report forms (FFIEC 031, 032, 033, and 034). Nonetheless, as is customary for Call Report changes, banks are advised that, for the March 31, 1998, report date, reasonable estimates may be provided for any new or revised item for which the requested information is not readily available. The specific wording of the captions for the new or revised Call Report items discussed below should be regarded as preliminary.

Reductions in Frequency and Detail

Based on their review of the current content of the Call Report, the agencies are proposing to reduce the reporting frequency for one item applicable to all banks and to reduce the level of detail in one schedule applicable to larger banks, as follows:

(1) Schedule RC–E—Deposit Liabilities

Memorandum item 1.e., ''Preferred deposits,'' would be collected annually as of December 31 rather than quarterly as at present. In general, preferred deposits are deposits of states and political subdivisions in the U.S. which are secured or collateralized as required under state law. This Memorandum item was added to the Call Report in 1993 in response to a newly enacted statutory requirement directing the FDIC

[1] The FFIEC 031 report form is filed by banks with domestic and foreign offices. The FFIEC 032 report form is filed by banks with domestic offices only and total assets of $300 million or more. The FFIEC 033 report form is filed by banks with domestic offices only and total assets of $100 million or more but less than $300 million. The FFIEC 034 report form is filed by banks with domestic offices only and total assets of less than $100 million.

to ensure that it ''receives on a regular basis'' from each FDIC-insured depository institution information on the amount of preferred deposits (12 U.S.C. 1817(a)(9)).

The agencies understand that bankers have identified the ''Preferred deposits'' item as one of the Call Report items they have found to be particularly burdensome. Moreover, the statute does not specifically mandate quarterly reporting for this item. Thus, the FDIC has determined that collecting information on preferred deposits on an annual, rather than quarterly, basis would be consistent with the statutory requirement and would be adequate for purposes of meeting the FDIC's obligations under the Federal Deposit Insurance Act.

(2) Schedule RC–D—Trading Assets and Liabilities

This schedule is completed by banks with $1 billion or more in total assets or with $2 billion or more in notional amount of off-balance sheet derivative contracts. The agencies are proposing to eliminate item 6, ''Certificates of deposit (in domestic offices),'' item 7, ''Commercial paper (in domestic offices)'', and item 8, ''Bankers acceptances (in domestic offices).'' Commercial paper held for trading would begin to be reported as part of a bank's trading account securities, normally in Schedule RC–D, item 5, ''Other debt securities (in domestic offices),'' consistent with the change in balance sheet classification of commercial paper not held for trading and the elimination of the loan schedule Memorandum item for commercial paper, both of which took effect as of March 31, 1997. As for certificates of deposit and bankers acceptances held for trading, the reporting of these two types of instruments in separate Schedule RC–D items is no longer considered sufficiently useful to warrant retaining items 6 and 8. Instead, these instruments would be included in a bank's ''Other trading assets (in domestic offices),'' which are reported in Scheduled RC–D, item 9.

Investment Securities With High Price Volatility

In December 1991, the FFIEC approved and the agencies adopted a Supervisory Policy Statement on Securities Activities which became effective on February 10, 1992 (57 FR 4029, February 3, 1992). Under this policy statement, prior to purchase and at subsequent testing dates, banks must test mortgage derivative products to determine whether they are ''high-risk'' or ''nonhigh-risk.'' These tests measure the expected weighted average life, average life sensitivity, and price sensitivity of mortgage derivative securities for specified changes in interest rates. During 1994, the agencies issued supervisory guidance concerning bank investments in ''structured notes'' which, in general, are debt securities (other than mortgage-backed securities) whose cash flow characteristics (coupon rate, redemption amount, or stated maturity) depend upon one or more indices and/or that have embedded forwards or options. Beginning in 1995, banks began to report the amortized cost and the fair value of their investment portfolio holdings of high-risk mortgage securities (Schedule RC–B, Memorandum items 8.a and 8.b) and structured notes (Schedule RC–B, Memorandum items 9.a and 9.b).

With regard to structured notes, supervisory attention has primarily focused on ensuring that institutions understand and evaluate the market risks associated with these instruments. Instruments that have high market value or fair value sensitivity to changes in interest rates or other appropriate market risk factors, such as foreign exchange rates, have been the primary targets of such attention. However, some of the structured notes currently reported in Schedule RC–B, Memorandum item 9, may not have high market risk profiles and, in some cases, may have lower market risk volatility profiles than generic U.S. Treasury and U.S. Government agency securities. As a consequence, the agencies are considering revising the information collected on these instruments for supervisory purposes to reflect information based on significant price volatility under specific interest rate or major factor scenarios, e.g., an estimated change in value of 20 percent or more due to an immediate and sustained parallel shift in the yield curve of plus or minus 300 basis points. When the agencies develop the specific tests for significant price volatility, existing Memorandum items 9.a and 9.b on Schedule RC–B would be replaced with revised items requesting the amortized cost and fair value of securities (other than mortgage-backed securities backed by closed-end first lien 1–4 family residential mortgages) whose price volatility exceeds the specified threshold level under the specified interest rate or major factor scenario.

This consistency, Schedule RC–B, Memorandum items 8.a and 8.b, which currently collect information on ''high-risk'' mortgage securities would be similarly replaced with items requesting the amortized cost and fair value of mortgage-backed securities backed by closed-end first lien 1–4 family residential mortgages whose price volatility exceeds a specified threshold level under a specified interest rate or major factor scenario. These mortgage-backed securities would be either the same as or a subset of the mortgage-backed securities currently reported in Schedule RC–B, Memorandum items 8.a and 8.b.

If the agencies' specific tests for significant price volatility have not been developed in time to implement this proposed reporting change as of the March 31, 1998, report date, this Call Report revision would take effect at a report date later in 1998 (or thereafter) after the volatility tests have been devised.

Transactions Between Banks and Their Affiliates

Section 23A of the Federal Reserve Act is designed to safeguard the resources of banks against misuse for the benefit of organizations under common control with the bank by regulating certain ''covered transactions'' (loans or extensions of credit and other transactions that expose the bank to risk) with an affiliate. Section 23A restricts the amount of such on terms that are at least as favorable to the bank as transactions with unaffiliated companies. As the activities of nonbank subsidiaries of bank holding companies have expanded, and as regulatory restrictions have been reduced, more reliance has been placed on Sections 23A and 23B to insulate institutions from the risks posed by transactions with their affiliates.

Section 23A permits a bank to engage in covered transactions with affiliates so long as the covered transactions do not in the aggregate exceed: (1) 10 percent of the bank's capital stock and surplus with respect to a single affiliate and (2) 20 percent of capital and surplus with respect to all affiliates. Covered transactions are specifically described in Section 23A and include (a) loans and extensions of credit to an affiliate, (b) the purchase of securities issued by an affiliate, (c) the purchase of nonexempted assets from an affiliate, (d) the acceptance of securities issued by an affiliate as collateral for any loan to an unaffiliated company, and (e) the issuance of guarantee, acceptance, or letter of credit on behalf of an affiliate. In addition to the quantitative limits on a bank's exposure to an affiliate, Section 23A also imposes collateral requirements when a bank is lending to the affiliate or is issuing a guarantee, acceptance, or letter of credit for the account of the affiliate. These exposures

are the most direct method by which a bank can expose itself to an affiliate, and the collateral requirements are designed to diminish any risk related to these exposures.

In order to monitor compliance with the aggregate limits in Section 23A and to identify institution-specific and industry-wide levels of changes in covered transaction which a bank can expose itself to an affiliate, and the collateral requirements are designed to diminish any risk related to these exposures.

In order to monitor compliance with the aggregate limits in Section 23A and to identify institution-specific and industry-wide levels of and changes in covered transaction activity and its effects on bank risk exposures, the agencies are proposing to add four new items to Schedule RC–M—Memoranda. For covered transactions subject to Section 23A's collateral requirements, bank would report (a) the outstanding amount of such transactions as of the Call Report date and (b) the maximum amount of such transactions during the calendar quarter ending with the report date. For covered transactions not subject to the collateral requirements, banks would likewise report (a) the outstanding amount of such transactions as of the Call Report date and (b) maximum amount of such transactions during the calendar quarter ending with the report date. Transactions that are exempt from quantitative limits under the statute, e.g., extensions of credit fully secured by U.S. Government securities and transactions with affiliate (sister) banks, would be excluded from being reported in the proposed items.

The agencies specifically request comment on the burden associated with reporting date on covered transactions. Comment is also requested on potential ways to reduce burden with respect to these items, in particular the proposed reporting of the maximum amount of such transactions during the calendar quarter ending with the report date. For example, maximum amounts could be required to be reported only under certain conditions, e.g., if they are significantly higher than the end of period amount or if they approach the quantitative limits.

Reporting of Low Level Recourse Transactions for Risk-Based Capital Purposes

The agencies' risk-based capital standards provide that the amount of risk-based capital that must be maintained for assets transferred with recourse should not exceed the maximum amount of recourse for which a bank is contractually liable under the recourse agreement. This rule applies to transactions in which a bank contractually limits its risk of loss or recourse exposure to less than the full effective minimum risk-based capital requirement for the assets transferred—generally, four percent for qualifying first lien residential mortgages and eight percent for most other assets. The low level recourse rule also may apply to sales and securitizations of assets in which contractual cash flows (e.g., interest-only strips receivable and so-called spread accounts), retained subordinated interests, or other assets (e.g., collateral invested amounts or cash collateral accounts) act as credit enhancements. If this rule does apply to a credit enhancement of this type, the maximum contractual dollar amount of the bank's exposure as of a Call Report date is generally limited to the amount carried as an asset on the balance sheet (Schedule RC) in accordance with generally accepted accounting principles.

Current Call Report instructions require a bank to report its low level recourse transactions in Schedule RC–R—Regulatory Capital using the so-called ''gross-up'' method.

In general, this method requires the bank to multiply the maximum amount of its recourse exposure by the reciprocal of the full effective minimum risk-based capital requirement for the assets transferred and to report the resulting dollar amount as an off-balance sheet credit equivalent amount in the risk weight category appropriate to the assets transferred.[2]

However, the greater the volume of a bank's low level recourse transactions and the higher the bank's risk-based capital ratio in relation to the minimum requirement, the more the bank's calculated risk-based capital ratios become distorted as a result of applying the gross-up method. In these situations, another method of handling the bank's low level recourse transactions—the so-called ''direct reduction'' method—results in a more accurate measure of the bank's risk-based capital ratios. Under the direct reduction method, a bank generally would reduce its Tier 1 capital by the maximum amount of its recourse exposure (and would exclude this amount from its assets if the exposure were in the form of an on-balance sheet asset). Nevertheless, the Call Report instructions do not currently permit banks to use the direct reduction method when completing Schedule RC–R because the schedule's existing format does not provide a means for banks to disclose the amount by which assets and Tier 1 capital have been reduced through the application of the direct reduction method. Without knowing this amount, the agencies cannot readily verify the reported capital amounts and risk-weighted asset amounts for banks that would use the direct reduction method when reporting their low level recourse exposures.

Some bankers with low level recourse transactions have expressed a strong preference for using the direct reduction method rather than the gross-up method. The agencies also note that savings associations report the dollar amount of their low level recourse exposures in the Thrift Financial Reports they file with the Office of Thrift Supervision in a manner consistent with the direct reduction method. Accordingly, the agencies are proposing to add a new subitem under Schedule RC–R, item 3, ''Amounts used in calculating regulatory capital ratios,'' for the ''Maximum contractual dollar amount of recourse exposure in low level recourse transactions.'' Banks preferring to apply the direct reduction method to these exposures when they complete Schedule RC–R would need to complete this new item and would include any on-balance sheet asset amounts that represent low level recourse exposures in item 8 of Schedule RC–R. Banks preferring to report their low level recourse exposures under the gross-up method would retain the option to use this method.

Capital Requirements for Market Risk

In 1996, the agencies amended their risk-based capital standards to require banks with substantial trading activity to hold capital based on their market risk exposure. The new rule applies to banks with either (1) total trading assets and trading liabilities of at least $1 billion or (2) total trading assets and trading liabilities in excess of 10 percent of total assets, unless exempted by their supervisory agency. The banks that will be subject to this new rule must comply with the market risk capital requirements by January 1, 1998. The market risk rule supplements the risk-based capital ratio calculations that focus principally on credit risk and adjusts both the risk-based capital ratio denominator and numerator. These adjustments involve ''market risk equivalent assets'' for the denominator and ''Tier 3 capital'' for the numerator.

[2] For example, if the bank's maximum contractual exposure is $10 million and the transferred assets would be in the 100 percent risk weight category, the bank would report a credit equivalent amount of $125 million [$10 million x (1/.08)] in the Schedule RC–R item for credit equivalent amounts of off-balance sheet items assigned to the 100 percent risk category (item 7.b).

To enable the agencies and other users of the Call Report to calculate the risk-based capital ratios of those banks subject to the market risk rule, the agencies are proposing to add two new subitems to Schedule RC–R, item 3, ''Amounts used in calculating regulatory capital ratios,'' on the FFIEC 031 and 032 report forms only. In these new subitems, banks would report their ''Market risk equivalent assets'' and their ''Tier 3 capital.'' In addition, the instructions for items 4 through 7 of Schedule RC–R, which are the items in which banks report their assets and the credit equivalent amounts of their off-balance sheet items by risk weight category, and item 8, ''On-balance sheet asset values excluded from and deducted in the calculation of the risk-based capital ratio,'' would be revised. As revised, the instructions would tell banks to exclude from items 4 through 7 the amounts of all ''covered positions'' (except foreign exchange positions outside the trading account and over-the-counter derivative positions) and to report the amounts of those ''covered positions'' that are on the balance sheet in item 8. The term ''covered positions'' means all positions in a bank's trading account, and all foreign exchange and commodity positions, whether or not in the trading account.

Allowance for Credit Losses

The American Institute of Certified Public Accountants' *Audit and Accounting Guide for Banks and Savings Institutions,* issued as of April 1, 1996, requires the allocation on the balance sheet of the allowance for credit losses between on-balance sheet financial instruments and off-balance sheet credit exposures. Previously, these allowance components often were reported in the aggregate in the allowance for loan and lease losses (ALLL).

Banks have been advised to allocate the allowance for credit losses on Schedule RC-Balance Sheet consistent with their allocation methodology for other financial reporting purposes. For example, portions of the allowance related to off-balance sheet credit exposures that are reported as liabilities are to be included in Schedule RC, item 20, ''Other liabilities,'' and in item 4 of Schedule RC–G. Banks also have been advised to aggregate these components of the allowance for credit losses when completing Schedule RI–B, part II—Changes in Allowance for Loan and Lease Losses. institutions have been encouraged to disclose the amounts of these components in Schedule RI–E, item 9, ''Other explanations.''

The agencies are proposing to retain this method of reporting the allowance for credit losses. In so doing, Schedule RI–B, part II, would be retitled Changes in Allowance for Credit Losses, and item 4.a of Schedule RI—Income Statement would be recaptioned ''Provision for credit losses.'' However, Schedule RI–B, part I—Charge-offs Recoveries on Loans and Leases would not be changed, i.e., banks would continue to disclose their loan and lease charge-offs and recoveries only.

Under the reporting standards in effect prior to the effective date of the revised audit and accounting guide, banks had included all the portion of he allowance related to off-balance sheet credit exposures in Tier 2 capital for risk-based capital purpose, subject to specified limits. This regulatory capital treatment remains in effect under the new reporting standards set forth in the revised audit and accounting guide.

Reporting by Banks With Foreign Offices of Investment Securities Holdings in the Domestics Office Assets and Liabilities Schedule

On the FFIEC 031 version of the Call Report forms, banks with foreign offices report a breakdown of the investment securities they hold in domestic offices by type of security in Schedule RC–H—Selected Balance Sheet Items for Domestic Offices. These investment securities holdings are reported in Schedule RC–H on the same basis as they are reported on these banks' consolidated balance sheet (Schedule RC), i.e., held-to-maturity securities are reported at amortized cost while available-for-sale securities are reported at fair value. In the (consolidated) securities schedule (Schedule RC–B), held-to-maturity and available-for-sale securities are each separately reported at amortized cost and at fair value. This reporting treatment was implementing in 1994 when Financial Accounting Standards Board Statement No. 115, ''Accounting for Certain Investments in Debt and Equity Securities,'' took effect.

Based on a review of the manner in which the domestic office securities data reported in items 10 through 17 of Schedule RC–H are analyzed and compared to other measures of domestic securities which are held by nonbank sectors and reported on a cost basis, the agencies are proposing to require banks with foreign offices to report all investment securities held in domestic offices on a cost basis in these eight Schedule RC–H items. This would mean that available-for-sale debt securities would be reflected in Schedule RC–H, items 10 through 17, at amortized cost rather than at fair value while equity securities would be included in this schedule at historical cost. This cost basis data should be available to banks with foreign offices because the amortized/historical cost of their entire investment securities portfolio is currently reported in the (consolidated) securities schedule (Schedule RC–B).

This proposed change would not affect the reporting of a bank's held-to-maturity or available-for-sale securities on the Call Report balance sheet (Schedule RC) or on the securities schedule (Schedule RC–B), nor would it alter the reporting of total assets in domestic offices in Schedule RC–H, item 8.

Reporting of Securitized Consumer Loans for Vehicle Purchases

On the FFIEC 031 and 032 versions of the Call Report forms, banks with foreign offices or with $300 million or more in assets report annually as of September 30 the amount of their securitized consumer installment loans to purchase private passenger automobiles and the amount of all other securitized consumer installment loans (excluding credit cards and related plans) in Schedule RC–L, Memorandum items 5.a and 5.c, respectively. The instructions for these items currently direct banks to report securitized consumer loans for the purchase of pickup trucks and vans in the ''all other'' category, not in the ''private passenger automobiles'' category.

Based on a review of the manner in which these data are used for analyzing consumer credit markets, the agencies believe that securitized consumer loans for the purchase of pickup trucks, other light trucks, and vans for personal use would be more appropriately classified in the ''private passenger automobiles'' category. The instructions for Memorandum item 5.a would be revised so that banks would begin to include securitized consumer loans to purchase vans and light trucks (such as pickup trucks) for personal use in this item rather than in Memorandum item 5.c. In addition, the agencies would strike the word ''installment'' from the captions and instructions throughout Memorandum item 5.

Request for Comment

Comments submitted in response to this Notice will be shared among the agencies and will be summarized or included in the agencies' requests for OMB approval. All comments will become a matter of public record. Written comments should address the accuracy of the burden estimates and ways to minimize burden as well as other relevant aspects of the information

collection request. Comments are invited on: (a) Whether the proposed revisions to the following collections of information are necessary for the proper performance of the agencies' functions, including whether the information has practical utility; (b) the accuracy of the agencies' estimate of the burden of the information collections as they are proposed to be revised, 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 information collection on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start up costs and costs of operation, maintenance, and purchase of services to provide information.

Comments are also requested on the expected effects on information currently reported in the Call Report resulting from this implementation of those portions of Financial Accounting Standards Board Statement No. 125, ''Accounting for Transfers and Servicing of Financial Assets and Extinguishments of Liabilities,'' that have had their effective date delayed until after December 31, 1997. The agencies are evaluating the need for additional data in this area. These portions of Statement No. 125 address collateral and secured borrowings, repurchase agreements, dollar-rolls, securities lending, and similar transactions.

Banks should note that the FDIC is considering amendments to its regulations on the deposit insurance assessment base (12 CFR part 327) which may require certain changes to the Call Report. Should the FDIC adopt amendments that necessitate changes to the Call Report in 1998, those changes will be separately published for public comment as required under the Paperwork Reduction Act of 1995.

Dated: September 26, 1997.

Karen Solomon,

Director, Legislative and Regulatory Activities Division, Office of the Comptroller of the Currency.

Board of Governors of the Federal Reserve System, September 18, 1997.

William W. Wiles,

Secretary of the Board.

Dated at Washington, D.C., this 17th day of September, 1997.

Federal Deposit Insurance Corporation.

Steven Hanft,

Assistant Executive Secretary.

[FR Doc. 97–26131 Filed 10–1–97; 8:45 am]

BILLING CODE 4810–33–M(⅓), 6210–01–M(⅓), 6714–01–M(⅓)

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Privacy Act of 1974, as amended; System of Records

AGENCY: Internal Revenue Service, Treasury

ACTION: Notice of alteration of Privacy Act system of records

SUMMARY: The Treasury Department, Internal Revenue Service, gives notice of a proposed alteration to the system of records entitled, ''General Personnel and Payroll Records -Treasury/IRS 36.003,'' which is subject to the Privacy Act of 1974, as amended, 5 U.S.C. 552a. The system notice was last published in its entirety in the **Federal Register**, Vol. 60, page 56804, on November 9, 1995.

DATES: Comments must be received no later than November 3, 1997. The alteration to the system of records will be effective November 16, 1997, unless comments are received which result in a contrary determination.

ADDRESSES: Comments should be sent to the Office of Governmental Liaison & Disclosure, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC 20224. Comments will be made available for public inspection and copying in the Internal Revenue Service Freedom of Information Reading Room, 1111 Constitution Avenue, NW, Room 1621, Washington, DC 20224, telephone number (202) 622–5164, (not a toll free call).

FOR FURTHER INFORMATION CONTACT: James O'Malley, Acting National Director, Personnel Division, Internal Revenue Service, (202) 874–6135.

SUPPLEMENTARY INFORMATION: The purpose of the alteration is to add two routine uses to the current routine uses as a result of Executive Order 12897 dated February 3, 1994, and the likelihood that the Service will be requested to respond to increasing numbers of support garnishment interrogatories.

Currently, routine use number (7) is used to disclose information on records, where there is an indication of a violation or potential violation of law, whether civil, criminal, or regulatory in nature, to any appropriate agency, whether Federal, state, or local, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, or order issued pursuant thereto or upon request of the agency when the agency is investigating the possible violation of their rules or regulations.

The Internal Revenue Service (IRS) believes that the current routine use number (7) allows the IRS to disclose the information requested in the interrogatories, although the interrogatories are not specifically addressed. However, a new routine use (21) is being added to clarify that information from this system of records may be disclosed in response to garnishment interrogatories. A second routine use (22) is also being added as a result of the issuance of Executive Order 12897 entitled ''Garnishment of Federal Employees' Pay,'' which will permit non-Federal entities (i.e., commercial creditors) to request garnishment of any employee's pay for just debts owing to these companies which have been reduced to a judgement.

The alteration to the existing Privacy Act notice also incorporates the Executive Order under the data element ''Authority for Maintenance of the System'' to bring this system into compliance with the requirements of the Privacy Act. The specific changes to the record system being altered are set forth below.

Under ''Authority for Maintenance of the System:'' delete the period after Executive Order 10561 and add ''and Executive Order 12897.''

Under ''Routine Uses of Records Maintained in the System, Including Categories of Users and the Purposes of Such Uses:,'' add two routine uses by inserting the following text after routine use numbered twenty (20): ''(21) Respond to state and local authorities for support garnishment interrogatories; and (22) Provide information to private creditors for the purpose of garnishment of wages of an employee if a debt has been reduced to a judgement.''

The specific changes to the system notice are published below.

Dated: September 24, 1997.

Alex Rodriguez,

Deputy Assistant Secretary (Administration).

Treasury/IRS 36.003

SYSTEM NAME:

General Personnel and Payroll Records—Treasury/IRS

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Description of change: Remove ''and Executive Order 10561.'' and add ''Executive Order 10561 and Executive Order 12897. ''

* * * * *

Description of changes: Replace the period at the end of routine use number

(20) with a semi-colon(;) and add the following text:

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * *

''(21) Respond to state and local authorities for support garnishment interrogatories; and

(22) Provide information to private creditors for the purpose of garnishment of wages of an employee if a debt has been reduced to a judgement.''

* * * * *

[FR Doc. 97–26160 Filed 10–1–97; 8:45am]

Billing Code: 4810–30–F

UNITED STATES INFORMATION AGENCY

College and University Affiliations Program (CUAP)

ACTION: Notice—request for proposals.

SUMMARY: The Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program. Accredited, post-secondary educational institutions meeting the provisions described in IRS regulation 26 CFR 1.501 (c) may apply to develop a partnership with (a) foreign institution(s) of higher education in specified fields and themes within the humanities and social sciences.

Awards will be made to support democratic institution-building and/or civic education.

A second Request for Proposals in this issue of the **Federal Register** solicits proposals in support of free trade and market economies, and/or the environment and sustainable development.

Grants are subject to the availability of funds for Fiscal year 1998.

Proposed projects must be eligible in terms of country(ies)/localities and themes as described in the section entitled ''Eligibility'' below.

Participating institutions exchange faculty and administrators for a combination of teaching, lecturing, faculty and curriculum development, collaborative research, and outreach, for periods ranging from one week (for planning visits) to an academic year. The FY 98 program will also support the establishment and maintenance of Internet and/or e-mail communication facilities as well as interactive distance learning programs at foreign partner institutions. Applicants may propose other project activities not listed above that are in keeping with the goals and activities of the College and University Affiliations Program.

The program awards up to $120,000 for a three-year period to defray the cost of travel and per diem with an allowance for educational materials and some aspects of project administration. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Overall grant-making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the *Fulbright-Hays Act.*

Projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. The POGI, a document describing College and University Affiliation Project Objectives, Goals, and Implementation, is included in the Solicitation Package.

Announcement Title and Number: All communications with USIA concerning this announcement should refer to the College and University Affiliations Program and reference number E/ASU–98–02.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Friday January 16, 1998. Faxed documents will not be accepted, nor will documents postmarked on Jan. 16, 1998, but received on a later date. It is the responsibility of each applicant to ensure compliance with the deadline.

Approximate program dates: Grants should begin on or about September 1, 1998.

Duration: September 1, 1998–August 31, 2001.

FOR FURTHER INFORMATION CONTACT: Office of Academic Programs; Advising, Teaching, and Specialized Programs Division; College and University Affiliations Program (CUAP), (E/ASU), Room 349, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, phone: (202) 619–5289, fax: (202) 401–1433. Send a message via Internet to: affiliat@usia.gov to request a Solicitation Package. The Solicitation Package includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package via Fax On Demand: The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System,'' which is accessed by calling 202/401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify ''College and University Affiliations Program Officer'' on all inquiries and correspondence. Prospective applicants should read the complete **Federal Register** announcement before addressing inquiries to the College and University Affiliations Program staff or submitting their proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the complete application, including the documents specified under Tabs A through I in the ''Project Objectives, Goals, and Impoementaiton'' (POGI) section of the Solicitation Package, should be sent to: U.S. Information Agency, Ref: E/ASU–98–02, Office of Grants Management, E/XE, Room 326, 301 4th St., S.W., Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to U.S. Information Service (USIS) posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grant review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, projects must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal, in their program contents, to the full extent deemed feasible.

Eligibility

U.S. Partner and Participant Eligibility

In the U.S., participation in the program is open to accredited two- and four-year colleges and universities, including graduate schools. Applications from consortia of U.S. colleges and universities are eligible. Secondary U.S. partners may include relevant non-governmental organizations, non-profit service or professional organizations. The lead U.S. institution in the consortium is responsible for submitting the application and each application from a consortium must document the lead school's stated authority to represent the consortium. Participants representing the U.S. institution who are traveling under USIA grant funds must be faculty, graduate teaching assistants, or staff from the participating institution(s) and must be U.S. citizens. Please note that graduate teaching assistants are eligible for USIA-funded participation only if working as part of a team directed by a faculty member.

Foreign Partner and Participant Eligibility

Overseas, participation is open to recognized, degree-granting institutions of post-secondary education, which may include internationally recognized and established independent research institutes. Secondary foreign partners may include relevant governmental and non-governmental organizations, non-profit service or professional organizations. Participants representing the foreign institutions must be faculty, graduate teaching assistants, or staff who are citizens, nationals, or permanent residents of the country of the foreign partner and be qualified to hold a valid passport and U.S. J–1 visa. Please note that graduate teaching assistants are eligible for USIA-funded participation only if working as part of a team directed by a faculty member.

Ineligibility

A proposal will be deemed technically ineligible if:

(1) It does not fully adhere to the guidelines established herein and in the Solicitation Package;

(2) It is not received by the deadline;

(3) The length of the proposed project is less than three years;

(4) It is not submitted by the U.S. partner;

(5) One of the partner institutions is ineligible;

(6) The foreign geographic location is ineligible;

(7) It involves a request to fund exchanges between the United States and more than one country, with the exception of trilateral North Africa, Near East, and South Asia (NEA) projects. Please see the section on eligible countries/localities for complete details;

(8) The theme or academic discipline is not listed as eligible in the RFP, herein;

(9) The amount requested of USIA exceeds $120,000 for the three-year project.

Eligible Theme, Academic Disciplines, and Countries/localities

This Request for Proposals is limited to support for democratic institution building and/or civic education.

Please note the following explanatory details:

A. Eligible Academic Disciplines and Countries/Localities

Eligible academic disciplines and countries and localities are listed under each sub-theme. Only those countries or localities and partnership configurations identified under each sub-theme qualify. Specifics should be examined carefully before proposal preparation.

B. Inclusion of Area Studies

Area Studies are included as academic disciplines to engender a broader cultural understanding and context in which to pursue a linkage project within the stated theme. Area Studies may be incorporated into a given project but only in conjunction with one or more of the other academic disciplines listed under the theme. Area Studies includes U.S. and partner country history, literature, and social sciences.

C. Bilateral Projects—Except for NEA Trilateral Linkages

In most instances, the program invites proposals for bilateral projects only, involving the U.S. and one foreign country (as specified) only. The only exceptions are Near East, North Africa, and South Asia (NEA) trilateral linkages.

Eligible Theme

Support of democratic institution-building and/or civic education.

Projects are solicited which promote democratic institution-building to encourage accountable governments and the rule of law, to strengthen political and economic stability and to protect both political rights and free market economies.

Within this context, affiliation projects should help build democratic institutions, promote the development of civil societies and civic education, and increase expertise in the rule of law and the administration of justice through faculty and curriculum development, teaching and lecturing, and outreach. It is anticipated that exchange participants involved in cross-cultural democracy-building partnerships will generate ideas and projects which will contribute to modernization and development in the higher education community, public policy arena, NGOs, government, and the media.

USIA has a particular interest in reviewing proposals whose goal is to nurture the culture of democracy by focusing on the role of civic education in a democratic society.

A linkage project incorporating a focus on participation in civil society (in which citizens—in addition to working with the government—organize to resolve national problems rather than leaving them to the government to resolve), and on civic education (to prepare them for competent and responsible participation in local, state, and national civic and political life) might include such topics as: the philosophy of democratic institutions; the philosophy and goals of public and private education; the role of citizen behavior and social responsibility in a democracy; the role of volunteerism,

public interest groups, and major players such as public and private schools, government, religious institutions, public libraries, private organizations, and parents. A civic education linkage might also address political practices such as the balance of individual rights and group rights; reconciliation and compromise within the democratic process; the philosophy and practice of majority rule and minority rights.

Projects promoting civil society and civic education may combine one or more of the academic disciplines listed below in order to pursue an affiliation whose activities are those of the overall College and University Affiliations Program—namely teaching, lecturing, faculty development, curriculum development (e.g., for teacher training), collaborative research, and community outreach.

Eligible Academic Disciplines

(1) For Law Projects

Law (may include Constitutional, Comparative, Administrative, Regulatory, and Civil Law, Conflict Resolution, and Intellectual Property Rights)
Political Science/Government/Public Policy/Public Administration
Area Studies (in combination with one or more of the academic fields listed here)

(2) For Media Projects

Journalism (Broadcast, Print, Electronic)
Communications Law
Area Studies (in combination with one or more of the academic fields listed here)

(3) For Projects in Civic Education

Secondary-Level Curriculum Development and Teacher Training
Sociology
Government
History
Social Studies Education
Area Studies (in combination with one or more of the academic fields listed here)

Eligible Countries/Localities

Africa: Ethiopia, Ghana, Senegal, South Africa, Tanzania, and Uganda;

American Republics: Brazil, Bolivia, Chile, Colombia, Costa Rica, Dominican Republic (All projects for the preceding countries are limited to Civic Education and Law); Ecuador, El Salvador, Guatemala, Honduras, Mexico, Nicaragua, Paraguay, Peru, and Uruguay.

Priority will be given to proposals that focus on civic education, ethics in government, grassroots democracy and citizen participation, women and leadership, the administration of justice, judicial reform, and alternative dispute resolution.

East Asia and Pacific: China, Hong Kong, Indonesia, South Korea (all projects for the preceding countries are limited to Civic Education and Law); Taiwan (Media projects only); Vietnam (Civic Education only);

East Europe, Central Europe, and the New Independent States: Armenia (Civic Education and Media projects only), Bosnia (Media projects only), Estonia, Georgia, Latvia, Moldova (Law only), and Slovakia;

North Africa, Near East, and South Asia: The following are eligible for bilateral or trilateral affiliations: Bahrain, Bangladesh, Gaza, Israel, Jordan, Kuwait, Morocco, Nepal, Oman, Pakistan, Qatar, Sri Lanka, Tunisia, United Arab Emirates, West Bank, Yemen;

Lebanon: USIA welcomes proposals for bilateral linkages in Lebanon which include the use of distance education and/or Internet to facilitate two-way communication since, at this writing, only one-way travel (from Lebanon to the United States) is currently advisable.

Notice

The terms and conditions published in this RFP are binding and may not be modified by an USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: September 27, 1997.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–26151 Filed 10–1–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

College and University Affiliations Program (CUAP)

ACTION: Notice—requests for proposals.

SUMMARY: The Office of Academic Programs of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award program. Accredited, post-secondary educational institutions meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop a partnership with (a) foreign institution(s) of higher education in specified fields and themes within the humanities, social sciences, business, and environmental studies.

Subject to the availability of funding, awards will be made to support free trade and market economies, and/or the environment and sustainable development.

A second Request for Proposals in this issue of the **Federal Register** solicits proposals in support of democratic institution-building and/or civic education.

Grants are subject to the availability of funds for Fiscal Year 1998.

Proposed projects must be eligible in terms of country(ies)/localities and themes as described in the section entitled ''Eligibility'' below.

Participating institutions exchange faculty and administrators for a combination of teaching, lecturing, faculty and curriculum development, collaborative research, and outreach, for periods ranging from one week (for planning visits) to an academic year. The FY 98 program will also support the establishment and maintenance of Internet and/or e-mail communication facilities as well as interactive distance learning programs at foreign partner institutions. Applicants may propose other project activities not listed above that are in keeping with the goals and activities of the College and University Affiliations Program.

The program awards up to $120,000 for a three-year period to defray the cost of travel and per diem with an allowance for educational materials and some aspects of project administration. Grants awarded to organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Overall grant-making authority for this program is contained in the Mutual Education and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests,

developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the *Fulbright-Hays Act.*

Projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. The POGI, a document describing College and University Affiliation Project Objectives, Goals, and Implementation, is included in the Solicitation Package.

Announcement Title and Number: All communications with USIA concerning this announcement should refer to the College and University Affiliations Program and reference number E/ASU–98–03.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Friday January, 16, 1998. Faxed documents will not be accepted, nor will documents postmarked on January 16, 1998, but received on a later date. It is the responsibility of each applicant to ensure compliance with the deadline.

Approximate program dates: Grants should begin on or about September 1, 1998.

Duration: September 1, 1998–August 31, 2001.

FOR FURTHER INFORMATION, CONTACT: Office of Academic Programs; Advising, Teaching, and Specialized Programs Division; College and University Affiliations Program (CUAP), (E/ASU), Room 349, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, phone: (202) 619–5289, fax: (202) 401–1433. Send a message via Internet to: affiliat@usia.gov to request a Solicitation Package. The Solicitation Package includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package via Fax on Demand: The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System,'' which is accessed by calling 202/402–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify ''College and University Affiliations Program Officer'' on all inquiries and correspondence. Prospective applicants should read the complete **Federal Register** announcement before addressing inquiries to the College and University Affiliations Program staff or submitting their proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the complete application, including the documents specified under Tabs A through I in the ''Project Objectives, Goals, and Implementation'' (POGI) section of the Solicitation Package, should be sent to: U.S. Information Agency, Ref: E/ASU–98–03, Office of Grants Management, E/XE, Room 326, 301 4th St., SW., Washington, DC 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' and budget sections of the proposal on a 3.5″ diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to U.S. Information Service (USIS) posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grant review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, projects must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for Diversity'' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal, in their program contents, to the full extent deemed feasible.

Eligibility

U.S. Partner and Participant Eligibility

In the U.S., participation in the program is open to accredited two- and four-year colleges and universities, including graduate schools. Applications from consortia of U.S. colleges and universities are eligible. Secondary U.S. partners may include relevant non-governmental organizations, non-profit service or professional organizations. The lead U.S. institution in the consortium is responsible for submitting the application and each application from a consortium must document the lead school's stated authority to represent the consortium. Participants representing the U.S. institution who are traveling under USIA grant funds must be faculty, graduate teaching assistants, or staff from the participating institution(s) and must be U.S. citizens. Please note that graduate teaching assistants are eligible for USIA-funded participation only if working as part of a team directed by a faculty member.

Foreign Partner and Participant Eligibility

Overseas, participation is open to recognized, degree-granting institutions of post-secondary education, which may include internationally recognized and established independent research institutes. Secondary foreign partners may include relevant governmental and non-governmental organizations, non-profit service or professional organizations. Participants representing the foreign institutions must be faculty, graduate teaching assistants, or staff who are citizens nationals, or permanent residents of the country of the foreign partner and be qualified to hold a valid passport and U.S. J–1 visa. Please note that graduate teaching assistants are eligible for USIA-funded participation only if working as part of a team directed by a faculty member.

Ineligibility

A proposal will be deemed technically ineligible if:

(1) It does not fully adhere to the guidelines established herein and in the solicitation Package;

(2) It is not received by the deadline;

(3) The length of the proposed project is less than three years;

(4) It is not submitted by the U.S. partner;

(5) One of the partner institutions is ineligible;

(6) The foreign geographic location is ineligible;

(7) It involves a request to fund exchanges between the United States and more than one country, with the exception of trilateral Asian Pacific Economic Cooperation (APEC) and trilateral North Africa, Near East, and South Asia (NEA) projects. Please see the section on eligible countries/localities for complete details;

(8) The theme or academic discipline is not listed as eligible in the RFP, herein;

(9) The amount requested of USIA exceeds $120,000 for the three-year project.

Eligible Theme, Academic Disciplines, and Countries/Localities

This request for proposals is limited to support for free trade and market economies and/or environment and sustainable development.

Please note the following explanatory details:

A. Eligible Academic Disciplines and Countries/Localities

Eligible academic disciplines and countries and localities are listed under each theme. Only those countries or localities and partnership configurations identified under each theme qualify. Specifics should be examined carefully before proposal preparation.

B. Inclusion of Area Studies

Area Studies are included as academic disciplines to engender a broader cultural understanding and context in which to pursue a linkage project within the stated theme. Area Studies may be incorporated into a given project but only in conjunction with one or more of the other academic disciplines listed under the theme. Area Studies includes U.S. and partner country history, literature, and social sciences.

C. Bilateral Projects—Except for NEA and APEC Trilateral Linkages

In most instances, the program invites proposals for bilateral projects only, involving the U.S. and one foreign country (as specified) only. The only exceptions are North Africa, Near East, and South Asia (NEA) and Asia Pacific Economic Cooperation member nation trilateral linkages.

Eligible Theme

Support of free trade and market economies and/or the environment and sustainable development.

Under this theme, projects are solicited which promote higher education's role in economic development and the development of market economies, trade, investment overseas, through faculty and curriculum development, teaching and lecturing, and outreach. Projects which also focus on the environment should address the public policy aspects of sustainable development.

Affiliation projects in trade and economics are expected to establish or expand mutually beneficial academic programs in business and economics, and to promote international investment by strengthening institutional links to the private sector. Where possible, such affiliations should contribute to the formulation of more open and responsible trade policy. Where appropriate and relevant, plans and anticipated outcomes of these affiliation projects should reflect responsible stewardship of the environment. Business/economics/trade projects with the potential for having an adverse impact on the environment will have a low priority.

Environment/sustainable development projects should address environmental issues having an impact on U.S. and global interests. Such affiliation projects should help establish or expand environmental policy studies programs through faculty and curriculum development, teaching and lecturing, and outreach. For the designated countries listed below, projects are encouraged which link the study of free trade and market economies with the environment and sustainable development.

Whenever feasible, participants involved in either trade/economics policy projects or international environmental policy studies projects should make their training and personnel resources, as well as results of their collaborative research, available to government, NGOs, and business.

Eligible Academic Disciplines

Economics (Comparative and International)

Business/Business Administration/Business Management

International Marketing/International Trade

Commercial Law (including Comparative Law, International Treaties, Intellectual Property Rights)

Environmental Law and Regulation

Environmental Policy and Resource Management

Environmental Sciences/Natural Resource Sciences

Area Studies (in combination with one or more of the academic fields above)

Eligible Countries/Localities

Africa: Burkina Faso, Ghana, Namibia, Senegal, South Africa, Tanzania, Uganda, and Zambia;

American Republics: Brazil, Chile, Colombia, Mexico, Peru, Paraguay, Uruguay. Priority will be given to proposals that focus on economic development and free trade;

East Asia and Pacific: The following Asia Pacific Economic Cooperation (APEC) member economies are eligible within a trilateral, NOT bilateral, affiliation between the U.S. and two APEC member economies: Australia, Canada (see the section on ''Western Europe'' below), China, Chile, Hong Kong, Indonesia, Japan, South Korea, Malaysia, Mexico, New Zealand, Philippines, Singapore, Taiwan, and Thailand;

In addition, Malaysia, Thailand, and Vietnam; are eligible for bilateral projects only in the Environment and Sustainable Development category;

East Europe, Central Europe, and the Commonwealth of Independent States: Moldova (projects focusing on Free Trade and Market Economies only);

North Africa, Near East, and South Asia (NEA): The following are eligible for a bilateral or trilateral affiliation: Bahrain, Bangladesh, Gaza, Jordan, Kuwait, Morocco, Nepal, Oman, Pakistan, Qatar, Saudi Arabia, SRI Lanka, Syria (Environment and Sustainable Development only), Tunisia, United Arab Emirates, West Bank, Yemen;

Lebanon: USIA welcomes proposals for bilateral linkages in Lebanon which include the use of distance education and Internet to facilitate two-way communication since, at this writing, only one-way travel (from Lebanon to the United States) is advisable.

Western Europe: Canada, eligible only in an APEC trilateral partnership. Proposals involving Canada and East Asian APEC nations are encouraged in recognition of the array of trade interests and environment/sustainable development issues that Canada and the United States share with Asian nations.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the

availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: September 19, 1977.

John P. Loiello,

Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–26152 Filed 10–1–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

International Visitor Program

ACTION: Notice—Request for Proposals.

SUMMARY: The Office of International Visitors (E/V) of the United States Information Agency's Bureau of Educational and Cultural Affairs announces a competition for an assistance award. Public and Private nonprofit organizations *not* currently receiving Office of International Visitors assistance awards and meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop programming for projects of one to twenty-five International Visitors nominated by U.S. Embassies abroad.

The intent of this announcement is to attract new organizations to the International Visitor (IV) programming process. USIA is seeking new organizations to provide diversity and an infusion of program experience to the IV program. The winning applicant will function as a national programming agency and will work closely with USIA staff members who will guide and mentor the applicant through procedural, budgetary or programmatic issues as they arise in a variety of International Visitor projects. This experience is expected to build the selected organization's capacity to compete for a continuing grant in IV project administration.

USIA is seeking a qualified applicant to develop over the course of fiscal year 1998 (October 1, 1997–September 30, 1998) the following series of projects: 25 Individual Visitor projects, 6 Single Country Projects (SCPs), 2 Regional Projects (RPs) and 1 Multi-Regional Project (MRP).

The objective of the International Visitor Program is to increase mutual understanding through communication and collaboration with professional counterparts in the U.S. Participants are current or potential foreign leaders in government, politics, media, education, science, labor relations, and other key fields. They are selected by American embassies abroad and approved by USIA in Washington, DC. Since the program's earliest inception in 1941, more than 120,000 distinguished visitors have participated in the program, and over 155 program alumni have subsequently become heads of state or government in their home countries.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. the Purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Title and Number

All communications with USIA concerning this RFP should refer to the announcement's title and reference number *E/V–98–01*.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package Via Fax on Demand

The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System'', which is accessed by calling (202) 401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals.

Bidders Conference

USIA will host a Bidder's Conference for this assistance award on November 5, 1997 at a USIA location in Washington, DC. Substantive questions about this RFP will be addressed at the conference. Interested applicants are asked to submit questions by mail, fax, or e-mail to the E/VC address given above. Questions must be received by COB Friday, October 31, 1997. Details of the Bidders Conference will be sent to responding applicants at a later date.

Submissions

Applicants must follow all instructions given in the Solicitation Package. The original and *10* copies of the application should be sent to: U.S. Information Agency, Ref.: *E/V–98–01*, Office of Grants Management, E/XE, Room 326, 301 4th Street, SW., Washington, DC 20547.

Applicants must also submit the proposal on a 3.5″ diskette, formatted for WordPerfect.

Deadline for Proposals

All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on *Monday, December 1, 1997.* Faxed or e-mailed documents will not be accepted at any time.

Documents postmarked by the due date but received at a later date will not be accepted.

Grants should begin *by mid-January 1998.*

To Request a Solicitation Package, Contact

The Office of International Visitors, Community relations Division, E/VC, Room 266, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, Tel: (202) 619–5234, 1–800–827–0804; Fax: (202) 619–4655, E-Mail address: rfp@usia.gov (available October 14, 1997).

Please request required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical

challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the ''Support for diversity'' section for specific suggestions on incorporating diversity into the total proposal. Pub. L. 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview: Programs must maintain a non-partisan character. Programs and awards must conform to all Agency requirements and guidelines.

Guidelines: USIA seeks proposals from non-profit organizations for development and implementation of professional projects for approximately 100 USIA-sponsored International Visitors to the U.S. Once the award is made, separate proposals will be required for each group project [MRP, RP, and SCP], as well as less-formal proposals for Individual Visitor projects. Each project will be focussed on a substantive theme. Further information giving examples of some of these program themes is included below and in the Solicitation Package.

Goals and objectives for all projects will be shared with the winning applicant organization following the announcement of the assistance award. Most projects will be 21 to 30 days in length. Most projects will begin in Washington, DC, with an orientation and overview of the issues and a central examination of Federal policies regarding these issues. Well-paced project itineraries include programs in four or five communities. Group and individual project itineraries will ideally include urban and rural small communities in diverse geographical and cultural regions of the U.S., as appropriate to the project theme. Projects should provide opportunities for participants to experience the diversity of American society and culture. Depending on the size and theme of the project, the participants in Multi-Regional or Regional group projects can be divided into smaller sub-groups for simultaneous visits to different communities, with subsequent opportunities to share their experiences with the full group once it is reunited. Project may provide opportunities for the visitors to share a meal or similar experience (home hospitality) in the home of Americans of diverse occupational, age, gender and ethnic groups. Some individual and group projects might include an opportunity for an overnight stay (home stay) in an American home. The visitors should be provided opportunities to address student, civic and professional groups in relaxed and informal settings. For some projects, ''shadowing'' experiences with American professional colleagues may be proposed. Visitors should have appropriate opportunities for site visits and hands-on experiences that are relevant to project themes. Projects should also allow time for participants to reflect on their experiences, and in group projects, share observations with project colleagues. Visitors should have opportunities to visit cultural and tourist sites. Arrangements for community visits must be made through affiliates of the National Council for International Visitors [NCIV]. [The NCIV is a national network of private citizen organizations located in more than one hundred U.S. communities, which arrange local programs for international visitors.] In cities where there is no such council, the applicant organization will arrange for coordination of local programs.

The applicant should demonstrate the potential to develop projects, as described above, on a variety of program themes. The applicant is expected to have e-mail capability to consult with USIA program officers, and access to internet resources. USIA will provide close coordination and guidance throughout the duration of the award.

For informational purposes only, the following outlines are examples of project themes for multi-regional and regional projects. Do *not* prepare proposals to administer these sample project themes as part of your submission package.

1. *Multi-Regional Project* (World-wide participants; English-speaking):

Globalization of Business and Markets. Project design would examine the impact of ''globalization'' in business, markets, and communities. The project will examine costs and benefits of the interconnected global market, and its effect on international and domestic policies.

2. *Regional Projects* (from one continent or region; may include interpretation):

Grassroots Democracy [American Republics]

Project design would provide participants with a greater understanding of the U.S. political system and American social culture in a democratic society. It would demonstrate how grassroots organizations interact and communicate with federal, state and local governments and explore the role and influence of grassroots organizations on public policy decision-making at the local and national levels.

Civic Education: Fostering Informed and Responsible Citizen Participation in a Democracy [Africa]

Project would demonstrate how a public that is well-educated about its civic rights and responsibilities, and which plays an active role in public life, is the best guarantor of its own self-government. Participants would encounter some of the key organizations involved in educating U.S. citizens and in mobilizing effective citizen participation in various aspects of the social and political process.

Visa Requirements

Particpants in individuals or group projects will travel on J–1 visas arranged by USIA. Projects must comply with J–1 visa regulations. Please refer to program specific guidelines in the Solicitation Package for further details.

Tax Requirements

Administration of the projects must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Applicant organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Budget

Applicant organizations are required to submit a comprehensive line-item administrative budget in accordance with the instructions in the Solicitation Package. A summary budget as well as a detailed budget showing all administrative costs is required. Proposed staffing and costs associated with staffing must be appropriate to the requirements outline in the RFP and the remaining portion of the Solicitation Package. The selected applicant will enter into close consultation on budgetary matters with the responsible USIA program officer throughout the implementation of projects, each one of which will have separate budgets. Combined administrative and indirect costs proposed should be reasonable. Cost sharing is encouraged.

The Agency is seeking proposals from organizations that are not currently receiving administrative E/V project grants. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000. Since this RFP is for an award greater than $60,000 all applicants must have four years of experience as stated. It is therefore incumbent on organizations to demonstrate: a capacity for programming visitors from all geographical regions of the world; proven fiscal management integrity; and an ability to have close consultation with USIA staff throughout project administration.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will also be reviewed by the E/V program officer, as well as one or more of USIA's geographic area offices. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Quality of program design:* Proposals should exhibit originality, substance, precision, and be responsive to requirements stated in the RFP and the 1998 Solicitation Package.

2. *Program planning:* A detailed and relevant work plan should demonstrate substantive intent and logistical capacity. Agenda and plan should adhere to the program overview and guidelines.

3. *Ability to achieve program objectives:* Proosals should clearly demonstrate how the institution will meet the goals of the International Visitor Program.

4. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in both program administration (selection of resources, program venue and program evaluation) and program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

5. *Institutional Capacity:* Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

6. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for any past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the potential of new applicants for effective program administration. All applicants must demonstrate: a minimum of four years in existence, with proven project management ability and demonstrated fiscal soundness and accountability; a potential for programming visitors from all geographic regions of the world; a Washington, DC presence or ability to have consultations with USIA staff on a regular basis (including face-to-face) throughout the development of each group or Individual project.

7. *Cost-effectiveness:* The administrative and indirect cost components of the proposal, including salaries, should be kept as low as possible.

8. *Cost-sharing:* Consideration will be given to proposed cost-sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: September 27, 1997.

John P. Loiello,

Associate Director for Bureau of Educational and Cultural Affairs.

[FR Doc. 97–26153 Filed 10–1–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Program Title NIS Training Program: Russia, Ukraine, Belarus and Moldova

ACTION: Request for proposals.

SUMMARY: The Russia/Eurasia Division of the Office of Citizen Exchanges of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop training programs. Grants are subject to the availability of funds.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * * ; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the Fulbright-Hayes Act and the Freedom Support Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package.

Announcement Title and Number: All communications with USIA concerning this RFP should refer to the announcement's title and reference number E/PN–98–5.

Deadline for Proposals: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, DC time on Friday, December 12, 1997. Faxed documents will not be accepted at any time. Documents postmarked by December 12, 1997, but received at a later date, will *not* be accepted.

FOR FURTHER INFORMATION, CONTACT: The Russia/Eurasia Division, Office of

Citizen Exchanges (E–PN), Room 224, U.S. Information Agency, 301 4th Street, SW., Washington DC 20547, attn: Cassandra Barber, tel: (202) 619–5327 and fax: (202) 619–4350, or Internet address: cbarber@usia.gov, to request a Solicitation Package which includes: proposal and budget guidelines and all application forms.

To Download a Solicitation Package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Packager via Fax on Demand: The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System'', which is accessed by calling (202) 401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify USIA Program Officer Cassandra Barber on all inquiries and correspondence. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions: Applicants must follow all instructions given in the Solicitation Package. The original and 10 copies of the application should be sent to: U.S. Information Agency, Ref.: E/PN–5–98, Office of Grant Management, E/XE, Room 326, 301 4th Street, SW., Washington, DC 20547.

Diversity, Freedom and Democracy Guidelines: Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in counties whose people do not fully enjoy freedom and democracy,'' USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

USIA is interested in proposals that encourage the growth of democratic institutions in Russia, Ukraine, Belarus, and Moldova. Exchanges and training programs supported by Office of Citizen Exchange's institutional grants should operate at two levels: they should enhance institutional relationships; and they should offer practical information to individuals to assist them with their professional responsibilities. Strong proposals usually have the following characteristics: an existing partner relationship between an American organization and an in-country institution in Russia, Ukraine, Belarus, or Moldova; a proven track record of conducting program activity; cost-sharing from American or in-country sources, including donations of air fares, hotel and/or housing costs; experienced staff with language facility; and a clear, convincing plan showing how permanent results will be accomplished as a result of the activity funded by the grant. USIA wants to see tangible forms of time and money contributed to the project by the prospective grantee institution, as well as funding from third party sources.

Unless otherwise specified below, project activity may include: internships; study tours; short-term training; consultations; and extended, intensive workshops taking place in the United States or in Russia, Ukraine, Belarus, or Moldova. Proposals should reflect the authors' understanding of the political, economic, and social environment in which the program activity will take place.

We encourage applicants to design programs for *non-English speakers.* Programs can take place in the United States or in the four countries. With the exception of the Women's Leadership Training Project described below, we want single country programs, not programs that mix NIS participants together. USIA is interested in proposals whose designs take into account the need for ongoing sharing of information and training. Examples include: ''train the trainers'' models; support for training centers in Russia, Ukraine, Belarus or Moldova; plans to create professional networks or professional associations to share information; and/or establishing ongoing internet communication

USIA will give priority to proposals that respond to the following specific topics for Russia, Ukraine, Belarus and Moldova.

For Russia, Ukraine, Belarus and Moldova

Women's Leadership Training

Women must take their place in the political arena if democracy is to take root in these countries. USIA is interested in proposals that offer leadership training skills to women active in their own communities in Russia, Ukraine, Belarus or Moldova. In Russia, the majority of program activity should not take place in Moscow, but rather focus on helping women in Russian regions. The focus of the training programs should be on how to identify priorities, organize and form coalitions, and to influence decision makers about issues and problems affecting the well-being of people in local communities. Proposals are not limited to a one-country focus, but may also address how to build networks among women's organizations in these four countries. Prospective grantee institutions should identify the NIS local organizations and individuals with whom they are proposing to collaborate and describe in detail previous cooperative programming and contacts. Program activity may take place either in the NIS or in the United States. This activity is intended to follow up on issues addressed in the Vital Voices Conference held in Vienna from July 9–11. For more information on the conference, please see the Vital Voices Homepage at http://www.usia.gov/vitalvoices/ for more information.

For Russia

US-Based Internships for Russian Journalists and Media Managers

USIA is interested in proposals for journalistic training and management for Russia regional media organizations (Moscow and St. Petersburg are excluded), and we particularly welcome proposals for Samara and surrounding regions and Khabarovsk. Journalistic training in basic skills and concepts could include; effective writing, investigative reporting, objectivity, the clear labeling of editorials and opinion pieces, intellectual property issues and ethics. Media management training (both print and electronic) should focus on management of media as a business; management techniques, desk top publishing, advertising, marketing, distribution, personnel, public relations, and the financial benefits and pitfalls of

journalistic advocacy. Radio internships would be especially welcome. USIS Moscow will coordinate selection of journalist with the grantee organization. Preference will be given to long-term internships for English speakers. The US program should be a practical, hands-on experience in an American media organization, not an academic course of study.

Distance Learning in the Field of Business Management

USIA is interested in proposals that establish or expand distance learning programs in business and management at Russian universities or institutes outside of Moscow. The beneficiaries of such a program would be both students and professionals already working for enterprises. Specific programs could include the delivery of management and business content through e-mail, video or text-based internet. Travel to the United States by Russian providers and trips to Russia by American course organizers are essential. Proposals should address in detail: technical requirements for delivery of business/management content through distance learning mechanisms; training requirements for instructors and faculty on how to use the media, i.e., train the trainers; how appropriate print materials might be integrated with a distance learning approach, and; language of instruction issues. Proposals should show Russian institutional commitment (written letters of support) and tangible Russian cost-shares in the form of space, security, salaries, and support for visiting Americans such as local housing and transportation. Interested American organizations should plan trips to Russia of at least 2 weeks duration to get programs underway and to monitor progress. Short-term visits of a few days duration are discouraged. Grantee institutions are expected to consult closely with USIS Moscow on the development of this program. USIA is interested in a maximum utilization of low end technologies so that the project model might be replicated in other regions.

Because of the complexity of this program, USIA will consider funding proposals in the $150,000–$200,000 range. See Project Funding section below for additional guidance on funding levels.

For Moldova

Creation of an Independent Broadcaster's Association

USIA is interested in proposals that strengthen independent journalism in Moldova, specifically by assisting in the establishment of an independent broadcasters' association. An audio-visual council to govern broadcast media has recently been established, and the industry has recognized the need to establish an association to interact with the newly-formed industry regulator. In addition, the association could work to provide continued professional training and even attract advertising money to the industry. This project would help the association develop a statute and regulations, train a Moldovan staff to run the organization and create ties between Moldovan broadcasters and American broadcasters' associations.

USIA envisions most of the project activity taking place in Moldova. Project organizers would assist in helping set up the association and educating Moldova broadcasts on what an association actually does. In-country training of several months in duration by American experts could be followed by a month-long visit to the US by 3–4 Moldovans (who have demonstrated the potential to lead the effort) for further training and contact with American professional counterparts. A follow-up visit six months later by American trainers to ensure the effort has taken hold would be a natural third phase of the program.

Selection of Participants

Proposals should describe clearly the type of persons who will participate in the program as well as the process by which participants will be selected. We recommend that programs with internships in the US include letters of commitment from host institutions, even if tentative. In the selection of foreign participants, USIA and USIS posts abroad retain the right to nominate all participants and to accept or deny participants recommended by grantee institutions. However, grantee institutions are usually asked by USIA to suggest names of potential participants. Priority will be given to foreign participants who have not previously traveled to the United States.

Visa Regulations

Foreign participants on programs sponsored by the Office of Citizen Exchanges are granted J–1 Exchange Visitor visas by the American Embassy in the sending country.

Project Funding

Since USIA grant assistance constitutes only a portion of total project funding, proposals should list and provide evidence of other sources of financial and in-kind support. Proposals with substantial private sector support from foundations, corporations, and other institutions will be considered highly competitive.

Although no set funding limit exists, proposals for less than $80,000 will receive preference. Organizations with less than four years of successful experience in managing international exchange programs are limited to $60,000. Applicants are invited to provide both an all-inclusive budget as well as separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding. While a comprehensive line item budget based on the model in the Solicitation Package must be submitted, separate component budgets are optional.

The following project costs are eligible for consideration for funding:

1. International and domestic air fares; visas; transit costs; ground transportation costs.

2. Per Diem. For the U.S. program, organizations have the option of using a flat $140/day for program participants or the published U.S. Federal per diem rates for individual American cities. For activities outside the U.S., the published Federal per diem rates must be used. NOTE: U.S. escorting staff must use the published Federal per diem rates, not the flat rate. Per diem rates may be accessed at http://www.policyworks.gov/.

3. Interpreters: If needed, interpreters for the U.S. program are provided by the U.S. State Department Language Services Division. Typically, a pair of simultaneous interpreters is provided for every four visitors who need interpretation. USIA grants do not pay for foreign interpreters to accompany delegations from their home country. Grant proposal budgets should contain a flat $140/day per diem for each Department of State interpreter, as well as home-program-home air transportation of $400 per interpreter plus any U.S. travel expenses during the program. Salary expenses are covered centrally and should not be part of an applicant's proposed budget.

4. Book and cultural allowance: Participants are entitled to and escorts are reimbursed a one-time cultural allowance of $150 per person, plus a participant book allowance of $50. U.S. staff do not get these benefits.

5. Consultants. May be used to provide specialized expertise or to make presentations. Daily honoraria generally do not exceed $250 per day. Subcontracting organizations may also be used, in which case the written agreement between the prospective grantee and subcontractor should be included in the proposal.

6. Room rental, which should not exceed $250 per day.

7. Materials development. Proposals may contain costs to purchase, develop, and translate materials for participants.

8. One working meal per project. Per capita costs may not exceed $5–8 for a lunch and $14–20 for a dinner, excluding room rental. The number of invited guests may not exceed participants by more than a factor of two-to-one.

9. A return travel allowance of $70 for each participant which is to be used for incidental expenditures incurred during international travel.

10. All USIA-funded delegates will be covered under the terms of a USIA-sponsored health insurance policy. The premium is paid by USIA directly to the insurance company.

11. Administrative Costs. Other costs necessary for the effective administration of the program, including salaries for grant organization employees, benefits, and other direct and indirect costs per detailed instructions in the application package. While this announcement does not proscribe a rigid ratio of administrative to program costs, in general, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from USIA. Proposals should show cost-sharing, both contributions from the applicant and from other sources.

Please refer to the Application Package for complete budget guidelines.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be considered ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Office of East European and NIS Affairs and the USIA post overseas, where appropriate. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (granted or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered.

1. Program Planning and Ability to Achieve Objectives

Program objectives should be stated clearly and precisely and should reflect the applicant's expertise in the subject area and the region. Objectives should respond to the priority topics in this announcement and should relate to the current conditions in each of the countries. They should be reasonable and attainable. A detailed work plan should explain step by step how objectives will be achieved, including a timetable for completion of major tasks. The substance of seminars, presentations, consulting, internships, and itineraries should be spelled out in detail. Responsibilities of in-country partners should be clearly described.

2. Institutional Capability

Proposed personnel and institutional resources should be adequate and appropriate to achieve the project's goals. The narrative should demonstrate proven ability to handle logistics. Proposal should reflect the institution's expertise in the subject area and knowledge of the conditions pertaining to it in Russia or Moldova.

3. Cost Effectiveness

Overhead and administrative costs for the proposal, including salaries, honoraria, and subcontracts for services, should be kept low. While this announcement does not proscribe a rigid ratio of administrative to program costs, in general, priority will be given to proposals whose administrative costs are less than twenty-five (25) per cent of the total requested from USIA. Proposals should show cost-sharing, both contributions from the applicant and from other sources.

4. Support of Diversity

Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity throughout the program.

5. Project Evaluation

USIA is results-oriented. Proposals must include a plan and methodology to evaluate the activity's success, both as the activities unfold and at the and of the program. USIA recommends that the proposal include a draft survey questionnaire and/or plan for use of another measurement technique (such as a focus group) to link outcomes to original project objectives. Award-receiving organizations/institutions will be expected to submit intermediate reports after each component is concluded or quarterly, whichever is less frequent.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements. Organizations will be expected to cooperate with USIA in evaluating their programs under the principles of the Government Performance and Results Act of 1993, which requires federal agencies to measure and report on the results of their programs and activities.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: September 25, 1997.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–25989 Filed 10–1–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

USIA–Bosnia Undergraduate Development Program; Request for Proposals

SUMMARY: Subject to the availability of funds, the Office of Academic Programs, Academic Exchanges Division, European Branch, of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Colleges and universities (including community colleges and/or four year institutions) meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to host between two and five Bosnian students in a one year, non-degree undergraduate program for the academic year 1998–1999.

The USIA–Bosnia Undergraduate Development Program is designed to allow Bosnian students an opportunity to obtain knowledge, insight and cultural enrichment through their academic studies at American colleges and universities. The USIA strongly encourages institutions to guide students to courses in American studies, or other courses which emphasize

democracy, market economy, and civic society per the intent of the SEED funding. The USIA is holding an open solicitation for all universities and colleges giving preference to those that have demonstrated experience in hosting Bosnian students, partnerships with Bosnian higher education institutions, or expertise and interest in the region. Increase in program expenses together with reduced overall government funding for exchange programs make cost-sharing arrangements with host institutions a critical part of the USIA-Bosnia Undergraduate Development Program. Preference will be given to institutions that can provide cost-sharing toward tuition, fees, room and board expenses and/or other direct participant expenses. Cost-sharing may also be in the form of direct administrative and program costs.

The proposed funding will support one academic year of study in the fields of agriculture, business administration, civic education, criminal justice, economics, education, environmental resource management, journalism/mass communications, political science, and public administration. Similarly, the grant will support international round-trip travel of students, the housing of the students on campus or with host families, a four to twelve week internship in the students' field of specialization, culturally enriching activities, including but not limited to community outreach and service projects, and additional activities such as an orientation program.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Public Law 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.''

The grant and funding for this program has been allocated by the Support for the East European Democracy (SEED) initiative. The SEED initiative is special funding targeted to advance the democratic and economic transition of Central and Eastern Europe. The funding authority for the USIA-Bosnian Undergraduate Development Program is provided through the Support for East European Democracy Act of 1989.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

ANNOUNCEMENT TITLE AND NUMBER: All communications with USIA concerning this RFP should refer to the announcement's title and reference number E/AEE–98–02.

DEADLINE FOR PROPOSALS: All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on Thursday, December 4, 1997. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. Grants should begin April 1, 1998.

FOR FURTHER INFORMATION CONTACT: The Office of Academic Programs, European Branch, E/AEE Room 246 U.S. Information Agency, 301 Th Street, S.W., Washington, D.C. 20547, (202) 205–0525, fax (202) 206–7985, E.Mail: treed@usia.gov to request a Solicitation Package containing more detailed information. Please request required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

TO DOWNLOAD A SOLICITATION PACKAGE VIA INTERNET: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

TO RECEIVE A SOLICITATION PACKAGE VIA FAX ON DEMAND: The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System'', which is accessed by calling 202/401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify USIA Senior Program Manager Mr. Ted Kniker, and Program Associate Ms. Jaime Lofstrand on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

SUBMISSIONS: Applicants must follow all instructions given in the Solicitation Package. The original and 8 copies of the application should be sent to: U.S. Information Agency, Ref.: E/AEE–98–02, Office of Grants Management, E/XE, Room 326, 301 Th Street, S.W., Washington, D.C. 20547.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy'', USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

The Bosnia Undergraduate Development Program is a one year educational exchange that aims at bringing Bosnian students to study at American universities or colleges in specified disciplines pertaining to democracy, market economies, and civil society per the SEED funding initiative.

Guidelines

Programs must comply with J–1 visa regulations and the host institutions are responsible for ensuring the 10–15 students' return to Bosnia. Please refer to program specific guidelines (POGI) in the Solicitation Package for further details.

Proposed Budget

Institutions desiring to host students from Bosnia must submit a comprehensive line item budget based on the specific guidelines listed in the Solicitation Package. ''Grants awarded to eligible organizations with less than four years of experience in conducting

international exchange programs will be limited to $60,000.''

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as a break-down reflecting both the administrative budget and the program budget. For further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding.

Review Process

USIA will acknowledge receipt of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Office of East European and NIS Affairs and the USIA post overseas, where appropriate. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Strength of Academic Program:* Proposals should exhibit academic rigor and a demonstrated capacity to meet the participants needs.

2. *Cost Effectiveness:* Plans should indicate a high level of cost-sharing and a competitive level of cost per individual student for the USIA.

3. *Ability to Provide Support Services:* Proposals should clearly demonstrate how the institution will meet the advisement and support needs of the international students.

4. *Ability to Provide Support for Securing Internships:* Proposed programs should demonstrate that they can strengthen and reinforce what has been learned in the classroom by aiding students in obtaining internships for the summer session.

5. *Ability to Provide Cultural Enrichment and Community Outreach Opportunities:* Proposals should demonstrate a commitment to planning, implementing, and supporting the Bosnian students in participating in cultural and community outreach programs.

6. *Support of Diversity:* Proposals should demonstrate substantive support of the Bureau's policy on diversity. Achievable and relevant features should be cited in program content (orientation and wrap-up sessions, program meetings, resource materials and follow-up activities).

7. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs or a potential to meet this standard. This includes responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants.

8. *Ability for Institutions to Develop or Enhance Linkages with Bosnian Institutions:* Proposals should provide a plan for developing or enhancing a relationship with Bosnian institutions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by any USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Options for Renewals

Subject to the availability of funding for FY 1999 and the satisfactory performance of grant programs, USIA may invite grantee organizations to submit proposals of renewals of awards.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: September 25, 1997.

Robert Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–25988 Filed 10–1–97; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 62, No. 191

Thursday, October 2, 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 THE INTERIOR

National Park Service

Notice of Inventory Completion for Native American Human Remains and Associated Funerary Objects From Chugachuk Island, AK in the Possession of the University of Alaska Museum, Fairbanks, AK

Correction

In notice document 97–25730 appearing on page 50964, in the issue of Monday, September 29, 1997, make the following correction:

On page 50964, in the second column, in the 12th line from the bottom, ''November 28,'' should read ''October 29,''.

BILLING CODE 1505-01-D

federal register

Thursday
October 2, 1997

Part II

Department of Transportation

Federal Aviation Administration

14 CFR Part 187

Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace; Interim Final Rule

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 187

[Docket No. 28860; Amendment No.–187–9]

RIN 2120–AG17

Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Interim final rule.

SUMMARY: This document changes the date aircraft operators are liable for overflight fees for air traffic and related services received during Canada-to-Canada overflights from October 1, 1997, to March 1, 1998. This change is necessary to avoid temporary disruptions of air traffic patterns along the US/Canadian border and to preserve current operational control relationships with Canadian air traffic authorities and the resulting efficiencies.

EFFECTIVE DATE: October 2, 1997.

FOR FURTHER INFORMATION CONTACT: Jeffrey Wharff, Office of Aviation Policy and Plans, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–7035.

SUPPLEMENTARY INFORMATION:

Background

On March 20, 1997, the FAA published an Interim Final Rule entitled ''Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace'' (62 FR 13496). In the interim final rule, the effective date for fees charged to aircraft operators for air traffic control and related services during Canada-to-Canada overflights was deferred from May 19, 1997, until October 1, 1997. The rationale for the deferral, as outlined in the interim final rule, was that a significant number of aircraft flying between points in Canada through U.S.-controlled airspace would have an economic incentive to divert into Canadian-controlled airspace and avoid the U.S. fees if there were no corresponding Canadian enroute fees. NAV CANADA, a Canadian non-share capital corporation that owns, manages, and operates Canada's civil air navigation system, had originally planned to introduce its enroute charging system on November 1, 1997; this date has recently been revised to March 1, 1998. This change has caused the FAA to reconsider its policy on deferral of Canada-to-Canada flights.

Canada currently has an overflight charge for aircraft that transit Canadian-controlled airspace. With the exception of flights of aircraft that weigh more than 200 tons and that land or take off in Alaska, U.S. domestic aircraft operations have been temporarily exempted from this Canadian charge. NAV CANADA has stated that this exemption will terminate once the U.S. initiates charges on Canada-to-Canada overflights through U.S.-controlled airspace.

Deferment of Canada-to-Canada Overflight Fees

Currently, it is more cost effective for many Canada-to-Canada flights to transit U.S.-controlled airspace because it is either the shortest flight route or it offers the most favorable flight conditions.

In the interim final rule, the FAA stated that if it initiated overflight charges on Canada-to-Canada flights in the absence of a Canadian enroute fee, it is likely that a significant number of these flights would divert to use only Canadian-controlled airspace because it would constitute the least expensive route in which to operate. The FAA remains concerned that diversion will occur if there is only an FAA fee without a Canadian enroute fee for the period October 1, 1997, to March 1, 1998. NAV CANADA has continued to express concern that FAA implementation of a Canada-to-Canada overflight fee prior to the implementation of the Canadian enroute charge would temporarily increase the workload at Canadian control centers and could adversely affect existing bilateral agreements regarding U.S. air traffic control of certain Canadian airspace. Deferral of fee imposition will minimize temporary disruption of traffic that is likely to occur in the absence of a Canadian enroute fee.

Maintenance of the current U.S.-Canadian agreement concerning this airspace is important for the optimized routing for a significant number of both U.S. and Canadian aircraft operations. Deferring fee imposition will allow time for further U.S.-Canadian consultation, and for similar consultation, if appropriate, with other air traffic organizations as well as the International Civil Aviation Organization.

Justification

The Administrative Procedure Act, 5 U.S.C. 553 *et seq.*, requires that prior to the issuance of a final rule, an agency give notice to the public and seek comment on a proposed rule.

The March 20, 1997, interim final rule (62 FR 13498) was issued without public notice pursuant to specific Congressional authority, 49 U.S.C. 45301(b)(2). At that time, comments were sought in that interim final rule including the issue of Canada-to-Canada overflight deferral. Comments on this issue as well as all others received will be addressed in the final rule.

This document is being issued without notice or request for comments. As this action is relieving in nature and extends previously stated FAA policy, no additional notice or comment is required by applicable statutes or executive orders. Also , in view of the imminent expiration date of the deferral for these overflights, notice and comment procedures would be impracticable for this amendment.

Conclusion

There are no costs associated with this change in the interim final rule. Accordingly, the FAA has determined that this amendment (1) is not a significant regulatory action under Executive Order 12866; (2) is not a significant regulatory action under DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. Because the economic impact of this amendment is minimal, a full regulatory evaluation has not been prepared.

List of Subjects in 14 CFR Part 187

Administrative practice and procedure and Air transportation.

The Amendment

The Federal Aviation Administration amends 14 CFR part 187 as follows:

PART 187—FEES

1. The authority citation for part 187 continues to read as follows:

Authority: 31 U.S.C. 9701; 49 U.S.C. 106(g), 40104–40105, 40109, 40113–40114, 44702, 45301–45303.

2. Appendix B is amended by revising paragraph (c) to read as follows:

Appendix B to Part 187—Fees for Air Traffic Services for Certain Flights Through U.S.-Controlled Airspace

* * * * *

(c) *Deferral of Overflight Charges.* This appendix does not apply to aircraft that take off and land in Canada without intermediate stops outside of Canada that operate through U.S.-controlled airspace until March 1, 1998.

* * * * *

Issued in Washington, DC on September 26, 1997.

Jane F. Garvey,

Administrator.

[FR Doc. 97–26095 Filed 9–26–97; 4:53 pm]

BILLING CODE 4910–13–M

federal register

Thursday
October 2, 1997

Part III

Department of Justice

28 CFR Part 58

Procedures for Suspension and Removal of Panel Trustees and Standing Trustees; Final Rule

DEPARTMENT OF JUSTICE

28 CFR Part 58

RIN 1105–AA54

Procedures for Suspension and Removal of Panel Trustees and Standing Trustees

AGENCY: Department of Justice.

ACTION: Final rule.

SUMMARY: The United States Trustee Program (''Program''), a component of the Department of Justice, is formalizing procedures to govern the suspension and termination of future case assignments to panel and standing trustees. The final rule enables a trustee to obtain a determination by the Director of the Executive Office for United States Trustees whether a decision by a United States Trustee to suspend or terminate future case assignments is supported by the record and is an appropriate exercise of the United States Trustee's discretion. This rule specifies the method by which United States Trustees shall announce suspension and termination decisions. It also formalizes the procedure by which a trustee obtains review by the Director, the manner in which that review will be conducted, and the standard the Director will employ in reaching a determination.

The Director's decision will constitute final agency action by the Department of Justice. If the agency's final action is adverse, this rule enables a trustee to obtain judicial review of it pursuant to the Administrative Procedure Act. 5 U.S.C. 552, *et seq.*

EFFECTIVE DATE: This rule is effective November 3, 1997.

ADDRESSES: Office of the General Counsel, Executive Office for United States Trustees, 901 E Street, NW., Room 740, Washington, D.C. 20530.

FOR FURTHER INFORMATION CONTACT:

Martha L. Davis, General Counsel, or P. Matthew Sutko, Attorney, (202) 307–1399. This is not a toll free number.

SUPPLEMENTARY INFORMATION: This final rule provides a method and a review process for suspending and terminating future case assignments to panel and standing trustees. A proposed rule on this subject was published in the **Federal Register** on May 23, 1997 (62 FR 28391) (the ''proposed rule''). A summary of background information, public comment, and agency response follows.

I. Background and Rulemaking History

A. The United States Trustee Program

Congress enacted the United States Trustee Program on a pilot basis in the Bankruptcy Reform Act of 1978, Pub. L. No. 95–598, 92 Stat. 2549 (1978), as a component of the Department of Justice and charged it with the responsibility of supervising the administration of bankruptcy cases and trustees. The success of the pilot program led Congress to expand the Program nationwide in 1986 as a permanent component within the Department of Justice. Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Pub. L. No. 99–554, 100 Stat. 3088 (1986).

The Program consists of the Executive Office for United States Trustees, which is headed by the Director, and 21 United States Trustees. The Director is a Justice Department official who acts under authority delegated by the Attorney General. United States Trustees are Justice Department officials appointed by, and who serve at the pleasure of, the Attorney General. 28 U.S.C. 581(a) and (c). United States Trustees supervise the administration of bankruptcy cases and case trustees within specified geographic regions. 28 U.S.C. 581.

Congress created the Program to remedy two longstanding weaknesses that had impaired the efficient and fair administration of bankruptcy cases. The prior system's first weakness was its requirement that bankruptcy courts engage in both judicial and administrative functions in bankruptcy cases. Under the prior system, bankruptcy courts litigated disputes among parties, including trustees. At the same time, bankruptcy courts were responsible for appointing trustees to cases and awarding their compensation.

For nearly a century it was widely acknowledged that a separation of administrative and judicial functions was necessary to ensure the integrity of the system, to preserve its effective and fair administration, and to protect the innocent debtors and creditors for whose benefit the system exists. *See, e.g.,* William J. Donovan, *House Committee on the Judiciary, Administration of Bankrupt Estates,* 71st Cong. 3d Sess. (Comm. Print 1931) (recommending—based upon an examination of 4,000 witnesses and interviews with 19 federal judges, 102 bankruptcy referees and 200 current or former trustees—that Congress rectify the inadequate and corrupt administration of bankruptcy cases by creating a Federal Bankruptcy Commissioner); Solicitor General Thomas Thacher, *Report to the President on the Bankruptcy Act and its Administration in the Courts of the United States, Dated December 5, 1931, reprinted in* S. Doc. No. 65, 72nd Cong. 1st Sess. (1932) (recommending legislation that would remedy cronyism and the lack of administrative oversight in bankruptcy cases by authorizing career civil servant bankruptcy administrators to oversee the administration of bankruptcy cases); *Report of the Commission of the Bankruptcy Laws of the United States,* H.R. Doc. No. 137, 93d Cong. 1st Sess. (1973) (recommending legislation to improve bankruptcy administration and reduce cronyism by transferring administrative functions to an administrative body staffed by civil servants).

The prior system's commingling of trustee supervision and the adjudication of disputes between trustees and third parties in bankruptcy courts resulted in a widespread perception that an unduly close relationship existed between bankruptcy judges and trustees, and this fostered cornyism and insider influence and abuse. *See* H.R. Rep. No. 595, 95th Cong. 2d Sess. 92 (1977). The House of Representative's Report on the proposed Bankruptcy Code concluded that ''[a]s administrator of bankruptcy cases, and the individual responsible for the supervision of the trustee or debtor in possession, it is an easy matter for a bankruptcy judge to feel personally responsible for the success or failure of a case * * * The institutional bias thus generated magnifies the likelihood of unfair decisions in the bankruptcy court * * *.'' H.R. Rep. No. 595, 95th Cong., at 91, 1st Sess. (1977), *reprinted in* 1978 U.S.C.C.A.N. 5963.

The Bankruptcy Code fixed this problem by transferring administrative functions, including the appointment and supervision of trustees, to the United States Trustee Program within the Department of Justice. The Program now appoints and supervises trustees, and, if appropriate, suspends or terminates future case assignments to them.

The second reason Congress created the Program was the recognition that the wide-ranging administrative aspects of the system should be committed to one accountable agency. Congress charged the Program and the Department with the task of supervising the administrative aspects of the system in order to protect debtors and creditors by providing a more accountable and consistent focus, and by supplanting the disparate procedures emanating from separate judicial districts. As one court has noted, in creating the United States Trustee Program, ''Congress specified

that the U.S. Trustees were to be independent of direct court supervision, as 'executives of the bankruptcy network.' '' *United States Trustee* v. *Revco D.S., Inc. (In re Revco D.S., Inc.),* 898 F.2d 498, 500 (6th Cir. 1990) (quoting in part H.R. Rep. No. 595, 95th Cong. 88–89).

B. The Program's Supervision of Trustees

Among the most important administrative functions assumed by the Program are the appointment and supervision of trustees who administer cases under chapters 7, 12, and 13 of the Bankruptcy Code. 28 U.S.C. 509, 510 and 586. The United States Trustee Program has enacted standards that set minimum qualifications for appointment. 28 CFR 58.3 and 58.4.

Trustees are fiduciaries with wide-ranging responsibilities to effectuate the goals of the particular chapter under which a bankruptcy case is filed. Because they are fiduciaries, trustees are held to very high standards of honesty and loyalty. *See generally Woods* v. *City National Bank & Trust Co.,* 312 U.S. 262, 278 (1941); *Mosser* v. *Darrow,* 341 U.S. 267 (1951). *See also Meinhard* v. *Salmon,* 249 N.Y. 458, 464, 164 N.E. 545, 546 (1928) (Cardozo, C.J.).

Trustees are held to high standards not only because of their fiduciary duties to debtors and creditors but because they take charge of debtors' property and they hold large amounts of other people's money. In 1996, chapters 7, 12, and 13 trustees held combined receipts of well over three and a half billion dollars:

1996 RECEIPTS HELD BY TRUSTEES BY CHAPTER

Chapter 7 trustees	Chapter 12 trustees	Chapter 13 trustees
$1,479,531,213	$52,372,261	$2,147,407,093

Trustees exist not for their own benefit but to collect, protect, account for, and distribute these revenues to creditors in accordance with the payment provisions set forth in the Bankruptcy Code. Trustees often oversee many cases; some chapter 13 trustees, for example, administer many thousands of cases. Given the large amounts of money they control and the many duties they perform, dishonest trustees and trustees who do not manage their estates properly diminish the integrity of the bankruptcy system and jeopardize the assets of the honest debtors and creditors whose property they hold. For this reason, it is crucial that trustees be monitored; if necessary, those who cannot fulfill their duties must stop receiving new cases.

C. Assignment of Cases to Trustees

Chapters 7, 12, and 13 trustees receive cases through a two step process. The first step entails appointment of a trustee to the pool of individuals eligible to receive future cases. The second step involves assigning specific cases to individuals from those pools.

The first step in receiving chapter 7 cases is to be selected as a member of the panel of chapter 7 trustees for a specific geographic area. 28 U.S.C. 586(a)(1). A panel is the group of persons within a specific geographic region who are eligible to receive cases.

A United States Trustee selects the persons who serve on the chapter 7 panels in each region. When a person becomes a panel member, the person is eligible for appointment as an interim trustee in chapter 7 cases. 11 U.S.C. 701(a)(1).

Chapters 12 and 13 standing trustees are appointed by United States Trustees, with the approval of the Attorney General, to act as trustees within a specific geographic area. In some districts only one chapter 12 or 13 standing trustee is appointed to receive future cases. Other districts have multiple standing trustees. Once appointed to be a standing trustee for a specific district by a United States Trustee, that trustee will then receive specific cases within that judicial district.

Chapter 7 trustees are appointed to a chapter 7 panel for a renewable one year term. Chapters 12 and 13 standing trustees currently serve no fixed term; they generally remain eligible to receive future cases until that eligibility is terminated. The appointment documents signed by every trustee, whether a chapter 7 panel trustee, or a chapter 12 or a chapter 13 standing trustee, specifically provides that the trustee's appointment may be terminated at any time.

Chapter 7 panel trustees, and a chapters 12 and 13 standing trustees, effectively function as economic monopolists, must like public utilities. Debtors cannot select who will act as their trustee. They must accept the trustee who is appointed for them. With one exception, chapters 7, 12, and 13 trustees do not have to compete in the marketplace for cases as they arise. This single exception applies to chapter 7 cases where creditors may elect a chapter 7 trustee to replace the interim chapter 7 trustee initially appointed by the United State Trustee. 11 U.S.C. 701. Such elections are exceedingly rare: the Administrative Office of U.S. Courts reports that 3,944,893 chapter 7 cases were filed from January 1, 1991 through December 31, 1996 while Program reports show only 251 elections in chapter 7 cases between January 1, 1991 and February 3, 1997.

Rather than requiring trustees to compete for the assignment of specific cases based upon competence or price, Congress created the Program to appoint trustees and to regulate and assure their competence. United States Trustees act to protect debtors and creditors through careful and thorough trustee selection and supervision. Under existing law, trustees have no right or entitlement to receive future cases. 28 U.S.C. 586. *See Joelson* v. *United States,* 86 F.3d 1413 (6th Cir. 1996) (holding that trustees have no statutory or constitutionally protected interest in their positions as trustees); *Richman* v. *Straley,* 48 F.3d 1139, 1143 (10th Cir. 1995) (trustees have no constitutional right to continue acting as trustees); *Shaltry* v. *United States,* 182 B.R. 836, 842 (D. Ariz.) (same), *aff'd,* 1995 WL 866862 (9th Cir. 1995). This enables United States Trustees to stop assigning cases to current trustees if there are others who could do a better job protecting debtors and creditors or who could represent their interests as a lower cost. It also enables United States Trustees to stop assigning cases to trustees whose performance is weak or who engage in improper conduct.

The Program has carefully developed its structure and procedures for supervising trustees. Ensuring that trustees are competent is a time consuming process. It requires United States Trustees to observe all facets of a trustee's operation, often over a long period of time. It requires United States Trustees to have audits or similar reviews performed to analyze trustees' operations. Often, United States Trustees take months or even years to evaluate all information, to alert a trustee to problems, to attempt to assist a trustee in rectifying those problems, and to determine whether a trustee has

performed, or will be able to perform, his or her functions effectively.

The Program's structure enables it to carry out these functions more effectively than isolated bankruptcy courts were able to carry them our under the old system. Bankruptcy courts lacked the resources and the institutional structure to perform those tasks. For this reason, Congress charged United States Trustees with the administrative responsibilities of appointing and supervising panel and standing trustees. Although current law gives trustees no right or expectation to future cases, neither does it give any third party, no matter how better qualified or more cost effective than the trustee, any statutory or constitutional right to demand that future cases be assigned to that individual.

D. Suspension and Termination of Trustees

It is the Program's responsibility to protect debtors and creditors by ensuring that trustees are the appropriate individuals to continue receiving future cases. The Program is also responsible for ensuring that the system is operating smoothly and that cases are being administered efficiently. To fulfill these responsibilities, the Program closely monitors trustees' performance by regularly reviewing their administration of cases. Indeed, Program employees work with trustees almost on a daily basis.

As part of their supervisory responsibilities, United States Trustees must ensure that the Program does not devote inordinate amounts of its resources to supervising a limited number of chronically under-performing trustees. The Bankruptcy Code places many responsibilities upon the Program beyond simply supervising trustees. Trustees who are deficient in basic case administration, or who have to be coaxed, reminded, or prodded into fulfilling their responsibilities, force the Program to divert its limited resources from its other statutory tasks. Although problem trustees may tax the patience of the other participants in the bankruptcy system only occasionally, and those participants may not be fully aware of the shortcomings in those trustees' performance, deficient trustees need constant supervision, which drains the Program's limited resources. Consequently, the efficient administration of the bankruptcy system requires that United States Trustees cease assigning cases to them.

When appropriate, including when a trustee engages in improper conduct or fails to perform adequately, the Program will stop assigning future cases to trustees. Sometimes, a suspension is an appropriate regulatory tool that is used to give a trustee an opportunity to improve performance; in other circumstances termination is appropriate. The Program also may stop assigning future cases to trustees when the caseload in a judicial district declines, resulting in too many trustees for too little work. The Program also may stop assigning future cases when it determines that more competent, better qualified candidates may be available.

E. Effect of Suspension or Termination on Current Caseload

A decision to terminate or suspend a trustee's appointment to future cases has no legal impact upon a trustee's ability to continue administering cases that were previously assigned to the trustee. Current law allows trustees to continue administering cases to which they have been appointed unless the court issues an order removing the trustee in one or more specific cases pending under title 11 of the U.S. Code. 11 U.S.C. 324. Thus, suspensions and terminations are prospective only, and do not affect existing cases that have been assigned to panel and standing trustees.

F. Procedures for Determining Suspensions and Terminations

The Program has always had informal procedures through which an affected trustee could ask the Director of the Executive Office for United States Trustees to review a termination or suspension. The final rule formalizes these procedures. The final rule benefits the Program by allowing it to ensure that its final decision not to assign cases in the future will be based upon a deliberate consideration of all relevant factors at the highest level within the Program. It also has the effect of benefiting trustees by ensuring that a United States Trustee does not suspend or terminate trustees inappropriately or without support in the record.

Panel and standing trustees asked the Program to adopt more formal procedures regarding such decisions. In response to those requests, the Program began in July of 1996 to devise comprehensive written procedures. Prior to issuing its proposed rule, the Program solicited comments from trustees and others regarding what form those procedures should take The result of this lengthy process culminated in the publication of a proposed rule in the **Federal Register** for notice and comment. See 62 FR 28391 (May 23, 1997).

II. Purpose of the Final Rule

Through this rulemaking, the Program is devising a procedure by which it will reach a final determination whether a trustee should receive cases in the future. This rule does not affect a United States Trustee's decision to continue assigning future cases to existing panel and standing trustees. The rule applies when a United States Trustee concludes cases should not be assigned to a trustee. In such a case, the United States Trustee must notify the trustee why the decision has been reached. If a United States Trustee stops assigning cases to a trustee and the trustee chooses not to dispute the propriety of that decision, the decision becomes final and is not subject to review. If the trustee disputes the action, the final rule provides a process for review.

The rule sets forth fourteen non-exclusive examples of conduct or circumstances which may constitute reasons why a United States Trustee might reach such a decision. Those reasons fall into three general categories. The first relates to dishonesty or lack of competence. The second relates to circumstances in which the trustee's performance may meet minimal levels of competence but other more qualified persons may be available to better serve debtors and creditors. The third involves external factors that can reduce the demand for trustees in a specific geographic area, such as when the area's volume of cases declines.

The Program relied upon a number of sources in devising these categories, the foremost of which is its considerable experience in supervising trustees. The Program also considered procedures adopted by the Judicial Branch for supervising trustees in North Carolina and Alabama. Under section 302(d)(3)(I)(i) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986, Bankruptcy Administrators, who are Judicial Branch officials, supervise trustees in those two states until 2002, at which time those supervisory responsibilities shall transfer to the Program. In reaching their decisions, Bankruptcy Administrators may consider 16 factors that are, in large measure, identical to many of the factors set forth in the final rule.

The Administrative Office procedure differs from this rule in at least one significant respect. The judicial procedure allows the trustee to seek reconsideration only from the Bankruptcy Administrator who made the initial decision, but it does not provide for any further review. In contrast, this rule provides that review

of a United States Trustee's decision shall be conducted by the Director and a trustee may obtain judicial review of the Director's final decision under the Administrative Procedure Act.

If a trustee disagrees with a United States Trustee's decision not to assign cases to the trustee in the future, the trustee must notify the Director within 20 days of the trustee's decision to seek review of the United States Trustee's conclusions. If review under the rule is triggered, the rule entitles the trustee and the United States Trustee to explain to the Director their position on the propriety of a cessation of future case assignments. Both may provide the Director with any material they believe supports their conclusion.

Under the rule, the Director will review those submissions to determine whether a decision not to assign cases in the future is an appropriate exercise of a United States Trustee's discretion and whether that decision is supported by the record before the Director. Neither party bears the burden of proof in such a proceeding. After reviewing the material, the Director will reach a decision, which shall constitute final agency action. The agency's administrative record will consist of the materials provided by the trustee and the United States Trustee and the Director's decision.

Before this rule became effective, such a decision would have been final and unreviewable because 28 U.S.C. 586 commits such termination decisions to the Program's discretion and does not create a standard that a court can use to review the reasonableness of the Program's administrative decision. *Joelson* v. *United States,* 86 F.3d 1413 (6th Cir. 1996).

This rule creates a standard that courts can review pursuant to the Administrative Procedure Act by providing that the Director shall determine whether a challenged decision not to assign future cases constitutes an appropriate exercise of the United States Trustee's discretion and is supported by the record. *See, e.g., Clifford* v. *Pena,* 77 F.3d 1414, 1417 (D.C. Cir. 1996) (providing that an agency can facilitate judicial review by creating a standard in a rule); *Block* v. *Securities and Exchange Commission,* 50 F.3d 1078, 1084–85 (D.C. Cir. 1995) (same).

In preparing this rule, the Program has been mindful that trustees hold billions of dollars of other people's money, yet the interests they represent have little or no say in their hiring or their firing. The Program also has been mindful of Congress' charge that the Program, as the primary regulator of trustees, ensure that future cases be assigned only to trustees who are honest and capable. The Program also has been mindful of the need to balance the number of cases and the number of trustees. Finally, the Program has concluded that the best interests of the bankruptcy system are fostered by an open process which encourages competent, qualified individuals to apply to serve as trustees. As the United States courts of appeals have recognized, case assignment is not a government entitlement program created so the first person appointed to act as a trustee will always get future cases. Instead, trustees are service providers to debtors and creditors, selected by the Program for the benefit of those debtors and creditors.

This rule allows the Program to ensure that appropriate decisions are made about whether to stop assigning cases to a trustee. It gives affected trustees meaningful input in that process and allows for judicial review of the Program's final decision. This comprehensive process will maximize rational decision-making by the Program, promote a fair and efficient system of case administration, and protect the intended beneficiaries of the bankruptcy process, the debtors and creditors for whom the bankruptcy laws were created.

III. Summary of Major Changes in Final Rule

The final rule makes a number of changes based upon the comments submitted to the Program. Three changes are major.

First, subsection (c) of the final rule provides that suspensions and terminations will not become effective, and trustees will continue to receive cases, until a trustee's time to seek administrative review from the Director has expired or, if such review is sought, until the Director issues a final written decision; the proposed rule had suggested making suspensions and terminations effective upon the date specified in the notice of suspension or termination, which could have been a date earlier than the completion of the review process. In order to protect innocent debtors and creditors, however, the final rule provides that upon issuing a notice of suspension or termination a United States Trustee may issue an interim directive immediately suspending case assignments during the review process if the United States Trustee determines that a trustee is placing estate assets at risk, has lost his eligibility status, or has engaged in fraudulent, illegal or other gross misconduct. The final rule enables a trustee to obtain a stay of an interim directive from the Director.

Second, the rule allows a trustee to ask that specific documents in the United States Trustee's possession be included in the record. This will enable trustees to rely upon documents they believe are relevant but which are under the United States Trustee's control.

Third, the final rule cuts the time necessary to complete the review process roughly in half. If must now be completed no more than 45 days from the date on which a trustee requests administrative review. This has been accomplished by (a) reducing the time for, and the scope of, the United States Trustee's response to the trustee's request for review, (b) deleting the trustee's reply brief, and (c) making optional the use of a reviewing official, who was to have been a Program employee who had 30 days in every case to prepare and submit a report to the Director before the Director could issue a final decision on a trustee's request for review. In order to permit resolution of more complex disputes, the 45 day deadline may be extended by the Director, but only if all parties, including the trustee, agree.

In addition, the commentary to the final rule clarifies that the Director, or his designee, may conduct a face to face meeting with the trustee and the United States Trustee if the Director determines that there is a genuine dispute over facts material to the Director's determination. The level of formality and complexity of a meeting in a particular case will turn upon the nature of the factual dispute presented.

IV. Discussion of Public Comments

A. Overview

The Program received 12 comments on the proposed rule. Three comments were written by lobbyists or associations that represent the interests of trustees. Eight trustees submitted comments. One member of Congress wrote to express ''strong support for th[e] proposed rule.''

Although one comment was submitted late, the late submission reflects ideas raised in timely comments. The Program has considered each comment carefully and appreciates the time taken to provide them. The Program's responses to the comments are discussed below.

B. Specific Comments

1. Some comments questioned the power of United States Trustees to suspend or terminate the assignment of future cases to trustees. Section 586(a)(1) of title 28 allows the Program to ''establish, maintain, and supervise a

panel of private trustees that are eligible and available to serve as trustees in cases under chapter 7'', and section 586(b) allows it to ''appoint one or individuals to serve as standing trustee'' in cases filed under chapter 12 and chapter 13 of the Bankruptcy Code. Section 586 commits appointment decisions to the discretion of the Program and section 701(a)(2) of the Administrative Procedure Act shields these termination decisions from judicial review under the APA. *Joelson* v. *United States,* 86 F.3d 1413, 1415–18 (6th Cir. 1996) (termination of a chapter 7 trustee's eligibility to receive cases is not subject to judicial review under the APA). *See also Richman* v. *Straley,* 48 F.3d 1139, 1143 (10th Cir. 1995) (removal of chapter 12 and 13 trustees from eligibility to receive future cases is committed to the discretion of the United States Trustee and is not subject to review under the Due Process clause). As one court has declared, ''§ 586 'fairly exudes deference to the [United States Trustee], and appears to [the court] to foreclose the application of any meaningful judicial standard of review.' '' *Shaltry* v. *United States,* 182 B.R. 836, 842 (D. Ariz.) (quoting in part *Webster* v. *Doe* 486 U.S. 592, 600 (1988)), *aff'd,* 1995 WL 866862 (9th Cir, 1995). *Cf. North Dakota ex rel. Bd of Univ. and School Lands* v. *Yeutter,* 914 F.2d 1031, 1035 (8th Cir. 1990), *cert. denied,* 500 U.S. 952 (1991) (statute authorizing an agency to waive eligibility requirement for participation in a soil conservation program committed to agency discretion); *Scalise* v. *Thornburgh,* 891 F.2d 640, 648–49 (7th Cir. 1989), *cert. denied,* 494 U.S. 1083(1990) (statute authorizing Attorney General ''to make regulations for the proper implementation of * * * treaties'' not subject to review); *First Family Mortgage Corp. of Florida* v. *Earnest,* 851 F.2d 843, 845 (6th Cir. 1988) (statute authorizing VA Administrator to make refunds at his option provided no standards for review); *Schneider* v. *Richardson,* 441 F.2d 1320, 1321 & n.2 (6th Cir.), *cert. denied,* 404 U.S. 872 (1971) (statute authorizing an agency to prescribe maximum fees by regulation committed to agency discretion).

In *Carlucci* v. *Doe,* 488 U.S. 93, 99 (1988), the Supreme Court held that a statute granting a public official the power to appoint an individual also confers the power to terminate that individual unless the statute expressly provides otherwise. The Court held that ''as a matter of statutory interpretation [] absent a 'specific provision to the contrary, the power of removal from office is incident to the power of appointment.' '' *Carlucci* v. *Doe,* 488 U.S. at 99 (Secretary of Defense had power to terminate employee under provision of National Security Agency Act of 1959 that mentioned only appointment) (quoting in part *Keim* v. *United States,* 177 U.S. 290, 293 (1900)). *Accord Joelson* v. *United States,* 86 F.3d at 1422 (holding that the Program's power to appoint chapter 7 trustees to rotating panels gives it the power to remove them from panels); *Richman* v. *United States,* 48 F.3d at 1144 (relying upon *Carlucci* to hold that the power to appoint chapter 12 and 13 standing trustees includes the power to stop appointing them to future cases). Given the power to appoint trustees to future cases exists under section 586, that power carriers with it the power to cease assigning future cases to trustees because no provision in title 28 expressly precludes such action.

2. A number of comments suggested that the rule violates trustees' due process rights. This is incorrect. Trustees have no right to be appointed to future cases. Neither section 586 nor any provision of the Bankruptcy Code creates a government entitlement program that guarantees trustees any right to future cases.

The United States courts of appeals have consistently reached this conclusion. *See Joelson* v. *United States,* 86 F.3d at 1415–18 (no right or expectation to future cases); *Richman* v. *Straley,* 48 F.3d at 1143 (removal of chapter 12 and 13 trustees from eligibility to receive future cases is committed to the discretion of the United States Trustee and is not subject to review under the Due Process clause); *Shaltry* v. *United States,* 182 B.R. at 842 (D. Ariz.) (same), *aff'd,* 1995 WL 866862 (9th Cir. 1995).

3. A number of comments suggested that the proposed rule created a review process that took too long to complete. The Program recognizes that prompt final agency action benefits creditors, debtors, and trustees. Therefore, the final rule has been significantly streamlined to mandate that review shall be completed within 45 days of receipt by the Director of a trustee's request for review. The rule achieves this reduction by (a) reducing the time for, and the scope of, the United States Trustee's response to the trustee's request for review, (b) deleting the trustee's reply, and (c) making optional the use of a reviewing official, who was to have been a Program employee who had 30 days in every case to prepare and submit a report to the Director before the Director could issue a final decision on a trustee's request for review.

Under the final rule, a United States Trustee must provide an affected trustee with a statement of the reasons for a suspension or termination and supporting materials in a notice of suspension or termination that is to be sent to the trustee by overnight courier. The trustee then has 20 days to file a request for review. That request for review describes why the trustee disagrees with the United States Trustee's decision, and is accompanied by the documents and materials the trustee wishes the Director to consider.

Under the proposed rule, the United States Trustee then had 20 calendar days to respond to the trustee's position and the United States Trustee was free to provide the Director with all material the United States Trustee wished the Director to consider. Because the United States Trustee could submit material that might address matters not initially raised in the notice of suspension or termination, or in the trustee's request for review, the trustee was given 10 days to provide a response.

The final rule reduces the United States Trustee's time to respond to a trustee's request for review to 15 days. Under the final rule, the United States Trustee may now respond only to matters raised in the trustee's request for review. Unlike the proposed rule, the final rule makes clear that the United States Trustee cannot raise new matters, the 10 day reply period for the trustee has been deleted as unnecessary. These changes reduce the time to reach a final decision by at least 15 days.

At least 20 additional days have been saved by giving the Director the option whether to use a reviewing official in a particular case. Under the proposed rule, the reviewing official was to have been a Program employee who would have acted as the Director's point of contact with the trustee and the United States Trustee and who would have prepared a report that the Director would use in deciding the request for review. The reviewing official had 30 days to prepare the report under the proposed rule. In addition, a number of days would have been expended in selecting a reviewing official and having the reviewing official transmit the trustee's materials to the United States Trustee. The Director then had an additional 20 days to reach a final decision.

The final rule gives the Director the option of using a reviewing official on a case by case basis. This allows the Director to reach his final decision more promptly without having to wait for a report from a reviewing official in every case.

Because he will no longer have a report before beginning his determination in every case, the Director's time to reach a final decision has been increased from 20 to 30 days. This produces a net savings of 20 days over the proposed rule because the reviewing official and the Director had a combination period of 50 days to conduct a review, and the final rule gives the Director only 30.

In addition, the final rule eliminates the delay that arose under the proposed rule while a reviewing official was selected and the delay that resulted from the reviewing official having to transmit materials. These changes respond to comments expressing concerns about those time delays.

The final rule also shortens the review process by deleting the ability of a reviewing official to grant extensions. Under the proposed rule, the reviewing official had discretion to extend the United States Trustee's or the trustee's time for response to a date certain. Comments expressed concern this provision could significantly lengthen the review process. The Program revised the final rule to respond to those concerns. The final rule provides that the Director will issue a final decision no later than 45 days from receipt of a trustee's request for review. The rule does, however, allow the trustee and the United States Trustee to jointly agree that the time for final agency action should be extended. Time might be extended, for example, to enable the Director to conduct a face to face meeting.

4. Comments suggested the proposed rule did not require notice before adverse action is taken and did not provide adequate interim relief during the review process. The final rule addresses these concerns. Subsection (c) of the final rule provides that suspensions and terminations will not become effective, and trustees will continue to receive cases, until a trustee's time to seek administrative review from the Director has expired or, if such review is sought, until the Director issues a final written decision; the proposed rule had suggested making suspensions and terminations effective upon the date specified in the notice of suspension or termination, which could have been a date earlier than the completion of the review process. In order to protect the integrity of the system and thereby the debtors and creditors it serves, the final rule provides that a United States Trustee may issue an interim directive suspending case assignments during the review process if the United States Trustee determines that a trustee is placing estate assets at risk, ineligible to serve as a trustee, or has engaged in fraudulent, illegal or other gross misconduct. A trustee may seek a stay of an interim directive from the Director upon filing a timely request for review.

5. One comment questioned whether a trustee must institute the review process to obtain a stay of a suspension or termination. Under the final rule, a termination or suspension will not take effect until the time to seek review has expired. If a trustee does not seek review, the suspension or termination decision will become final and unappealable and not subject to further agency action or judicial review. It a trustee does seek review, a suspension or termination will not take effect until the Director issues a final decision. Upon issuing a notice of suspension or termination, a United States Trustee may issue an interim directive ceasing the assignment of cases to the trustee during the review process if the United States Trustee specifically finds that one of the criteria in section (d) (1) through (4) of the rule are met. The trustee may seek a stay of an interim directive but needs to submit a timely request for administrative review to do so. The final rule authorizes the Director to stay an interim directive.

6. One comment suggested that the rule does not provide for the creation of an official record for judicial review. This is incorrect. The United States Trustee's notice of termination, the trustee's request for review, the United States Trustee's response, the Director's final determination, and the documents and materials provided by the participants with those submissions constitute the agency record for purposes of subsequent judicial review.

7. Comments suggested the rule places an improper burden of proof upon the trustee. This is incorrect. Although the trustee must affirmatively seek review, the rule requires the Director to determine whether a decision not to assign cases in the future is an appropriate exercise of a United States Trustee's discretion and whether that decision is supported by the record before the Director. Neither party bears the burden of proof in convincing the Director whether the applicable standard is met. To the extent a burden fell upon any party, it would fall upon the United States Trustee whose decision must constitute an appropriate exercise of discretion and must be supported to the record.

8. Comments suggested the rule suffers from the absence of review by a neutral party, an on the record hearing, mandatory discovery, or the requirements of sworn testimony. The Program does not view this as a weakness. Indeed, such procedures would significantly lengthen the time it would take to determine a request for review. The final rule allows the parties to provide whatever material they think is appropriate.

Section (h) of the rule authorizes the Director to request additional information, which could include a face to face meeting. This allows the Director, or his designee, to conduct a face to face meeting with the trustee and the United States Trustee if the Director determines that there is a genuine dispute over facts material to the Director's determination. The level of formality and complexity of a meeting in a particular case will turn upon the nature of the factual dispute presented. In some cases a meeting could involve a trustee appearing with a representative, submitting documentary evidence, presenting witnesses, and confronting any witnesses the agency presents. *See generally* 28 CFR 67.313 (authorizing a similar meeting in the debarment context but only if the government first determines a dispute of material fact exists). In the Program's experience, the facts underlying termination or suspension decisions are rarely in dispute. Instead, most requests for review involve a disagreement whether the facts support such action. In those cases, as in the debarment context, a meeting likely would not take place. The Program thus believes that final rule strikes an appropriate balance between the need for an effective and an efficient review process.

The final rule enables the Program to reach a final decision whether to suspend or terminate the assignment of future cases promptly so a trustee can test that decision, if appropriate, in subsequent judicial review under the Administration Procedure Act. This process makes possible ultimate review by a United Stats district court, a United States court of appeals, and potentially by the United States Supreme Court. Each is a neutral party.

The final rule merely creates a mechanism by which the agency can determine the appropriateness of its decision before that decision can be tested through subsequent judicial review if the trustee wishes to obtain judicial review under the APA. The final rule gives a trustee significant input into that final decision, but it is entirely appropriate for the Director, as the head of the Program, to render a final decision.

Other regulators use precisely this process. Agency commissions, boards, and heads routinely act as the ultimate decision-maker on what action an

agency should take. Agencies do not delegate the agency's decision making to a third party outside the agency. While various agencies use differing procedures to gather the data for, or make recommendations to, the ultimate decision-maker, in every relevant instance, the agency decides for itself what is the appropriate decision to make.

The proposed rule called for the creation of a reviewing official who was to have been a Program employee who would have reviewed the materials provided by the participants and recommend whether the Director should affirm, modify, or reverse the United States Trustee's suspension or termination. A number of comments criticized the reviewing official position for lack of independence because it was to have been staffed by a Program employee. These criticisms failed to recognize the significance of the fact that the reviewing official reports directly to the Director, not to the United States Trustee who made the initial determination. The Director is the head of the Program and acts under independent authority delegated by the Attorney General. The Director is not directed or supervised by a United States Trustee. Consequently, the Director has the ability to decide whether a United States Trustee's suspension or termination decision is one that the agency should implement. In making that determination, the Director bears a heavy responsibility. He must independently decide whether the United States Trustee's decision is appropriate and is supported by the record.

In response to these comments, the final rule has been revised to allow, rather than to require, the Director to select a reviewing official who was neither involved in the United States Trustee's decision nor employed by the Program in the United States Trustee's region. In addition, nothing in the final rule prohibits the Director from calling upon his staff to assist him in reaching his determination. This does not represent a change from the proposed rule.

The final rule creates strong institutional incentives for the Director to reach an independent determination because his decision shall be subject to judicial review. The final rule enables the Director to reach his decision after considering all materials the participants which to submit. As discussed above, the final rule makes it optional for the Director to employ a reviewing official in a particular case. This was done in order to respond to requests that the final rule reduce the time it takes for the Director to reach a final decision on a request for review. Under the final rule, however, the director retains the same power he had under the proposed rule to independently determine whether a United States Trustee's decision constitutes an appropriate exercise of discretion and is supported by the record. Making optional the reviewing official, who simply advised the Director under the proposed rule, does not diminish the Director's responsibility to exercise independent judgment in making this final determination, nor does it dilute the trustee's ability to obtain independent review by the Director.

The procedure set forth in the rule meets accepted notions of federal administrative law. The Director's review under the final rule constitutes ''an informal adjudication.'' *Zotos International, Inc.* v. *Young,* 830 F.2d 350, 353 (D.C. Cir. 1987). ''[Although] [t]he Administrative Procedure Act does not use the term 'informal adjudication[,]' [courts use it as] a residual category [to describe] 'all agency actions that are not rule making and that [are not expressly required by statute to] be conducted through 'on the record' hearings.'' *United States* v. *Article of Device * * * Diapulse,* 768 F.2d 826, 829 n.4 (7th Cir. 1985), (quoting in part, *Izzaak Walton League of America* v. *Marsh,* 655 F.2d 346, 361 n.37 (D.C. Cir. 1981)).

''[N]o procedures are specified'' in the APA for conducting informal adjudications. *Zotos,* 830 F.2d at 353. The Supreme Court held in *PBGC* v. *LTV Corp.,* 496 U.S. 633 (1990) that an agency need not conduct an informal adjudication as a formal, on the record, hearing with full discovery or sworn witnesses.

To the contrary, section 554 of the Administrative Procedure Act requires an on the record adjudication only in a case where an adjudication is required by statute to be determined on the record. Neither section 586 of title 28 nor any other provision of the United States Code requires the United States Trustee to reach a decision whether to suspend or terminate future case assignments in an on the record evidentiary hearing. Thus, the Program may conduct this decision-making process in the manner it determines is the best way to enable it to reach final agency action. This rule implements the procedures the Program determines to be most appropriate. Similarly, the Bankruptcy Administrator program does not allow for review by a neutral party, evidentiary hearings, sworn testimony, or discovery.

The Program has modified the final rule in one major way to assist trustees in presenting relevant material to the Director for consideration. The final rule allows a trustee to ask that specific documents in the United States Trustee's possession be included in the record. This will enable trustees to rely upon documents they believe to be relevant but which are under the United States Trustee's control.

9. Comments suggested that the Program should adopt the procedures used for debarments for participation in government contracting or government entitlements. These suggestions fail to appreciate the differences between debarment and a cessation of assignment of future cases to trustees, which are fundamental. First, debarment involves government contracting and government entitlements. Trustees have no contract with the government. Receiving future cases is not a government entitlement program.

Moreover, courts have indicated that a debarment, which has severe government-wide consequences, may implicate a constitutionally protected interest. *See, e.g., ATL, Inc.* v. *United States,* 736 F.2d 677, 683 (Fed. Cir. 1984); *Transco Security, Inc.* v. *Freeman,* 639 F.2d 318, 321 (6th Cir. 1981); *Old Dominion Dairy* v. *Secretary of Defense,* 631 F.2d 953, 966 (D.C. Cir.), *cert. denied,* 454 U.S. 820 (1981). In contrast, a trustee has no constitutional interest in being assigned future cases. *Joelson* v. *United States,* 86 F.3d at 1415–18; *Richman* v. *Straley,* 48 F.3d at 1143; *Shaltry* v. *United States,* 182 B.R. at 842 (D. Ariz.) (same), *aff'd,* 1995 WL 866862 (9th Cir. 1995).

A debarment is far more significant than mere case cessation because it can have dramatic, government-wide, consequences. As a matter of federal law, someone who has been debarred in a government contracting proceeding cannot bid on any government contract from any agency. The Department of Justice's debarment procedures for debarment from nonprocurement programs, 28 CFR part 67, which one comment specifically cited, provides that ''[a] person who is debarred or suspended [under the rule] shall be excluded from Federal financial and nonfinancial assistance under Federal programs and activities.'' 28 CFR 67.100. Indeed, ''debarment or suspension of a participant in a program by one agency shall have government wide effect.'' *Id.* In many instances a debarment has even greater significance because some states refuse to contract with persons who have been debarred by an agency of the federal government.

A cessation of future case assignments to a trustee has no such effects. Unlike a debarment, it does not prevent a trustee from applying for or participating in any other program administered by the Department of Justice or any other part of the United States government. As discussed previously, it does not even affect their ability to administer existing cases.

Indeed, the entire purpose of debarment is fundamentally different from termination of case assignments. Debarments protect the federal government from those who have committed serious wrongdoing. *See* 28 CFR 67.115(b) (Department of Justice's debarment procedures). In contrast, suspensions and terminations of future case assignments foster an efficient system of case administration and ensure that debtors and creditors, the intended beneficiaries of the bankruptcy system, receive the best service from trustees that is possible.

Thus, we doubt the comments seriously intended to suggest that the Department of Justice should adopt a rule that would debar trustees from all government contracting and entitlement programs if they are terminated from future case assignment. Nor do we believe trustees want to be subject to government contracting rules in seeking future case assignments. Certainly, this final rule has no such effect. Consequently, the Program declines to implement more costly and time consuming debarment-type procedures in this rule.

Notwithstanding the fundamental differences that exist between the effect of a debarment and a cessation of future case assignments, the final rule adopts procedures that embody many of the concepts that underlie the Department's debarment procedures. Both allow the Department, as opposed to a third party, to reach a final decision. Both favor quick, informal dispute resolution instead of overly formalized, litigation-type procedures. See 28 CFR 67.310 (''Department of Justice shall process debarment actions as informally as practicable''). Neither authorize discovery. Both enable the Department to conduct face to face proceedings if disputed issues of material fact exist.

10. One comment suggested that a cessation of future cases places a stigma of incompetence or wrongdoing on trustees. It certainly places no stigma in any constitutional sense. Nor does the Program cease case assignments in order to stigmatize trustees. There are many reasons why a trustee may stop receiving cases in the future. The decline in volume of cases may demand it, or the existence of candidates who can better represent debtors or creditors may result in a cessation of cases. None of these instances involve the imposition of a sanction or a finding of wrongdoing in any criminal sense.

In addition, many trustees are engaged in other professions or occupations in addition to administering bankruptcy cases so cessation of case assignments does not prevent them from engaging in their other jobs. No one seriously suggests that a businessperson in the private sector is impermissibly stigmatized simply because a client stops using their product or services. Nor can any businessperson sue to force a client to use their services forever. The same is true for trustees.

11. One comment, submitted by a trustee, seemed to suggest that the reviewing official that was suggested by the proposed rule should not review suspensions and terminations because the official was not located within the region where the trustee worked and would ignore local customs and policies. The final rule has made the position of reviewing official optional in order to shorten the time necessary for the Program to decide a trustee's request for review. If a trustee who files a request for review believes local customs and policies are relevant, that trustee would be free to raise those matters, and such contentions would be considered by the Director in reaching a final determination.

12. One comment suggested that the proposed rule allowed no input by experts. This is not correct. A trustee seeking review is free to provide whatever materials he or she wishes the Director to consider in reaching a determination.

13. One comment suggested the rule is ineffective without meaningful judicial review before the bankruptcy court. This is not true. The final rule creates final agency action that is subject to judicial review under the Administrative Procedure Act. There are serious constitutional questions about a system that would allow bankruptcy judges, who are not Article III judges, to review an agency's decision to cease the assignment of future bankruptcy cases to trustees. The Program also recognizes that United States district courts have far more familiarity with review of final agency actions than do bankruptcy courts. We further note that the Judicial Branch's own system by which Bankruptcy Administrators suspend and terminate trustees does not provide for any court review, bankruptcy or otherwise, of a Bankruptcy Administrator's decision.

Moreover, engrafting bankruptcy court review onto the post-termination judicial review process would do nothing more than delay final judicial determination of trustee suspension and termination decisions. This is so because a bankruptcy court decision could be appealed to a district court, which would review the agency's action and record using a *de novo* standard of review, and thence review could be had in the courts of appeals under the same standard. In sum, the Program sees no advantage to be gained and many disadvantages that would result from bankruptcy court involvement.

14. One comment asked whether the rule applies to all adverse actions or just formal suspensions and terminations. The rule applies to any decision by a United States Trustee to actually stop assigning cases to a trustee. It does not apply to other regulatory actions such as providing the trustee with an unfavorable review, a letter of warning or reprimand, or other actions that fall short of ceasing the assignment of cases.

15. One comment suggested that the United States Trustee Program should use a progressive system of discipline. The Program does this. This suggestion falls outside the intended scope of this rule, however, because this rule applies only to decisions to suspend or terminate the assignment of future cases to trustees. It does not apply to disciplinary actions that fall short of case cessation.

16. One comment suggested the rule compromises trustee independence. The rule neither enlarges nor reduces permissible trustee independence. Instead, it establishes a procedure by which a trustee can obtain a final determination by the Program whether a United States Trustee's decision to cease the assignment of future cases is an appropriate exercise of the United States Trustee's discretion and is supported by the record. If anything, the final rule will give trustees greater independence because it gives them a formal procedure for obtaining a final agency determination and allows them thereafter to obtain judicial review under the Administrative Procedures Act, two thing they lacked prior to the implementation of the rule.

17. One comment suggested the rule violated 11 U.S.C. 324. This is incorrect. Section 324 established a judicial procedure for removing a trustee from one or more specific cases that have been previously assigned to a trustee. Section 324 is not relevant to this rule because the rule only pertains to future case assignments and does not stop a trustee from continuing to administer present cases.

18. One comment suggested the rule suffers form a lack of objective standards or criteria. The Program does not believe this to be the case. Section (a) of the final rule sets forth a non-exhaustive list of 14 criteria that a United States Trustee may employ in deciding whether to suspend or terminate the assignment of future cases to trustees. The final rule has revised the language of section (i) slightly due to the elimination of the mandatory use of a reviewing official. The language in the final rule makes clear that the standard the Director will employ in deciding a request for review is ''whether the Untied States Trustee's decision is supported by the record and the action is an appropriate exercise of the United States Trustee's discretion.'' The quoted language creates a standard which would enable a court to review the Program's final action under the Administrative Procedure Act.

19. One comment suggested the rule should apply a reasonable man standard. The comment did not suggest specific language. The Program believes that section (i) sets forth an appropriate standard.

20. Various comment questioned the breadth and reasonableness of the factors set forth in section (a) (2), (4), (5), (6), (7), (11), (12), (13), and (14). These comments are not well taken for the reasons that follow.

Before addressing the specific comments, it is appropriate to note that the rule does not require termination or suspension for a single or isolated violation of any one of these factors. Section (a)(6) provides, for example, that a trustee ''display proper temperament in dealing with judges, clerks, attorneys, creditors, debtors, the United States Trustee and the general public.'' Trustees are service providers and are important participants in the federal bankruptcy system. They often are the only person a debtor sees as a representative of that system. It is important they interact appropriately with the other participants in the bankruptcy system. This provision does not mean, however, the at a United states Trustee would appropriately exercise discretion by terminating a trustee for a single isolated instance of mere discourtesy. That will depend on the circumstances and the record. In some cases, one egregious act might warrant a suspension or termination. For example, a single instance of using racial slurs against a debtor might, given the specific facts and circumstances, justify a suspension or a termination. So too might a single instance of assault. On the other hand, multiple instances of discourtesy also might justify suspension or termination. The factors set forth in section (a) simply constitute a non-exhaustive list of reasons that might form a basis for suspension or termination. In many cases the reasons for the United States Trustee's decision may involve a combination of factors. In every request for review, the Director will decide whether the suspension or termination constituted an appropriate exercise of the United States Trustee's discretion and is supported by the record.

Section (a)(2) addresses trustees who fail to ''perform duties in a timely and consistently satisfactory manner.'' Some comments questioned the appropriateness of this factor. First, depending upon the conduct at issue, it is wholly appropriate to suspend or terminate a trustee who cannot perform his or her trustee duties in a timely and consistently satisfactory manner. To decide otherwise would be to place the interests of debtors and creditors at serious risk. Moreover, one of the qualifications to be appointed to act as a trustee is the physical and mental capacity to ''perform a trustee's duties.'' 28 CFR 58.3(b)(2).

Section (a)(4) addresses trustees who fail to cooperate and to comply with instructions and policies of the Code, the Bankruptcy Rules, and local rules of court. Contrary to comments received, this is an appropriate factor to consider in deciding whether to suspend or terminate a trustee. Trustees are required to manage debtors' estates in accordance with applicable standards. Failure to comply with applicable law, rules, and regulations can have disastrous consequences for debtors and creditors. Depending upon the conduct at issue, it is wholly appropriate to suspend or terminate a trustee who does not comply with applicable standards.

Section (a)(5) recognizes the need to suspend or terminate trustees who engage in substandard performance of general duties and case management in comparison to other members of the chapter 7 panel or other standing trustees. Although some commentors expressed concern about using this as a basis for suspensions or terminations, the Program believes this is an important provision. It was created to reflect that a United States Trustee may consider, in making termination or suspension decisions, statistical or other evidence that a trustee is not performing at the same level of competence and efficiency as other trustees.

Section (a)(6) addresses the termination or suspension of trustees who fail to display proper temperament. Some comments expressed concern with the application of this factor. The bases for this factor has been described above. Trustees have daily contact with debtors, creditors, court personnel, courts, Program employees, and the public at large. A trustee cannot effectively represent the interests of debtors and creditors if the trustee fails to display proper temperament. This is such an important factor that it is one of the qualifications that a trustee must possess to be appointed to act as a trustee. *See* 58 CFR 58.3(b)(3) (a trustee must ''[b]e courteous and accessible to all parties. * * *''). *See also* 58 CFR 58.3(b)(4) (trustee must ''[b]e free of prejudices against any individual, entity, or group of individuals or entities which would interfere with unbiased performance of a trustee's duties.'').

Section (a)(7) is directed at trustees who fail to supervise the work of their employees. Some comments contended that inadequate supervision should not form a basis for suspension or termination or that the provision's scope was unclear. The Program rejects these suggestions. Many trustees routinely employ persons or hire professionals to assist them in the performance of their trustee duties. However, if they delegate responsibilities to professionals and employees and do not monitor those individuals or take proper precautions, this can amount to an abdication of their responsibilities. It is important to hold trustees accountable for failing to supervise those they choose to employ. In order to respond to other comments received, the Program has revised this provision slightly in the final rule to make clear that a suspension or termination may issue, in an appropriate circumstance, if a trustee fails to monitor the work of professionals or others employed by the trustee.

One comment questioned whether section (a)(11) should condone a suspension or termination that occurs because an allegation of misconduct is pending before a court or state licensing agency when such allegation calls the trustee's competence, financial responsibility or trustworthiness into question. The Program believes credible allegations that a trustee lacked honesty, competence, financial responsibility or trustworthiness could form a basis for suspension or termination in appropriate circumstances. *See generally* 28 CFR 58.3(b)(6) (which establishes certain educational or licensing requirements for chapter 7 trustees). While it is difficult to act on the basis of mere allegations, neither can the gravity of charges made against a trustee be ignored. The rule recognizes that in some instances, a United States

Trustee may conclude that a temporary suspension of cases is warranted pending the final outcome of a proceeding. Whether the decision is made to terminate the assignment of cases will depend upon the circumstances and a fair consideration of all relevant factors. At the very least, the United States Trustees' statutory responsibilities to the bankruptcy system and their roles as officers of the court and as Department of Justice officials make it entirely appropriate for them to consider such allegations before entrusting future bankruptcy estates to a particular trustee's care.

It was suggested that section (a)(12) should be deleted and trustees should not be suspended or terminated if they are unable to take assigned case. The Program agrees that an isolated conflict of interest that results in an inability to take an assigned case should not result in case cessation. Therefore, this section has been modified in the final rule to provide that a ''routine inability to accept assigned cases'' is a factor that may result in suspension or termination. If a trustee has so many other interests that he or she cannot or will not accept cases as regularly assigned it could be appropriate to suspend the trustee while those other matters or interests are resolved. If conflicts or an inability to takecases arise so frequently that a trustee cannot function effectively as a trustee, termination could be appropriate. Chapter 7 trustees function as part of a panel of chapter 7 trustees. If one trustee on the panel does not accept a fair share of case assignments, that may place an undue or unfair strain on other chapter 7 trustees. Most chapter 12 and chapter 13 standing trustees are the only standing trustee of their type in a specific geographic region, or one of only a very few. A standing trustee who does not regularly accept assignment places an undue burden on the bankruptcy system. It should be stressed, however, that the enumeration of this particular factor is not a limitation upon a United States Trustee's ability to consider other conflict questions, including those that involve an appearance of a conflict of interest.

Section (13) allows suspension or termination of case assignment if there is a change in composition of the chapter 7 panel pursuant to a system established by the United States Trustee under 28 CFR 58.1. It was questioned whether this should form the basis for case cessation. This provision merely makes clear that a United States Trustee may create a system to periodically reconstitute the whole panel, to retire a certain percentage of the panel at fixed intervals, or the like, and thereby to invite new membership.

It was suggested that section (a)(14)'s factor allowing case cessation for efficient case administration or a decline in the number of cases should be deleted from the final rule. The Program has modified this factor slightly to clarity that both efficient administration and a decline in caseload may constitute bases for case cessation. It is important to maintain an appropriate balance of expertise and number of trustees for the caseload. Otherwise, good trustees might not apply or might resign their positions. The type and number of bankruptcy filings fluctuate significantly over time and from one location to another. The Program needs the ability to respond to those fluctuations by adjusting the number of trustees accordingly.

21. It was suggested that this rule is a significant regulatory action that requires more formal review under Executive Order 12866; that the rule does not comply with the Regulatory Flexibility Act; and that the rule does not comply with the Paperwork Reduction Act. These assertions are incorrect.

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. Executive Order 12866 defines ''significant regulatory action'' as a rulemaking that is likely to have (1) 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 of Executive Order 12866.

This rule formalizes the procedures by which trustees may obtain administrative review by the Director of suspension and termination decisions. This process will be available to all of the 1,500 or so existing trustees but only those trustees whose appointment to future cases are suspended or terminated will have any reason to invoke these procedures. We believe the number of trustees so affected to represent no more than approximately 5% of the 1,500 existing trustees (approximately 75). Further, the core group (that is all 1,500 bankruptcy trustees) do not comprise a sector of the economy as that phrase is used in Executive Order 12866.

The rule complies with the Regulatory Flexibility Act. The Director has reviewed this rule and by approving it certifies that it will not have a ''significant economic impact upon a substantial number of small entities'' as that phrase is used in the Regulatory Flexibility Act (5 U.S.C. 605(b)). Individuals serving as trustees are frequently attorneys, accountants, or other financial professionals. Some of these individuals may be associated with law or accounting firms of varying size while others may be independent. Some of these individuals may derive all or a substantial amount of their income from serving as trustees while others may derive a smaller portion of their income from such service. Even assuming that all 1,500 trustees are small entities, the number of trustees affected by suspensions and terminations is far smaller—likely less than 5%, or 75 in any year. This is not a significant number when considered against the number of existing trustees nor when considered against the number of attorneys, accountants, and other financial professionals in this country. Further, the Director has no information regarding which trustees derive a substantial amount of their income from administering bankruptcy cases and consequently whether the suspension or termination of case assignments would have a significant economic impact on them. A number of trustees engage in other full-time professions and engage in bankruptcy work part-time. Because of the variation in other activities that trustees might engage in professionally, the number of entities which might experience a significant economic impact from the suspension or termination of case assignments could be less than 75.

Additionally, it should be emphasized that this rule is intended to provide a review process for trustees whose future case assignments are suspended or terminated because of improper conduct or failure to perform adequately, although the Program also may stop assigning future cases to trustees for other reasons such as when more qualified candidates are identified or when the caseload in a judicial district declines, resulting in too many trustees for too little work. As discussed in the supplementary information, those trustees have no legal right to be appointed in future cases.

Finally, this rule also complies with the Paperwork Reduction Act. It contains no new information collection or record keeping requirements under

the Paperwork Reduction Act (44 U.S.C. 3501, et seq.). The rule will not require affected trustees to complete new forms or to retain records as that phrase is used in the Paperwork Reduction Act.

22. It was suggested that it is unfair to require trustees to bear their own costs when seeking administrative review. That provision of the rule is consistent with applicable law. It also is fair. It would be fundamentally unfair to permit a trustee to tax the estates of the debtors he or she oversees so the trustee can fund his or her attempt to secure other, unrelated, cases in the future. In seeking review, a trustee is pressing his economic self advantage. It is appropriate for the trustee to pay his own costs in pursuing those self interests.

Certifications

Executive Order 12866

This rule has been drafted and reviewed in accordance with Executive Order 12866, section 1(b), Principles of Regulation. The Director, Executive Office for United States Trustees, (''Director'') has determined that this rule is not a ''significant regulatory action'' under Executive Order 12866, section 3(f), Regulatory Planning and Review, and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

Regulatory Flexibility Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), the Director has reviewed this rule and by approving it certifies that it will not have a significant impact on a substantial number of small entities. The only parties affected are the less than 2,000 individuals who serve as panel and standing trustees. The effect it will have on them is to formalize a procedure that enables them to obtain review by the Director of a notice by a United States Trustee to suspend or terminate the assignment of future cases to the trustee.

Paperwork Reduction Act

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

Unfunded Mandates Reform Act of 1995

This rule will not result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100,000,000 or more in any one year, and it will not significantly or uniquely affect small governments. Therefore, no actions were deemed necessary under the provisions of the Unfunded Mandates Reform Act of 1995.

Small Business Regulatory Enforcement Fairness Act of 1996

This rule is not a major rule as defined by section 804 of the Small Business Regulatory Enforcement Fairness Act of 1996. This rule will not result in an annual effect on the economy of $100,000,000 or more; a major increase in costs or prices; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based companies to compete with foreign-based companies in domestic and export markets.

List of Subjects in 28 CFR Part 58

Bankruptcy, Trusts and trustees.

For the reasons set forth in the preamble, the Department of Justice proposes to amend 28 CFR part 58 as follows:

PART 58—REGULATIONS RELATING TO THE BANKRUPTCY REFORM ACTS OF 1978 AND 1994

1. The authority citation for Part 58 is revised to read as follows:

Authority: 5 U.S.C. 301; 28 U.S.C. 509, 510, 586.

2. New section 58.6 is added to read as follows:

§ 58.6 Procedures for suspension and removal of panel trustees and standing trustees.

(a) A United States Trustee shall notify a panel trustee or a standing trustee in writing of any decision to suspend or terminate the assignment of cases to the trustee including, where applicable, any decision not to renew the trustee's term appointment. The notice shall state the reason(s) for the decision and should refer to, or be accompanied by copies of, pertinent materials upon which the United States Trustee has relied and any prior communications in which the United States Trustee has advised the trustee of the potential action. The notice shall be sent to the office of the trustee by overnight courier, for delivery the next business day. The reasons may include, but are in no way limited to:

(1) Failure to safeguard or to account for estate funds and assets;

(2) Failure to perform duties in a timely and consistently satisfactory manner;

(3) Failure to comply with the provisions of the Code, the Bankruptcy Rules, and local rules of court;

(4) Failure to cooperate and to comply with orders, instructions and policies of the court, the bankruptcy clerk or the United States Trustee;

(5) Substandard performance of general duties and case management in comparison to other members of the chapter 7 panel or other standing trustees;

(6) Failure to display proper temperament in dealing with judges, clerks, attorneys, creditors, debtors, the United States Trustee and the general public;

(7) Failure to adequately monitor the work of professionals or others employed by the trustee to assist in the administration of cases;

(8) Failure to file timely, accurate reports, including interim reports, final reports, and final accounts;

(9) Failure to meet the eligibility requirements of 11 U.S.C. 321 or the qualifications set forth in 28 CFR 58.3 and 58.4 and in 11 U.S.C. 322;

(10) Failure to attend in person or appropriately conduct the 11 U.S.C. 341(a) meeting of creditors;

(11) Action by or pending before a court or state licensing agency which calls the trustee's competence, financial responsibility or trustworthiness into question;

(12) Routine inability to accept assigned cases due to conflicts of interest or to the trustee's unwillingness or incapacity to serve;

(13) Change in the composition of the chapter 7 panel pursuant to a system established by the United States Trustee under 28 CFR 58.1;

(14) A determination by the United States Trustee that the interests of efficient case administration or a decline in the number of cases warrant a reduction in the number of panel trustees or standing trustees.

(b) The notice shall advise the trustee that the decision is final and unreviewable unless the trustee requests in writing a review by the Director, Executive Office for United States Trustees, no later than 20 calendar days from the date of issuance of the United States Trustee's notice (''request for review''). In order to be timely, a request for review must be received by the Office of the Director no later than 20 calendar days from the date of the United States Trustee's notice to the trustee.

(c) A decision by a United States Trustee to suspend or terminate the assignment of cases to a trustee shall take effect upon the expiration of a trustee's time to seek review from the Director or, if the trustee timely seeks such review, upon the issuance of a final written decision by the Director.

(d) Notwithstanding paragraph (c) of this section, a United States Trustee's

decision to suspend or terminate the assignment of cases to a trustee may include, or may later by supplemented by an interim directive, by which the United States trustee may immediately discontinue assigning cases to a trustee during the review period. A United States Trustee may issue such an interim directive if the United States Trustee specifically finds that:

(1) A continued assignment of cases to the trustee places the safety of estate assets at risk ;

(2) The trustee appears to be ineligible to serve under applicable law, rule, or regulation;

(3) The trustee has engaged in conduct that appears to be dishonest, deceitful, fraudulent, or criminal in nature; or

(4) The trustee appears to have engaged in other gross misconduct that is unbefitting his or her position as trustee or violates the trustee's duties.

(e) If the United States Trustee issues an interim directive, the trustee may seek a stay of the interim directive from the Director if the trustee has timely filed a request for review under paragraph (b) of this section.

(f) The trustee's written request for review shall fully describe why the trustee disagrees with the United States Trustee's decision, and shall be accompanied by all documents and materials that the trustee wants the Director to consider in reviewing the decision. The trustee shall send a copy of the request for review, and the accompanying documents and materials, to the United States Trustee by overnight courier, for delivery the next business day. The trustee may request that specific documents in the possession of the United States Trustee be transmitted to the Director for inclusion in the record.

(g) The United States Trustee shall have 15 calendar days from the date of the trustee's request for review to submit to the Director a written response regarding the matters raised in the trustee's request for review. The United States Trustee shall provide a copy of this response to the trustee. Both copes shall be sent by overnight courier, for delivery the next business day.

(h) The Director may seek additional information from any party in the manner and to the extent the Director deems appropriate.

(i) Unless the trustee and the United States Trustee agree to a longer period of time, the Director shall issue a written decision no later than 30 calendar days from the receipt of the United States Trustee's response to the trustee's request for review. That decision shall determine whether the United States Trustee's decision is supported by the record and the action is an appropriate exercise of the United States Trustee's discretion, and shall adopt, modify or reject the United States Trustee's decision to suspend or terminate the assignment of future cases to the trustee. The Director's decision shall constitute final agency action.

(j) In reaching a determination, the Director may specify a person to act as a reviewing official. The reviewing official shall not be a person who was involved in the United States Trustee's decision or a Program employee who is located within the region of the United States Trustee who made the decision. The reviewing official's duties shall be specified by the Director on a case by case basis, and may include reviewing the record, obtaining additional information from the participants, providing the Director with written recommendations, or such other duties as the Director shall prescribe in a particular case.

(k) This rule does not authorize a trustee to seek review of any decision to increase the size of the chapter 7 panel or to appoint additional standing trustees in the district or region.

(l) A trustee who files a request for review shall bear his or her own costs and expenses, including counsel fees.

Dated: September 29, 1997.

Joseph Patchan,

Director, Executive Office for United States Trustees.

[FR Doc. 97–26172 Filed 10–1–97; 8:45 am]

BILLING CODE 4410–40–M

federal register

Thursday
October 2, 1997

Part IV

The President

Executive Order 13062—Continuance of Certain Federal Advisory Committees and Amendments to Executive Orders 13038 and 13054

Executive Order 13063—Level V of the Executive Schedule: Removal of the Executive Director, Pension Benefit Guaranty Corporation, Department of Labor

Federal Register
Vol. 62, No. 191
Thursday, October 2, 1997

Presidential Documents

Title 3—

The President

Executive Order 13062 of September 29, 1997

Continuance of Certain Federal Advisory Committees and Amendments to Executive Orders 13038 and 13054

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App.), it is hereby ordered as follows:

Section 1. Each advisory committee listed below is continued until September 30, 1999.

(a) Committee for the Preservation of the White House; Executive Order 11145, as amended (Department of the Interior).

(b) Federal Advisory Council on Occupational Safety and Health; Executive Order 12196, as amended (Department of Labor).

(c) National Partnership Council; Executive Order 12871, as amended (Office of Personnel Management).

(d) President's Advisory Commission on Education Excellence for Hispanic Americans; Executive Order 12900 (Department of Education).

(e) President's Board of Advisors on Historically Black Colleges and Universities; Executive Order 12876 (Department of Education).

(f) President's Commission on White House Fellowships; Executive Order 11183, as amended (Office of Personnel Management).

(g) President's Committee of Advisors on Science and Technology; Executive Order 12882 (Office of Science and Technology Policy).

(h) President's Committee on the Arts and the Humanities; Executive Order 12367, as amended (National Endowment for the Arts).

(i) President's Committee on the International Labor Organization; Executive Order 12216 (Department of Labor).

(j) President's Committee on the National Medal of Science; Executive Order 11287, as amended (National Science Foundation).

(k) President's Committee on Mental Retardation; Executive Order 12994 (Department of Health and Human Services).

(l) President's Council on Physical Fitness and Sports; Executive Order 12345, as amended (Department of Health and Human Services).

(m) President's Export Council; Executive Order 12131, as amended (Department of Commerce).

(n) President's National Security Telecommunications Advisory Committee; Executive Order 12382, as amended (Department of Defense).

(o) Trade and Environment Policy Advisory Committee; Executive Order 12905 (Office of the United States Trade Representative).

Sec. 2. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act that are applicable to the committees listed in section 1 of this order, except that of reporting annually to the Congress, shall be performed by the head of the department or agency designated after each committee, in accordance with the guidelines and procedures established by the Administrator of General Services.

Sec. 3. The following Executive orders which established committees that have terminated and whose work is completed, are revoked:

(a) Executive Order 12891, establishing the Advisory Committee on Human Radiation Experiments;

(b) Executive Order 12964, as amended by Executive Orders 12987 and 13032, establishing the Commission on United States-Pacific Trade and Investment Policy;

(c) Executive Order 12946, establishing the President's Advisory Board on Arms Proliferation Policy;

(d) Executive Order 12864, as amended by Executive Orders 12890, 12921, and 12970, establishing the United States Advisory Council on the National Information Infrastructure; and

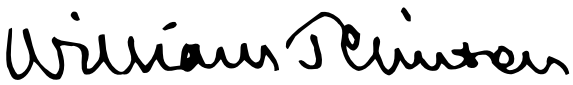
(e) Executive Order 13015, establishing the White House Commission on Aviation Safety and Security.

Sec. 4. Executive Order 12974 is superseded.

Sec. 5. In Executive Order 13038, the second sentence of section 1 is amended by deleting ''15'' and inserting ''22'' in lieu thereof.

Sec. 6. Executive Order 13054 is amended by revising section 1 to read as follows: ''A United States citizen who is a family member of a Federal civilian employee who has separated from Federal service to accept employment with the American Institute in Taiwan pursuant to section 11 of Public Law 96–8 (22 U.S.C. 3310(a)) may be appointed noncompetitively in a manner similar to noncompetitive appointments under Executive Order 12721 and implementing regulations of the Office of Personnel Management to a competitive service position in the executive branch, provided such family member meets the qualifications and other requirements established by the Director of the Office of Personnel Management, including an appropriate period of satisfactory overseas employment with the American Institute in Taiwan.''

Sec. 7. This order shall be effective September 30, 1997.



THE WHITE HOUSE,
September 29, 1997.

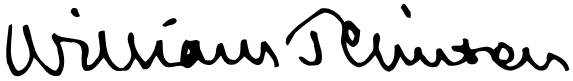
[FR Doc. 97–26364
Filed 10–1–97; 8:45 am]
Billing code 3195–01–P

Presidential Documents

Executive Order 13063 of September 30, 1997

Level V of the Executive Schedule: Removal of the Executive Director, Pension Benefit Guaranty Corporation, Department of Labor

By the authority vested in me as President by the Constitution and the laws of the United States of America, including section 5317 of title 5, United States Code, and in order to remove a position from Level V of the Executive Schedule, it is hereby ordered that section 1–102 of Executive Order 12154, as amended, is further amended by removing the following subsection from section 1–102: ''(b) Executive Director, Pension Benefit Guaranty Corporation, Department of Labor''; and relettering subsections (c) through (f) as subsections (b) through (e), respectively.



THE WHITE HOUSE,
September 30, 1997.

[FR Doc. 97–26365
Filed 10–1–97; 8:45 am]
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LIST OF PUBLIC LAWS

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H.R. 63/P.L. 105–44

To designate the reservoir created by Trinity Dam in the Central Valley project, California, as ''Trinity Lake''. (Sept. 30, 1997; 111 Stat. 1141)

H.R. 2016/P.L. 105–45

Military Construction Appropriations Act, 1998 (Sept. 30, 1997; 111 Stat. 1142)

H.J. Res. 94/P.L. 105–46

Making continuing appropriations for the fiscal year 1998, and for other purposes. (Sept. 30, 1997; 111 Stat. 1153)

Last List September 22, 1997

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