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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–24–AD; Amendment 39–10152; AD 97–15–16]

RIN 2120–AA64

Airworthiness Directives; Bell Helicopter Textron Canada (BHTC) Model 430 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This document publishes in the **Federal Register** an amendment adopting Airworthiness Directive (AD) 97–15–16, which was sent previously to all known U.S. owners and operators of BHTC Model 430 helicopters by individual letters. This AD requires inspections of all 4 main rotor adapter assemblies for evidence of flapping contact between the adapter liners and the upper stop assembly plugs, and for evidence of lead-lag contact between the adapter pads and the yoke assembly; installing a never-exceed-velocity (VNE) placard; marking the airspeed indicator to reflect the airspeed restriction; installing a slippage mark on the airspeed indicator glass and instrument case; and inserting revisions to the rotorcraft flight manual to reflect the airspeed revision. This amendment is prompted by a report of a main rotor tip path plane separation, which occurred during a ferry flight at an airspeed of more than 140 knots indicated airspeed (KIAS). The actions specified by this AD are intended to prevent tip path plane separation, increased vibrations, possible damage to the main rotor system, and subsequent loss of control of the helicopter.

DATES: Effective October 24, 1997, to all persons except those persons to whom it was made immediately effective by priority letter AD 97–15–16, issued on July 18, 1997, which contained the requirements of this amendment.

The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of the Assistant Chief Counsel, Attention: Rules Docket No. 97–SW–24–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The applicable service information may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. This information may be examined at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Harry Edmiston, Aerospace Engineer, Rotorcraft Certification Office, Rotorcraft Directorate, FAA, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5158, fax (817) 222–5783.

SUPPLEMENTARY INFORMATION: On July 18, 1997, the FAA issued priority letter AD 97–15–16, applicable to BHTC Model 430 helicopters, which requires inspections of all 4 main rotor adapter assemblies for evidence of flapping contact between the adapter liners and the upper stop assembly plugs, and for evidence of lead-lag contact between the adapter pads and the yoke assembly; installing a VNE placard; marking the airspeed indicator to reflect the airspeed restriction; installing a slippage mark on the airspeed indicator glass and instrument case; and inserting revisions to the rotorcraft flight manual to reflect the airspeed revision. That action was prompted by one report of a main rotor tip path plane separation, which occurred during a ferry flight at an airspeed of more than 140 KIAS. The separation was observed from the cockpit and caused a vibration at a frequency near one per revolution. BHTC was able to reproduce a similar event on other Model 430 helicopters, and determined that the separation may occur at airspeeds above 120 KIAS. Therefore, flight at airspeeds above 120 KIAS is considered unsafe. This condition, if not corrected, could result in tip path plane separation, increased vibrations, possible damage to the main rotor system, and subsequent loss of control of the helicopter.

The FAA has reviewed Bell Helicopter Textron Alert Service Bulletin (ASB) No. 430–97–2, dated July 11, 1997, which describes inspections of all 4 main rotor adapter assemblies for evidence of flapping contact between the adapter liners and the upper stop assembly plugs; and, for evidence of lead-lag contact between the adapter pads and the yoke assembly. The ASB also describes further inspections if evidence of contact is found during either of those inspections. For helicopters equipped with skid landing gear, removing the existing VNE placard and installing a VNE placard, part number (P/N) 430–075–208–107, is required; and for helicopters equipped with retractable landing gear, removing the existing VNE placard and installing a VNE placard, P/N 430–075–208–109, is required. Finally, the ASB describes marking the airspeed indicators to reflect the airspeed restriction by adding to the instrument glass a red arc to indicate that airspeeds above 120 KIAS are prohibited; and inserting revisions to the rotorcraft flight manual that reflect this airspeed restriction.

Since the unsafe condition described is likely to exist or develop on other BHTC Model 430 helicopters of the same type design, the FAA issued priority letter AD 97–15–16 to prevent tip path plane separation, increased vibrations, possible damage to the main rotor system, and subsequent loss of control of the helicopter. The AD requires, before further flight, inspections of all 4 main rotor adapter assemblies for evidence of flapping contact between the adapter liners and the upper stop assembly plugs, and for evidence of lead-lag contact between the adapter pads and the yoke assembly. Flapping contact is indicated by scrubbing (or smudging) of the adapter liner surface, characteristic of relative motion between the surfaces of the adapter liners and upper stop assembly plugs. Lead-lag contact is indicated by

a permanent indentation or split in the surface of the adapter pads. Further inspections are required if evidence of contact is found during either of those inspections. For helicopters equipped with skid landing gear, this AD requires the removing the existing VNE placard and installing a VNE placard, P/N 430–075–208–107; and for helicopters equipped with retractable landing gear, removing the existing VNE placard and installing a VNE placard, P/N 430–075–208–109, is required. Finally, this AD requires marking each airspeed indicator to reflect the airspeed restriction by adding to the instrument glass a red arc to indicate that airspeeds above 120 KIAS are prohibited; installing a slippage mark on each airspeed indicator glass and instrument case; and inserting revisions to the rotorcraft flight manual that reflect the airspeed restriction. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since it was found that immediate corrective action was required, notice and opportunity for prior public comment thereon were impracticable and contrary to the public interest, and good cause existed to make the AD effective immediately by individual letters issued on July 18, 1997 to all known U.S. owners and operators of BHTC Model 430 helicopters. These conditions still exist, and the AD is hereby published in the **Federal Register** as an amendment to § 39.13 of the Federal Aviation Regulations (14 CFR 39.13) to make it effective to all persons.

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting flight safety and, thus, was not preceded by notice and an opportunity for public 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 under the caption **ADDRESSES**. 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 concernedwith 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–SW–24–AD.'' The postcard will be date stamped and returned to the commenter.

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 that it 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. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

97–15–16 Bell Helicopter Textron Canada: Amendment 39–10152. Docket No. 97–SW–24–AD.

Applicability: Model 430 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 (g) 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 tip path plane separation, increased vibrations, possible damage to the main rotor system, and subsequent loss of control of the helicopter, accomplish the following:

(a) Inspect all 4 main rotor adapter assemblies for evidence of flapping contact between the adapter liners and the upper stop assembly plugs. Refer to Figures 1, 2, and 3 of the Accomplishment Instructions of Bell Helicopter

Textron Canada (BHTC) Alert Service Bulletin (ASB) No. 430–97–2, dated July 11, 1997. Flapping contact is indicated by scrubbing (or smudging) of the adapter liner surface, characteristic of relative motion between the surfaces of the adapter lines and upper stop assembly plugs.

(b) Inspect all 4 main rotor adapter assemblies for evidence of lead-lag contact between the adapter pads and the yoke assembly. Refer to Figures 1 and 2 of the Accomplishment Instructions of BHTC ASB No. 430–97–2, dated July 11, 1997. Lead-lag contact is indicated by a permanent indentation or split in the surface of the adapter pads.

(c) If the inspections in paragraphs (a) or (b) of this AD reveal that there has been contact, inspect and replace the main rotor yoke and stop assemblies in accordance with Part I, No. 3 of the Accomplishment Instructions of BHTC ASB No. 430–97–2, dated July 11, 1997.

(d) For helicopters equipped with skid landing gear or retractable landing gear,

remove the existing never-exceed-velocity (VNE) placard from the overhead console and install VNE placard, P/N 430–075–208–107, or P/N 430–075–208–109, as applicable, in accordance with Part II, of the Accomplishment Instructions of BHTC ASB No. 430–97–2, dated July 11, 1997.

(e) Install on each airspeed indicator a red arc between 120 knots and 150 knots to indicate that airspeeds above 120 knots indicated airspeed are prohibited. Install a slippage mark on each airspeed indicator glass and instrument case.

(f) Insert the temporary revisions, BHT–430–FM–1 and BHT–430–FMS–1, as appropriate, both dated July 7, 1997, into the rotorcraft flight manual.

(g) 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, Rotorcraft Certification Office, Rotorcraft Directorate, FAA. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Certification Office.

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

(h) Special flight permits will not be issued.

(i) The inspections and installations shall be done in accordance with Bell Helicopter Textron Alert Service Bulletin (ASB) No. 430–97–2, dated July 11, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Bell Helicopter Textron Canada, 12,800 Rue de l'Avenir, Mirabel, Quebec JON1LO, telephone (800) 463–3036, fax (514) 433–0272. Copies may be inspected at the FAA, Office of the Assistant Chief Counsel, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(j) This amendment becomes effective on October 24, 1997, to all persons except those persons to whom it was made immediately effective by priority letter AD 97–15–16, issued July 18, 1997, which contained the requirements of this amendment.

Issued in Fort Worth, Texas, on September 26, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–26623 Filed 10–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–SW–15–AD; Amendment 39–10153; AD 97–20–16]

RIN 2120–AA64

Airworthiness Directives; Eurocopter Deutschland GmbH (ECD) (Eurocopter) Model MBB–BK117 A–1, A–3, A–4, B–1, B–2, and C–1 Helicopters

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD), applicable to Eurocopter Model MBB–BK117 A–1, A–3, A–4, B–1, B–2, and C–1 helicopters, that currently requires initial and repetitive inspections of both surfaces of the tail boom vertical fin (vertical fin) spar, the skin, and the left-hand and right-hand frame sheets for cracks or loose rivets. This amendment requires the same initial and repetitive inspections of the vertical fin spar that are required by the existing AD, and also requires repairing certain cracks, if found, and repairing and reporting loose rivets and certain other cracks, if found. This amendment is prompted by an accident which occurred on April 15, 1997, resulting in one fatality. A subsequent investigation revealed that the vertical fin had failed as a result of a fatigue crack that initiated on the left side of the vertical fin spar cap. The actions specified by this AD are intended to prevent failure of the vertical fin and subsequent loss of control of the helicopter.

DATES: Effective October 24, 1997. The incorporation by reference of certain publications listed in the regulations is approved by the Director of the Federal Register as of October 24, 1997.

Comments for inclusion in the Rules Docket must be received on or before December 8, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Office of Regional Counsel, Southwest Region, Attention: Rules Docket No. 97–SW–15–AD, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137.

The service information referenced in this AD may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. This information may be examined at the FAA, Office of Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas 76137; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. Richard Monschke, Aerospace Engineer, Rotorcraft Standards Staff, 2601 Meacham Blvd., Fort Worth, Texas 76137, telephone (817) 222–5116, fax (817) 222–5961.

SUPPLEMENTARY INFORMATION: On April 25, 1997, the FAA issued priority letter AD 97–09–16, to require inspecting both surfaces of the vertical fin spar, part number (P/N) 105–304061.03, P/N 1120–30406.03, or P/N 117–30423–03, paying particular attention to the area extending from the top edge of the second lightening hole from the top of the vertical fin spar to the bottom edge of the fourth lightening hole, the outer skin (skin), and the left-hand and right-hand frame plates for cracks, loose rivets, or other anomalies. This inspection must be performed before further flight, then repeated at intervals not to exceed 100 hours time-in-service. That action was prompted by an accident involving a Eurocopter Model MBB–BK117 series helicopter, which occurred on April 15, 1997, resulting in one fatality. A subsequent investigation revealed that the vertical fin had failed as a result of a fatigue crack that initiated on the left side of the vertical fin spar cap. The crack propagated across the spar cap and spar web until only the skin was carrying the flight load. The skin then started cracking, with the crack propagating horizontally toward the vertical fin leading edge until catastrophic overstress occurred. Inspections of other helicopters of the same type design revealed cracks in the vertical fin spars of three additional helicopters. That condition, if not corrected, could result in failure of the vertical fin and subsequent loss of control of the helicopter.

Since the issuance of that AD, the manufacturer has developed repair procedures for the cracks, which were unavailable at the time of the release of the priority letter AD, and has issued Eurocopter Alert Service Bulletin MBB–BK117 No. ASB–MBB–BK117–30–106, Revision 3, dated May 5, 1997, which specifies repair procedures for the spar cap, as well as subsequent inspection requirements.

This helicopter model is manufactured in The Federal Republic of Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral

airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the Luftahrt-Bundesamt (LBA) has kept the FAA informed of the situation described above. The FAA has examined the findings of the LBA, reviewed all available information, and determined that AD action is necessary for products of this type design that are certificated for operation in the United States.

Since an unsafe condition has been identified that is likely to exist or develop on other Eurocopter Model MBB–BK117 series helicopters of the same type design, this AD supersedes AD 97–09–16 to require inspecting both surfaces of the vertical fin spar, part number (P/N) 105–304061.03, P/N 1120–30406.03, or P/N 117–30423–03, paying particular attention to the area extending from the top edge of the third lightening hole from the top of the vertical fin spar to halfway between the fourth and fifth lightening hole (see Figure 1 for description of area to be inspected), the skin, and the left-hand and right-hand frame sheets for cracks or loose rivets. This inspection must be repeated at intervals not to exceed 100 hours time-in-service until the repair is accomplished. If a crack is found in the area of the fourth lightening hole of the vertical fin spar, including a crack in the cap or ''c'' channel area of the spar, or in the left-hand frame sheet, P/N 105–304161 or P/N 1120–30416, or in the right-hand frame sheet, P/N 105–304211 or P/N 1120–30421, before further flight, the crack must be repaired in accordance with the repair instructions that are an Appendix titled ''Repair of BK117 Vertical Fin'' to Eurocopter Alert Service Bulletin MBB–BK117 No. ASB–MBB–BK117–30–106, Revision 3, dated May 5, 1997. Thereafter, this AD requires that a visual inspection for cracks be performed at intervals not to exceed 300 hours TIS. If a crack or loose rivet is found in the area other than that described in paragraph (a) of this AD, including any crack that is found to extend into the skin, P/N 105–304011.18 or P/N 1120–30402.0, contact the Rotorcraft Standards Staff before further flight. Further evaluation is required before further flight. If no crack is found, the repetitive visual inspection for cracks is required at intervals not to exceed 100 hours TIS until the repair specified in the repair instruction is accomplished. The repair must be accomplished within 600 hours TIS after the accomplishment of the initial inspection. Thereafter, the repetitive visual inspections for cracks at intervals not to exceed 300 hours TIS are required. The actions are required to be accomplished in accordance with the service bulletin described previously.

Since a situation exists that requires the immediate adoption of this regulation, it is found that notice and opportunity for prior public 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 flight safety and, thus, was not preceded by notice and an opportunity for public 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 under the caption **ADDRESSES**. 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–SW–15–AD.'' The postcard will be date stamped and returned to the commenter.

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 that it 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. A copy of it, if filed, may be obtained from the Rules Docket at the location provided under the caption **ADDRESSES**.

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. Section 39.13 is amended by adding a new airworthiness directive (AD), Amendment 39–10153, to read as follows:

97–20–16 Eurocopter Deutschland GmbH (ECD): Amendment 39–10153. Docket No. 97–SW–15–AD. Supersedes priority letter AD 97–09–16.

Applicability: Model MBB–BK117 A–1, A–3, A–4, B–1, B–2, and C–1 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 (f) to request approval from the FAA. This approval may address either no action, if the current configuration eliminates the unsafe condition, or different actions necessary to address the unsafe condition described in this AD. Such a request should include an assessment of the effect of the changed configuration on the unsafe condition addressed by this AD. In no

case does the presence of any modification, alteration, or repair remove any helicopter from the applicability of this AD.

Compliance: Required as indicated, unless accomplished previously.

To prevent failure of the tail boom vertical fin (vertical fin) and subsequent loss of control of the helicopter, accomplish the following:

(a) Before further flight, remove the tail rotor drive shaft between the intermediate and tail rotor gearboxes and the yaw servo (if installed). Thoroughly clean the vertical fin spar and adjacent areas and visually inspect the following for cracks or loose rivets:

(1) Both surfaces of the vertical fin spar, part number (P/N) 105–304061.03, P/N 1120–30406.03, or P/N 117–30423–03, paying particular attention to the area extending from the top edge of the third lightening hole from the top of the vertical fin spar to halfway between the fourth and fifth lightening hole (see Figure 1).

(2) The skin and left-hand and right-hand frame sheets.

(b) If a crack or loose rivet is found in the area described in paragraph (a) of this AD (see Figure 1), before further flight, repair in accordance with the Appendix, ''Repair of BK117 Vertical Fin'', to Eurocopter Alert Service Bulletin MBB–BK117 No. ASB–MBB–BK117–30–106, Revision 3, dated May 5, 1997. Thereafter, perform the inspection described in paragraph (a) of this AD at intervals not to exceed 300 hours TIS.

(c) If a crack or lose rivet is found in the area other than that described in paragraph (a) of this AD, including any crack that is found to extend into the skin, P/N 105–304011.18 or P/N 1120–30402.08, before further flight, contact the Rotorcraft Standards Staff. Reporting requirements have been approved by the Office of Management and Budget and assigned OMB control number 2120–0056.

(d) If no crack or loose rivet is found as a result of the inspection required by paragraph (a) of this AD, thereafter, until the repair is made in accordance with the Appendix, ''Repair of BK117 Vertical Fin'', to Eurocopter Alert Service Bulletin MBB–BK117 No. ASB–MBB–BK117–30–106, Revision 3, dated May 5, 1997, conduct the visual inspection required by paragraph (a) of this AD at intervals not to exceed 100 hours TIS.

(e) Within 600 hours TIS after the effective date of this AD, accomplish the repair to the vertical fin in accordance with the Appendix, ''Repair of BK117 Vertical Fin'', to Eurocopter Alert Service Bulletin MBB–BK117 No. ASB–MBB–BK117–30–106, Revision 3, dated May 5, 1997. Thereafter, perform the visual inspection required by paragraph (a) of this AD at intervals not to exceed 300 hours TIS.

(f) 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, FAA, Rotorcraft Directorate, Rotorcraft Standards Staff. Operators shall submit their requests through an FAA Principal Maintenance Inspector, who may concur or comment and then send it to the Manager, Rotorcraft Standards Staff.

BILLING CODE 4910–13–U

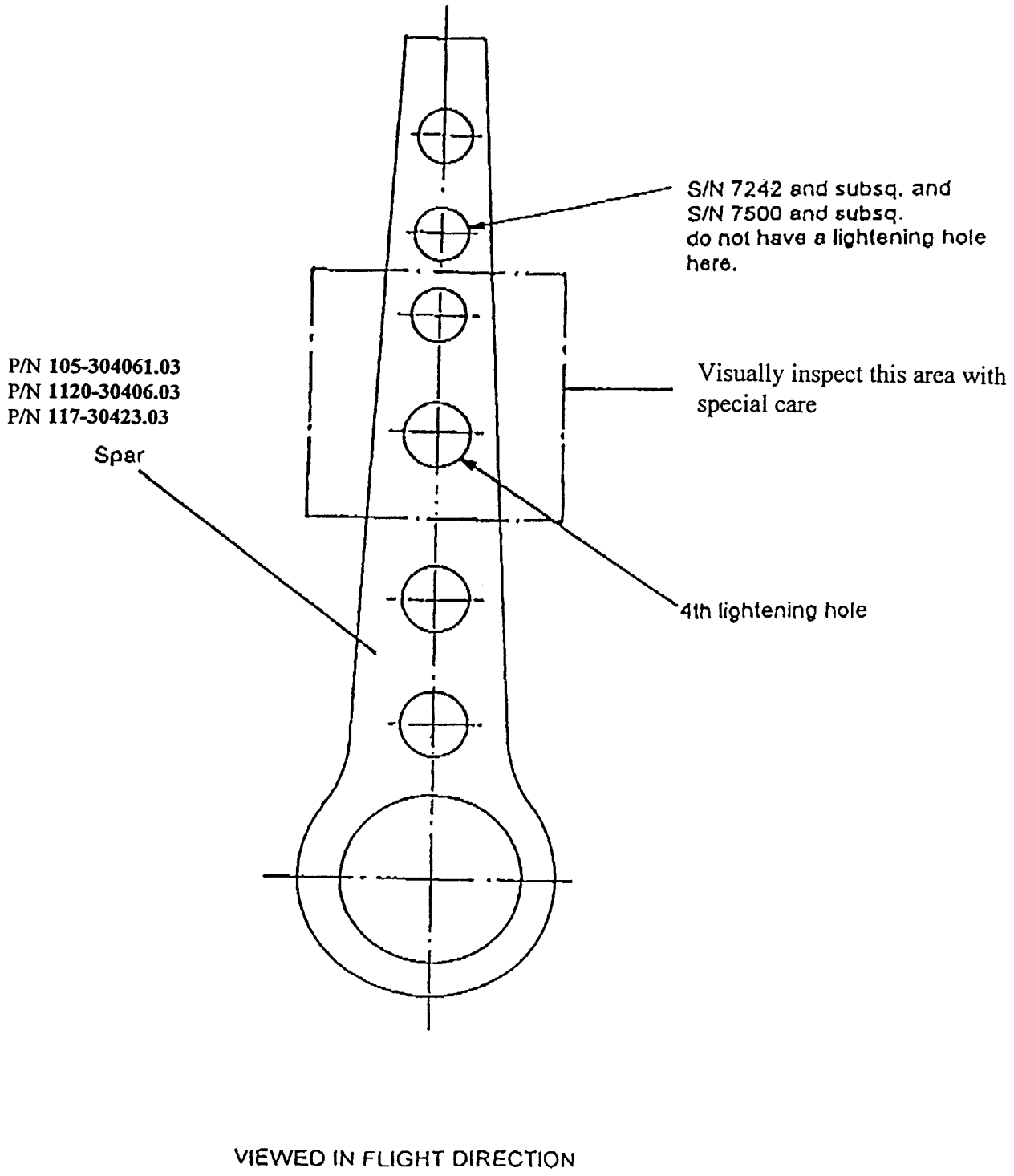

Figure 1

BILLING CODE 4910–13–C

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

(g) Special flight permits will not be issued.

(h) The inspections and repair shall be done in accordance with Eurocopter Deutschland GmbH (ECD) Alert Service Bulletin ASB–MBB–BK117–30–106, Revision 3, dated May 5, 1997, including Appendix. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from American Eurocopter Corporation, 2701 Forum Drive, Grand Prairie, Texas 75053–4005, telephone (972) 641–3460, fax (972) 641–3527. Copies may be inspected at the FAA, Office of Regional Counsel, Southwest Region, 2601 Meacham Blvd., Room 663, Fort Worth, Texas; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

Note 3: The subject of this AD is addressed in Luftfahrt-Bundesamt (Germany) AD 97–144/2, dated June 5, 1997.

(i) This amendment becomes effective on October 24, 1997.

Issued in Fort Worth, Texas, on September 26, 1997.

Eric Bries,

Acting Manager, Rotorcraft Directorate, Aircraft Certification Service.

[FR Doc. 97–26792 Filed 10–8–97; 8:45 am]

BILLING CODE 4910–13–U

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 331

RIN 0905–AA06

Antacid Drug Products for Over-the-Counter Human Use; Amendment of Antacid Monograph

CFR Correction

In Title 21 of the Code of Federal Regulations, parts 300 to 499, revised as of April 1, 1997, on page 227, in § 331.10, the revision of paragraph (a) and the source note were inadvertently omitted. The correct text of paragraph (a) and the source note read as follows:

§ 331.10 Antacid active ingredients.

(a) The active antacid ingredients of the product consist of one or more of the ingredients permitted in § 331.11 within any maximum daily dosage limit established, each ingredient is included at a level that contributes at least 25 percent of the total acid neutralizing capacity of the product, and the finished product contains at least 5 meq of acid neutralizing capacity as measured by the procedure provided in the United States Pharmacopeia 23/National Formulary 18. The method established in § 331.20 shall be used to determine the percent contribution of each antacid active ingredient.

* * * * *

[39 FR 19874, June 4, 1974, as amended at 61 FR 4822, Feb. 8, 1996]

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 436

Antibiotic Drugs; Loracarbef, Loracarbef Capsules, and Loracarbef for Oral Suspension and Rifabutin and Rifabutin Capsules

CFR Correction

In Title 21 of the Code of Federal Regulations, parts 300 to 499, revised as of April 1, 1997, on page 399, in § 436.215(c)(16)(iv), make the following changes:

1. Immediately following the equation, insert the word ''where:'' as a separate line.

2. In the second column, delete the hyphen between the words ''milligrams'' and ''per'' in line 2.

3. In paragraph (c)(18)(iv) of § 436.215, immediately following the equation, insert the word ''where:'' as a separate line.

BILLING CODE 1505–01–D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 510

New Animal Drugs

CFR Correction

In Title 21 of the Code of Federal Regulations, parts 500 to 599, revised as of April 1, 1997, on page 48, in § 510.515, paragraph (c), entry 5 is amended by adding ''Arsanilic acid'' below ''Chlortetracyline'' in the first column.

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MO 027–1027; FRL–5891–2]

Approval and Promulgation of Implementation Plans; State of Missouri

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final conditional rule.

SUMMARY: The EPA is taking final action to conditionally approve the State Implementation Plan (SIP) revision concerning Missouri Rule 10 CSR 10–2.330, Control of Gasoline Reid Vapor Pressure, submitted by the Missouri Department of Natural Resources (MDNR). This revision sets a summertime gasoline Reid vapor pressure (RVP) limit of 7.2 pounds per square inch (psi), and 8.2 psi for gasoline containing at least 9.0 percent by volume but not more than 10.0 percent by volume ethanol, for gasoline distributed in Clay, Platte, and Jackson Counties in Missouri. This revision is necessary to ensure that the area continues to maintain the National Ambient Air Quality Standard (NAAQS) for ozone.

DATES: This rule is effective on November 10, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101.

FOR FURTHER INFORMATION CONTACT: Stan Walker at (913) 551–7494.

SUPPLEMENTARY INFORMATION: On March 24, 1997 (62 FR 13846) the EPA proposed approval of the SIP revision concerning Missouri Rule 10 CSR 10–2.330, Control of Gasoline Reid Vapor Pressure, submitted by MDNR. This revision, which limits the RVP of gasoline sold in the Missouri portion of the Kansas City metropolitan area, is necessary to help the Kansas City area maintain the NAAQS for ozone. In accord with section 211(c)(4)(C), the EPA is able to approve this fuel control measure because the state of Missouri demonstrated that the measure is necessary to achieve the national primary and secondary ambient air quality standard. The EPA also approves the state fuel requirement as necessary because no other measures would bring about timely attainment, or if other measures exist, they are unreasonable or impracticable.

The state emergency rule was adopted and approved by the Missouri Air Conservation Commission (MACC) after proper public notice and hearing procedures. The emergency rule became effective on May 1, 1997, and expires on October 27, 1997. The state's permanent rule has undergone proper public notice and hearing and was adopted at the June 26, 1997, public hearing by the MACC, and will become effective in October 1997.

The EPA proposed approval of the state's permanent rule using parallel processing procedures. Under this procedure, the EPA proposed to approve the Missouri rule based on adoption of a final rule. The EPA received no comments on its proposed approval. The state has completed its rule adoption procedures for the permanent rule; however, the emergency rule will remain in effect until October 27, 1997. Full approval is contingent upon Missouri submitting the permanent rule by November 30, 1997.

For additional background on this action and the EPA's detailed rationale for approval, please refer to the technical support document of the aforementioned notice of proposed rulemaking (62 FR 13846).

I. Final Action

The EPA is taking final action to conditionally approve the SIP revision concerning Missouri Rule 10 CSR 10–2.330, Control of Gasoline Reid Vapor Pressure, submitted by MDNR.

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

Full approval is contingent upon Missouri completing its rule adoption procedures prior to expiration of the emergency rule, and submitting the permanent rule by November 30, 1997.

If the conditional approval is converted to a disapproval under section 110(k), based on the state's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. The EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, the EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities, because it does not substitute a new Federal requirement.

II. Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the state is already imposing.

This Federal action authorizes and approves into the Missouri SIP requirement previously adopted by the state, and imposes no new requirements. Therefore, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

C. Unfunded Mandates

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

The EPA has determined that the approval action does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action authorizes and approves into the Missouri SIP requirements previously adopted by the state, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, the 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).

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 8, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: August 25, 1997.

William Rice,

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 for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

Subpart AA—Missouri

2. Section 52.1320 is amended by adding paragraph (c)(98) to read as follows:

§ 52.1320 Identification of plan.

* * * * *

(c) * * *

(98) Revision to the Missouri SIP submitted by the Missouri Department of Natural Resources on July 14, 1997.

(i) Incorporation by reference.

(A) Missouri Emergency Rule, 10 CSR 10–2.330, Control of Gasoline Reid Vapor Pressure, effective May 1, 1997, and expires October 27, 1997.

* * * * *

3. Section 52.1323 is amended by adding paragraph (l) to read as follows:

§ 52.1323 Approval status.

* * * * *

(l) The Administrator conditionally approves Missouri emergency rule 10 CSR 10–2.330 under § 52.1320(c)(98). Full approval is contingent on the state submitting the permanent rule, to the EPA, by November 30, 1997.

[FR Doc. 97–26529 Filed 10–8–97; 8:45 am]

BILLING CODE 6560–50–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[MD 053–3020; FRL–5905–8]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; 15% Rate of Progress Plan for the Baltimore Ozone Nonattainment Area

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is granting conditional approval of the State Implementation Plan (SIP) revision submitted by the State of Maryland, for the Baltimore severe ozone nonattainment area, to meet the 15 percent reasonable further progress (RFP, or 15% plan) requirements of the Clean Air Act (the Act). EPA is granting conditional approval of the 15% plan, submitted by the State of Maryland, because, on its face, the plan achieves the required 15% emission reduction, but additional documentation to verify the emission calculations is necessary for full approval. Additionally, the plan relies upon Maryland's inspection and maintenance (I/M) program that received final conditional approval on July 31, 1997. This action is being taken under section 110 of the Clean Air Act.

EFFECTIVE DATE: This final rule is effective on November 10, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the Air, Radiation, and Toxics Division, U.S. Environmental Protection Agency, Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107; and the Maryland Department of the Environment, 2500 Broening Highway, Baltimore, Maryland 21224.

FOR FURTHER INFORMATION CONTACT: Carolyn M. Donahue, Ozone/Carbon Monoxide and Mobile Sources Section (3AT21), USEPA—Region III, 841 Chestnut Building, Philadelphia, Pennsylvania 19107, or by telephone at (215) 566–2095 or via e-mail, at the following address: donahue.carolyn@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

I. Background

Section 182(b)(1) of the Act requires ozone nonattainment areas classified as moderate or above to develop plans to reduce volatile organic compounds (VOC) emissions by 15% from 1990 baseline levels. The Baltimore area is classified as a severe ozone nonattainment area and is subject to the 15% plan requirement. The Baltimore ozone nonattainment area consists of the City of Baltimore, and Anne Arundel, Baltimore, Carroll, Howard, and Harford Counties.

The State of Maryland submitted the 15% plan SIP revision for the Baltimore nonattainment area on July 12, 1995. On August 5, 1997, EPA published a notice of proposed rulemaking (NPR) in the **Federal Register** proposing conditional approval of the 15% plan (62 FR 42079). EPA's rationale for granting conditional approval to the Maryland 15% plan for the Baltimore area and the details of the July 12, 1995 submittal are contained in the August 5, 1997 NPR and the accompanying technical support document and will not be restated here.

II. Public Comments and EPA Responses

EPA received a letter in response to the August 5, 1997 NPR from the Earthjustice Legal Defense Fund (ELDF). The following discussion summarizes and responds to the comments received.

Comment 1: ELDF commented that the Baltimore 15% plan must be disapproved because it failed to produce the 15% emission reduction of 73.3 tons/day identified in the plan as prescribed by section 182(b)(1)(A)(I) of the Act.

Response 1: Under section 110(k)(4) of the Act, EPA may conditionally approve a plan based on a commitment from the state to adopt specific enforceable measures within one year from the date of approval. EPA believes that the 15% required reduction in the Baltimore nonattainment area will be 63.9 tons/day based on new information supplied by the State. Although this information has not been established through an official SIP submittal, this information is contained in Maryland's rate-of-progress SIP revision for the 1996–1999 time period (known at the Post-1996 plan). Maryland has held a public hearing on this SIP revision, which EPA provided comments on for the public record, and expects to submit it to EPA shortly. Under these circumstances—including the fact that the amount of emissions at issue is a relatively small percentage of the 15% requirement—EPA has the authority to conditionally approve Maryland's 15% SIP, on the condition that Maryland submit the requisite documentation. The State of Maryland has agreed to document the amount of reductions needed to meet the 15% requirement, and submitted such commitment in writing on September 4, 1997.

Comment 2: EPA concluded that ''EPA cannot credit this claim'' of 6.3 tons/day from enhanced rule compliance for the Baltimore area. EPA nevertheless included this measure in the list of creditable measures, acting unlawfully and inconsistently.

Response 2: The commenter is correct. This inconsistency is the result of a typographical error. The credit claim of 6.3 tons/day (TPD) from enhanced rule compliance is not creditable toward the 15% rate-of-progress requirement for the Baltimore nonattainment area. Therefore, the total credits achieved by Maryland toward the 15% requirement in the plan is 64.2 TPD.

Comment 3: ELDF commented that the Maryland 15% plan, which takes credit for federal control measures such as architectural and industrial maintenance coating, consumer/commercial products and autobody refinishing, should not be approved because those federal control measures have not yet been promulgated. ELDF states that allowing such credit violates section 182(b)(1)(C) of the Act. ELDF further commented that EPA cannot lawfully base SIP decisions on unpromulgated rules because it does not know what these final rules will say. ELDF contends that allowing credit on as yet unpromulgated rules, even with the caveat that the states must revisit the rule later if the federal rules turn out differently than predicted, amounts to an unlawful extension of a SIP submission deadline. ELDF stated that EPA must base its decision on the record before it at the time of its decision; not on some record that the agency hopes will exist in the future.

Response 3: Section 182(b)(1)(A) of the Act requires states to submit their 15% SIP revisions by November, 1993. Section 182(b)(1)(C) of the Act provides the following general rule for

creditability of emissions reductions towards the 15% requirement: ''Emissions reductions are creditable toward the 15 percent required * * * to the extent they have actually occurred, as of [November, 1996], from the implementation of measures required under the applicable implementation plan, rules promulgated by the Administrator, or a permit under Title V.''

This provision further indicates that certain emissions reductions are not creditable, including reductions from certain control measures required prior to the 1990 Amendments. This creditability provision is ambiguous. Read literally, it provides that although the 15% SIPs are required to be submitted by November 1993, emissions reductions are creditable as part of those SIPs only if ''they have actually occurred, as of [November 1996]''. This literal reading renders the provision internally inconsistent. Accordingly, EPA believes that the provision should be interpreted to provide, in effect, that emissions reductions are creditable ''to the extent they will have actually occurred, as of [November, 1996], from the implementation of [the specified measures]'' (the term ''will'' is added). This interpretation renders the provision internally consistent.

Section 182(b)(1)(C) of the Act explicitly includes as creditable reductions those resulting from ''rules promulgated by the Administrator''. This provision does not state the date by which those measures must be promulgated, i.e., does not indicate whether the measures must be promulgated by the time the 15% SIPs were due (November, 1993), or whether the measures may be promulgated after this due date.

Because the statute is silent on this point, EPA has discretion to develop a reasonable interpretation, under *Chevron U.S.A. Inc.* v. *NRDC*, 467 U.S. 837, 104 S.Ct. 2778, 81 L.Ed.2d 694 (1984). EPA believes it reasonable to interpret section 182(b)(1)(C) of the Act to credit reductions from federal measures as long as those reductions are expected to occur by November 1996, even if the Federal measures are not promulgated by the November 1993 due date for the 15% SIPs.

EPA's interpretation is consistent with the congressionally mandated schedule for promulgating regulations for consumer and commercial products, under section 182(e) of the Act. This provision requires EPA to promulgate regulations controlling emissions from consumer and commercial products that generate emissions in nonattainment areas. Under the schedule, by November 1993—the same date that the States were required to submit the 15% SIPs—EPA was to issue a report and establish a rulemaking schedule for consumer and commercial products. Further, EPA was to promulgate regulations for the first set of consumer and commercial products by November, 1995. It is reasonable to conclude that Congress anticipated that reductions from these measures would be creditable as part of the 15% SIPs, as long as those reductions were to occur by November, 1996.

Crediting reductions from federal measures promulgated after the due date for the 15% SIPs is also sensible from an administrative standpoint. Crediting the reductions allows the states to plan accurately to meet the 15% reduction target from the appropriate level of state and federal measures. Not crediting such reductions would mean that the states would have to implement additional control requirements to reach the 15% mark; and that SIPs would result in more than a 15% level of reductions once the federal measures in question were promulgated and implemented. At that point in time, the state may seek to eliminate those additional SIP measures on grounds that they would no longer be necessary to reach the 15% level. Such constant revisions to the SIP to demonstrate 15% is a paper exercise that exhausts both the states' and EPA's time and resources.

The fact that EPA cannot determine precisely the amount of credit available for the federal measures not yet promulgated does not preclude granting the credit. The credit can be granted as long as EPA is able to develop reasonable estimates of the amount of VOC reductions from the measures EPA expects to promulgate. EPA believes that it is able to develop reasonable estimates, particularly because is has already proposed and taken comment on the measures at issue, and expects to promulgate final rules by the spring of 1998. Many other parts of the SIP, including state measures, typically include estimates and assumptions concerning VOC amounts, rather than actual measurements. For example, EPA's document to estimate emissions, ''Compilation of Air Pollutant Emission Factors'', January 1995, AP–42), provide emission factors used to estimate emissions from various sources and source processes. AP–42 emission factors have been used, and continue to be used, by states and EPA to determine base year emission inventory figures for sources and to estimate emissions from sources where such information is needed. Estimates in the expected amount of VOC reductions are commonly made in air quality plans, even for those control measures that are already promulgated.

Moreover, the fact that EPA is occasionally delayed in its rulemaking is not an argument against granting credits from these measures. The measures are statutorily required, and states and citizens could bring suit to enforce the requirements that EPA promulgate them. If the amount of credit that EPA allows the state to claim turns out to be greater than the amount EPA determines to be appropriate when EPA promulgates the federal measures, EPA intends to take appropriate action to require correction of any shortfall in necessary emissions reductions that may occur.

The above analysis focuses on the statutory provisions that include specific dates for 15% SIP submittals (November, 1993), and implementation (November 15, 1996). These dates have expired, and EPA has developed new dates for submittal and implementation. EPA does not believe that the expiration of the statutory dates, and the development of new ones, has implications for the issue of whether reductions from federal measures promulgated after the date of 15% SIP approval may be counted toward those 15% SIPs. Although the statutory dates have passed, EPA believes that the analysis described above continues to be valid.

Further, since the publication of the proposed conditional approval for the Baltimore nonattainment area, EPA has promulgated Maryland's state regulation for autobody refinishing (62 FR 41853, August 4, 1997). Maryland claimed 5.0 tons/day of creditable emissions reductions in the 15% plan under their state regulation, not under the federal rule.

Comment 4: EPA has improperly suggested that SIPs can be approved if the state has failed to demonstrate approvability. In this regard, EPA has not been able to verify Maryland's emission reduction credit claims for reformulated gasoline, Tier I or Stage II vapor recovery, but has nonetheless stated that it has no reason to dispute the credit claimed by Maryland and is therefore approving the 15% plan. An absence of statutorily required documentation requires disapproval.

Response 4: EPA believes Maryland has demonstrated that it has appropriately modeled its mobile source program benefits, through proper use of EPA's MOBILE emissions factor estimation model, combined with state vehicle miles of travel estimates. It is not practical to submit the hundreds or

even thousands of modeling input and output runs needed to evaluate the mobile source-related portions of the 15% rate-of-progress SIP. Maryland instead submitted to EPA a list of the variables and assumptions utilized in its MOBILE modeling analysis, along with sample model input and output scenarios.

While the SIP does not contain sufficient data to reconstruct the analysis and, therefore, to independently verify the State's claims, EPA believes the State's methodology is sound. However, EPA has deferred the specific results of that methodology, in part, to the State.

Comment 5: ELDF commented that EPA allowed credit for lithographic printing and surface cleaning operations based on the assertion that these regulations would be approved by EPA in other proceedings. However, EPA does not state that these approvals have occurred and may not lawfully grant credit to measures that do not comply with section 110(a).

Response 5: The rule for lithographic printing was approved and published in the **Federal Register** on September 2, 1997 (62 FR 42199). The surface cleaning operations regulation was approved on August 4, 1997 (62 FR 41853).

Comment 6: ELDF commented that it is unlawful for EPA to allow substantial credit from an I/M program that is not before the agency. The 15% plan before EPA was submitted on July 12, 1995, and thus does not incorporate Maryland's current I/M plan which was submitted in March 1996. Also, it is unlawful to allow postponements under the National Highway System Designation Act (NHSDA) for an area that did not submit an NHSDA-type program.

Response 6: Maryland's March 1996 I/M submittal was an amendment to the I/M program submitted to EPA on July 11, 1995. The March I/M submittal does not supercede the July 1995 program; thus Maryland's current I/M program is before EPA. EPA granted conditional approval of Maryland's I/M program on July 31, 1997. If the rules submitted from Maryland to EPA are valid, they do not have to be submitted in a particular order.

EPA believes that test-only I/M programs like the one in Maryland should be treated in the same manner as NHSDA state programs (test and repair programs) with regard to 15% plan requirements. In a letter from Mary Nichols to MDE Secretary Jane Nishida dated January 30, 1996, EPA stated this position is justified in light of administrative and statutory changes in the I/M requirements and the extent to which states relied on I/M programs in their 15% submittals. EPA's approach would have the effect of keeping a level playing field by assuring that Maryland would not be penalized for adopting a test-only program.

Comment 7: ELDF commented that EPA cannot postpone the deadline for achieving the required 15% reduction any further than the current deadline of November 15, 1999. It contends that, without conceding the legality of a 3-year postponement of the statutory deadline of November 15, 1996 allowed by EPA, any longer postponement would be unlawful. Once a compliance date has expired, compliance must occur in the shortest time possible. The commenter cited various court decisions in an effort to demonstrate that a postponement longer than three years would not adhere to the strict standard of compliance. Also, ELDF claimed that postponing a requirement for reasonable further progress until after the deadline for attainment would be unlawful.

Response 7: The case law cited by the commenter considers various circumstances, such as failure by EPA to promulgate rules on the statutorily mandated deadline or to take action on state failures to make SIP submissions on the statutorily mandated deadline. See, e.g., *Natural Resources Defense Council* v. *EPA*, 22 F.3d 1125 (D.C. Cir. 1994), *Natural Resources Defense Council* v. *Train*, 510 F.2d 692 (D.C. Cir. 1975). These cases articulate various formulations of the standards by which the courts establish new deadlines. EPA believes that its formulation of the standard by which States must achieve the 15% reductions—''as soon as practicable''—is generally consistent with the case law.

Further, EPA believes that Maryland has demonstrated that it has met this standard. The notice of proposed rulemaking and the TSD accompanying that proposal establish that implementation of the I/M program is as soon as practicable. The main reason for the delays in the development and implementation of Maryland's 15% SIP relate to its enhanced I/M plan. Most recently, these enhanced I/M delays were closely associated with the enactment, in November 1995, of the NHSDA. The NHSDA afforded states the opportunity to revise their I/M plans in a manner that would be treated as meeting certain EPA requirements on an interim basis. The NHSDA provided additional time for the State and EPA to develop and process the revised I/M plans. In the January 1996 letter to Secretary Nishida from Mary Nichols, EPA states it will credit Maryland's test-only enhanced I/M program for purposes of the 15% requirement. This approach enables states with test-only programs to enhance those programs starting in 1997 while applying credit for those programs to satisfy the 1996 15% VOC reduction plan requirements. Maryland acted expeditiously in developing and implementing a revised enhanced I/M program. However, the amount of time necessary to develop and implement the I/M program rendered impossible achieving the 15% reduction target by the end of 1996. The addendum to the TSD showing the chronology of Maryland's I/M program development demonstrates the necessity of the extension.

Moreover, EPA has reviewed other VOC SIP measures that are at least theoretically available to Maryland, and has concluded that implementation of any such measures that might be appropriate would not accelerate the date of achieving the 15% reductions. For reasons indicated elsewhere in the record, EPA considers the biennial I/M program selected by Maryland to be as soon as practicable, notwithstanding the fact that other states may choose to implement an annual program.

Comment 8: ELDF commented that any further delays in achieving the mandate 15% reduction from VOC control measures, including most prominently, enhanced I/M, must not be tolerated. Furthermore, missing the November 15, 1996 deadline unlawfully rewards states for failure to meet the deadline by giving them increased credits under national programs such as the Tier I Federal Motor Vehicle Control Program. ELDF argues that such an approach unlawfully delays the achievement of clean air by allowing the states to reduce their own emission control efforts by the amount of the post-November 1996 fleet turnover benefits. Consequently, EPA must deny the post-November 1996 Tier I credit and require states to adopt emission reductions to compensate for post-1996 growth in vehicle miles traveled (VMT).

ELDF further argues that EPA cannot delay the section 182(b)(1) requirement for states to account for growth in the 15% plans to the Post-1996 rate-of-progress plans, particularly because the Post-1996 plans involve potential NO_X substitution that is not permitted in the VOC-only 15% plans.

Response 8: EPA disagrees with this comment. The NHSDA was enacted by Congress in November of 1995. Section 348 of this statute provided states' renewed opportunity to satisfy the Clean Air Act requirements related to the network design for I/M programs. States were not only granted the

flexibility to enact test-and-repair programs, but were provided additional time to develop those programs and to submit proposed regulations for interim SIP approval. Maryland moved rapidly to propose I/M regulations and to submit to EPA on March 27, 1996 an amendment to the I/M SIP containing those regulations. EPA granted conditional approval of the Maryland I/M program on July 31, 1997 (62 FR 40938).

Under the terms of the 15% requirement in section 182(b)(1)(A)(I) of the Act, the SIP must—''provide for [VOC] emission reductions, within 6 years after the date of enactment of the Clean Air Act Amendments of 1990, of at least 15 percent from baseline emissions, accounting for any growth in emissions after [1990].''

EPA interprets this provision to require that a specific amount of VOC reductions occur, and has issued guidance for computing this amount. Maryland, complying with this guidance, has determined the amount of the required VOC reductions needed to meet the 15% goal. It is no longer possible for Maryland to implement measures to achieve this level of reduction as the November 15, 1996 date provided under the 15% provisions has passed. Accordingly, EPA believes that Maryland will comply with the statutory mandate as long as it achieves the requisite level of reductions on an as-soon-as-practicable basis after 1996. In computing the reductions, EPA believes it acceptable for states to count reductions from federal measures, such as vehicle turnover, that occur after November 15, 1996, as long as they are measures that would be creditable had they occurred prior to that date. These measures result in VOC emission reductions as directed by Congress in the Act; therefore, these measures should count towards the achievement—however delayed—of the 15% VOC reduction goal.

EPA does not believe states are obligated as part of the 15% SIP to implement further VOC reductions to offset increases in VOC emissions due to post-1996 growth. As noted above, the 15% requirement mandates a specific level of reductions. By counting the reductions that occur through measures implemented pre- and post-1996, SIPs may achieve this level of reductions. Although section 182(b)(1)(A)(I), quoted above, mandates that the SIPs account for growth after 1990, the provision does not, by its terms, establish a mechanism for how to account for growth, or indicate whether, under the present circumstances, post-1996 growth must be accounted for. EPA believes that its current requirements for the 15% SIPs meet section 182(b)(1)(A)(I). In addition, although post-1996 VOC growth is not offset under the 15% SIPs, such growth must be offset in the Post-1996 plans required for serious and higher classified areas to achieve 9% in VOC reductions every three years after 1996 (until the attainment date). Maryland's Post-1996 plan for the Baltimore area, which is nearing completion, does appear to achieve the 9% emissions reductions required between 1996 and 1999, taking into account growth in VOCs during that time. The fact that these Post-1996 SIPs may substitute NO_X reductions for VOC reductions in the 1996 to 1999 period does not undermine the integrity of the 15% SIPs. Allowing NO_X substitution is fully consistent with the health goals of the Clean Air Act.

Under EPA's approach, post-1996 growth will be accounted for in the plans that Congress intended to take account of such growth—the Post-1996 ''rate of progress'' SIPs. To shift the burden of accounting for such growth to the 15% plans, as commenters would have EPA do, would impose burdens on states above and beyond what Congress contemplated would be imposed by the 15% requirement (which was intended to have been achieved by November 15, 1996). In the current situation, where it is clearly impossible to achieve the target level of VOC reductions (a 15% reduction taking into account growth through November 1996) by November 1996, EPA believes that its approach is a reasonable and appropriate one. It will still mean that post-1996 growth is taken into account in the SIP revisions Congress intended to take into account such growth and it means that the target level of VOC reductions will be achieved as soon as practicable. Once the Post-1996 rate of progress plans are approved and implemented, areas will have achieved the same level of progress that they were required to have achieved through the combination of the 15% and rate of progress requirements as originally intended by Congress.

Comment 9: ELDF commented that EPA proposed disapproval of the Philadelphia 15% plan in 1996 because the plan assumed credit from control strategies either not fully adopted, not creditable under the Clean Air Act, or which had not been adequately quantified. Furthermore, EPA proposed disapproval of the plan because Pennsylvania switched I/M programs yet did not revise the 15% plan to reflect the differences in the I/M program description and projected emission reductions. EPA set precedence with this rulemaking and to propose approval of the Baltimore 15% plan when the same deficiencies exist is acting in an arbitrary and capricious manner of treating similar situations in such a diametrically opposed fashion.

Response 9: EPA's proposed approval of the Baltimore 15% plan is not inconsistent with the proposed disapproval of the Philadelphia 15% plan. On July 10, 1996, EPA proposed to disapprove Pennsylvania's 15% plan for the Philadelphia area because it would not have achieved sufficient reductions to meet the requirements of section 182(b)(1) of the Act (61 FR 36320). EPA did not credit any reductions from Pennsylvania's enhanced I/M program because at the time of the July 10, 1996 rulemaking EPA had disapproved Pennsylvania's I/M submittal. In a letter dated April 13, 1995, EPA converted the August 31, 1994 conditional approval of Pennsylvania's I/M submittal to a disapproval. As discussed above, on July 31, 1997, EPA granted conditional approval of Maryland's I/M program in the Maryland SIP (62 FR 40938). Therefore, the factual basis for EPA's conditional approval of Baltimore's 15% plan is not similar to that of the Philadelphia 15% plan. In the July 10, 1996 proposed disapproval, EPA credited the measures in Pennsylvania's 15% plan towards meeting the rate of progress requirements of the Act even though they were insufficiently documented to qualify for full approval. See, 61 FR 36322. That action is wholly consistent with EPA's conditional approval of the Baltimore 15% plan.

III. Conditional Approval

EPA has evaluated Maryland's July 12, 1995 submittal for consistency with the Act, applicable EPA regulations, and EPA policy and has determined, as documented in the August 5, 1997 NPR, that, on its face, the 15% plan for the Baltimore area achieves the required 15% VOC emission reduction to satisfy the requirements of section 182(b)(1) of the Act. However, there are measures included in the Maryland 15% plan, which may be creditable towards the Act requirement, but which are insufficiently documented for EPA to take action on at this time. While the amount of creditable reductions for certain control measures has not been adequately documented to qualify for Clean Air Act approval, EPA has determined that the submittal for the Baltimore area contains enough of the required structure to warrant conditional approval. EPA cannot grant full approval of the Baltimore 15% rate-of-progress plan under section 110(k)(3) and part D of the Clean Air Act. Instead,

EPA is granting conditional approval of this SIP revision under section 110(k)(4) of the Act, because the State must meet the specified conditions and supplement its submittal to satisfy the requirements of section 182(b)(1) of the Act regarding the 15% rate-of-progress plan, and because the State must supplement its submittal and demonstrate it has achieved the required emission reductions.

The August 5, 1997 NPR listed the conditions that Maryland must meet in order to convert the conditional approval to full approval. In a September 4, 1997 letter to EPA, the State committed to meet all the conditions listed in the NPR within 12 months of final conditional approval. The conditions from the NPR are restated here. The State of Maryland must fulfill the following conditions by no later than October 9, 1998:

1. Maryland's 15% plan calculations must reflect the EPA approved 1990 base year emissions inventory (61 FR 50715, September 27, 1996).

2. Maryland must meet the conditions listed in the October 31, 1996 conditional I/M rulemaking notice, including its commitment to remodel the I/M reductions using the following two EPA guidance memos: ''Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation,'' note from John Seitz and Margo Oge dated August 13, 1996, and ''Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance,'' from Gay MacGregor and Sally Shaver dated December 23, 1996.

3. Maryland must remodel to determine affirmatively the creditable reductions from RFG and Tier I in accordance with EPA guidance.

4. Maryland must submit a SIP revision amending the 15% plan with a determination using appropriate documentation methodologies and credit calculations that the 64.2 TPD reduction, supported through creditable emission measures in the submittal, satisfies Maryland's 15% ROP requirement for the Baltimore area.

After making all the necessary corrections to establish the creditability of chosen control measures, Maryland must demonstrate that 15% emission reduction is obtained in the Baltimore nonattainment area as required by section 182(b)(1) of the Act and in accordance with EPA's policies and guidance issued pursuant to section 182(b)(1).

IV. Final Action

EPA is today granting conditional approval of the Baltimore 15% plan as a revision to the Maryland SIP. This rulemaking action will not convert to full approval until Maryland has met conditions 1 through 4 of this rulemaking. If the conditions are not met within 12 months of today's rulemaking, this rulemaking will convert to a disapproval. Once Maryland satisfies the conditions of the I/M rulemaking and receives final approval of I/M, EPA will grant final approval of the 15% plan (assuming that the other conditions have been met). Conversely, if EPA disapproves the Maryland I/M program, EPA's conditional approval of Baltimore's 15% plan would also convert to a disapproval. EPA would notify Maryland by letter that the conditions have not been met and that the conditional approval of the 15% plan has converted to a disapproval. Each of the conditions must be fulfilled by Maryland and submitted to EPA as an amendment to the SIP. If Maryland corrects the deficiencies within one year of conditional approval, and submits a revised 15% plan as a SIP revision, EPA will conduct rulemaking on that revision.

Further, EPA makes this conditional approval of the 15% plan contingent upon Maryland maintaining a mandatory I/M program. EPA will not credit any reductions toward the 15% ROP requirement from a voluntary enhanced I/M program. Any changes to I/M which would render the program voluntary or discontinued would cause a shortfall of credits in the 15% reduction goal. Therefore, this action will convert automatically to a disapproval should the State make the enhanced I/M program a voluntary measure.

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

The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

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

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

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

If the conditional approval is converted to a disapproval under section 110(k), based on the State's failure to meet the commitment, it will not affect any existing state requirements applicable to small entities. Federal disapproval of the state submittal does not affect its state-enforceability. Moreover, EPA's disapproval of the submittal does not impose a new Federal requirement. Therefore, EPA certifies that this disapproval action does not have a significant impact on a substantial number of small entities because it does not remove existing requirements nor does it substitute a new federal requirement.

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the

aggregate; or to private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

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

Under 5 U.S.C. 801(a)(1)(A) as added by the Small Business Regulatory Enforcement Fairness Act of 1996, 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).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action, pertaining to the final conditional interim approval of the 15% plan for the Baltimore severe ozone nonattainment area, must be filed in the United States Court of Appeals for the appropriate circuit by December 8, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Hydrocarbons, Ozone.

Dated: September 19, 1997.

A.R. Morris,

Acting Regional Administrator, Region III.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart V—Maryland

2. Section 52.1072 is amended by adding paragraph (c) to read as follows:

§ 52.1072 Conditional approval.

* * * * *

(c) The State of Maryland's July 12, 1995 submittal for the 15 Percent Rate of Progress Plan (15% plan) for the Baltimore ozone nonattainment area, is conditionally approved based on certain contingencies. The conditions for approvability are as follows:

(1) Maryland's 15% plan calculations must reflect the EPA approved 1990 base year emissions inventory in § 52.1075.

(2) Maryland must meet the conditions listed in the October 31, 1996 conditional I/M rulemaking notice, including its commitment to remodel the I/M reductions using the following two EPA guidance memos: ''Date by which States Need to Achieve all the Reductions Needed for the 15 Percent Plan from I/M and Guidance for Recalculation,'' note from John Seitz and Margo Oge dated August 13, 1996, and ''Modeling 15% VOC Reductions from I/M in 1999—Supplemental Guidance,'' from Gay MacGregor and Sally Shaver dated December 23, 1996.

(3) Maryland must remodel to determine affirmatively the creditable reductions from RFG and Tier I in accordance with EPA guidance.

(4) Maryland must submit a SIP revision amending the 15% plan with a determination using appropriate documentation methodologies and credit calculations that the 64.2 TPD reduction, supported through creditable emission measures in the submittal, satisfies Maryland's 15% ROP requirement for the Baltimore area.

[FR Doc. 97–26533 Filed 10–8–97; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 285

[I.D. 100297A]

Atlantic Tuna Fisheries; Atlantic Bluefin Tuna General Category

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

ACTION: Closure.

SUMMARY: NMFS has determined that the 1997 Atlantic bluefin tuna (ABT) October–December period General category subquota will be attained by October 5, 1997. Therefore, the General category fishery for October–December will be closed effective at 11:30 p.m. on October 5, 1997. This action is being taken to prevent overharvest of the adjusted 141 metric tons (mt) subquota for the October–December period.

DATES: Effective 11:30 p.m. local time on October 5, 1997, through December 31, 1997.

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 (ICCAT) among the various domestic fishing categories.

General Category Closure

NMFS is required, under § 285.20(b)(1), to monitor the catch and landing statistics and, on the basis of these statistics, to project a date when the catch of ABT will equal the quota and publish a **Federal Register** announcement to close the applicable fishery.

Implementing regulations for the Atlantic tuna fisheries at 50 CFR 285.22 provide for a subquota of 72 mt of large medium and giant ABT to be harvested from the regulatory area by vessels permitted in the General category during the period beginning October 1 and ending December 31. Due to an overharvest of 1 mt in the September period subquota, and the transfer of 70 mt from other categories (13 mt from the Reserve, 3 mt from the Incidental Longline North quota, and 54 mt from the Incidental Longline South quota) (62 FR 51608, October 2, 1997), the October-December period subquota was adjusted to 141 mt. The October–December subquota is divided into a coastwide subquota of 131 mt and a 10 mt set-aside for the traditional fall New York Bight fishery area, defined as the waters south and west of a straight line originating at a point on the southern shore of Long Island at 72°27′ W. long. (Shinnecock Inlet) and running SSE

150° true, and north of 38° 47′ N. lat. (Delaware Bay).

Based on reported catch and effort, NMFS projects that the revised coastwide subquota of 131 mt will be reached by October 5, 1997. Therefore, fishing for, retaining, possessing, or landing large medium of giant ABT by vessels in the General category must cease at 11:30 p.m. local time October 5, 1997. If, after tallying the landings following the closure, NMFS determines that a substantial amount of the coastwide quota remains, NMFS may reopen the coastwide General category fishery as necessary to allow full harvest of the coastwide subquota. Then, once it is determined that the General category catch has reached approximately 10 mt less than the overall October-December subquota (i.e. the coastwide catch totals approximately 131 mt), NMFS will announce (through notice in the **Federal Register** and over the Highly Migratory Species Fax Network and Information Lines) the opening date of the New York Bight fishery. After the opening date of the New York Bight fishery, fishing for, retaining, possessing, or landing large medium or giant ABT by vessels in the General category may occur in the New York Bight are only.

The intent of this closure is to prevent overharvest of the October-December period subquota established for the General category.

Classification

This action is taken under 50 CFR 285.20(b) and 50 CFR 285.22 and is exempt from review under E.O. 12866.

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

Dated: October 3, 1997.

Gary C. Matlock,

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

[FR Doc. 97–26709 Filed 10–3–97; 3:39 pm]

BILLING CODE 3510–22–M

Proposed Rules

Federal Register
Vol. 62, No. 196
Thursday, October 9, 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.

OFFICE OF MANAGEMENT AND BUDGET

5 CFR Part 1303

RIN 0348–AB42

Freedom of Information Act

AGENCY: Office of Management and Budget, Executive Office of the President.

ACTION: Proposed rule.

SUMMARY: The Office of Management and Budget (OMB) seeks public comment on a proposed rule that would revise OMB's regulations implementing 5 U.S.C. 552, the Freedom of Information Act (FOIA). These revisions are being proposed to simplify and streamline OMB's FOIA regulations, as well as to implement the Electronic Freedom of Information Act Amendments of 1996 (Pub. L. 104–231).

DATES: Comments must be received no later than December 8, 1997.

ADDRESSES: Comments on the proposed rule should be addressed to: Darrell A. Johnson, Deputy Assistant Director for Administration, Office of Management and Budget, Room 9026, New Executive Office Building, Washington, D.C. 20503. Comments up to three pages in length may be submitted via facsimile to (202) 395–3504. Electronic mail comments may be submitted via Internet to FOIAREG@A1.EOP.GOV. Please include the full body of electronic mail comments in the text and not as an attachment. Please include the name, title, organization, postal address, and E-mail address in the text of the message.

FOR FURTHER INFORMATION CONTACT: Darrell A. Johnson, Deputy Assistant Director for Administration, Office of Management and Budget, at (202) 395–5715.

SUPPLEMENTARY INFORMATION: OMB is seeking public comment on proposed revisions to OMB's regulations at Part 1303 implementing the Freedom of Information Act (FOIA). Currently, OMB's FOIA regulations consist of the regulations as issued in 1982 (47 FR 33483; August 3, 1982), and as amended in 1987 (52 FR 4512; December 30, 1987). The proposed revisions are intended to: implement the Electronic Freedom of Information Act Amendments of 1996, P.L. 104–231 (E–FOIA); update OMB's regulations to reflect current practice; and streamline OMB's regulations to eliminate redundant or otherwise unnecessary materials. The following is a summary of the proposed changes.

Section 1303.2 (''Authority and functions''), which summarizes OMB's authority and functions, has been streamlined.

Section 1303.3 (''Organization'') has been revised to reflect changes over time in OMB's organizational structure.

Section 1303.10 (''Methods of operation'') has been revised to update information and to reflect the provisions of E–FOIA. Among the revisions to Section 1303.10 are provisions revising the initial response period from 10 days to 20 days (see Section 8(b) of E–FOIA, amending 5 U.S.C. 552(a)(6)(A)(i)); establishing an expedited-response process (see Section 8(a) of E–FOIA, adding 5 U.S.C. 552(a)(6)(E)); establishing a requirement that administrative appeals of OMB denials be made within 30 days of receipt of the denial (the current regulations do not set a deadline); and providing for OMB consultations with a requester to determine if a FOIA request may be modified in order to allow for a timely response, or to arrange an alternative time frame for a response (see Section 7(b) of E–FOIA, amending 5 U.S.C. 552(a)(6)(B)). Finally, Section 1303.10 explains that OMB materials may be obtained electronically from OMB's home page; these materials include documents described in 5 U.S.C. 552(a)(2).

Section 1303.20 (''Inspection, copying, and exceptions'') has been streamlined by deleting subsections (b) and (c). The deletion of subsection (b) is consistent with the courts' decisions in *Ryan* v. *Department of Justice*, 617 F.2d 781, 786–89 (D.C. Cir. 1980), and *Meyer* v. *Bush*, 981 F.2d 1288, 1292 n.2, 1294 (D.C. Cir. 1993), and it also reflects OMB's practice (in response to FOIA requests, the files of the OMB units described in subsection (b) are searched for responsive documents, and such documents are reviewed for applicable exemptions, in the same manner as the files of other OMB units). Subsection (c) has been deleted because its recitation of the exemptions in 5 U.S.C. 552(b) is unnecessary (i.e., OMB may directly rely upon the statutory exemptions).

Section 1303.30 (''Definitions'') has been revised to reflect E–FOIA by more clearly defining the terms ''search'' and ''duplication.'' See Section 5 of E–FOIA, amending 5 U.S.C. 552(a)(3).

Finally, Section 1303.60 (''Miscellaneous fee provisions'') has been revised to conform to the aggregation provision in Section 1303.10(g), and to the new time limit under the FOIA for initial responses.

In implementing E–FOIA, OMB considered adopting a multi-track processing system that would distinguish simple and complex FOIA requests and place them on separate processing tracks. See Section 7(a) of E–FOIA, adding 5 U.S.C. 552(a)(6)(D). However, after considering this option, OMB decided to retain its current system. Unlike other agencies, OMB does not have a central office dedicated to searching for documents in response to FOIA requests; instead, OMB has a decentralized system, with the primary responsibility for responding to individual FOIA requests generally assigned to the program office with responsibility for the subject matter of the particular request. Accordingly, pending FOIA requests are generally processed concurrently, rather than on a consecutive, request-by-request basis. For this reason, the time needed to respond to complex requests generally does not delay OMB's ability to respond to simple requests. Thus, the adoption of multitrack processing would not be likely to accelerate OMB's ability to respond to requests.

OMB requests comments on the proposed revisions to OMB's FOIA regulations.

Regulatory Flexibility Act, Unfunded Mandates Reform Act, and Executive Orders 12866 and 12875

For purposes of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the proposed rule will not, if promulgated, have a significant economic effect on a substantial number of small entities; the proposed rule addresses the procedures to be followed when responding to requests for information under the Freedom of Information Act. For purposes of the Unfunded Mandates

Reform Act of 1995 (Pub. L. 104–4), as well as Executive Orders No. 12866 and 12875, the proposed rule would not significantly or uniquely affect small governments, and would not result in increased expenditures by State, local, and tribal governments, or by the private sector, of $100 million or more.

Franklin D. Raines,

Director.

For the reasons set forth in the preamble, OMB proposes to amend 5 CFR Part 1303 as follows:

PART 1303—[AMENDED]

1. The authority citation for part 1303 is revised to read as follows:

Authority: 5 U.S.C. 552.

2. Section 1303.2 is revised to read as follows:

§ 1303.2 Authority and functions.

The general functions of the Office of Management and Budget, as provided by statute and executive order, are to develop and execute the budget, oversee implementation of Administration policies and programs, advise and assist the President, and develop and implement management policies for the government.

3. Section 1303.3 is revised to read as follows:

§ 1303.3 Organization.

(a) The brief description of the central organization of the Office of Management and Budget follows:

(1) The Director's Office includes the Director, the Deputy Director, the Deputy Director for Management, and the Executive Associate Director.

(2) Staff Offices include General Counsel, Legislative Affairs, Communications, Administration, and Economic Policy.

(3) Offices that provide OMB-wide support include the Legislative Reference and Budget Review Divisions.

(4) *Resource Management Offices.* These offices develop and support the President's management and budget agenda in the areas of Natural Resources, Energy and Science, National Security and International Affairs, Health and Personnel, Human Resources, and General Government and Finance.

(5) Statutory offices include the Office of Federal Financial Management, Office of Federal Procurement Policy, and the Office of Information and Regulatory Affairs.

(b) The Office of Management and Budget is located in Washington, DC, and has no field offices. Staff are housed in either the Old Executive Office Building, 17th Street and Pennsylvania Ave, NW, or the New Executive Office Building, 725 17th Street NW, Washington, D.C. 20503. Persons desiring to visit offices or employees of the Office of Management and Budget, in either building, must write or telephone ahead to make an appointment. Security in both buildings prevents visitors from entering the building without an appointment.

5. Section 1303.10 is revised to read as follows:

§ 1303.10 Access to information.

(a) The Office of Management and Budget makes available information pertaining to matters issued, adopted, or promulgated by OMB, that are within the scope of 5 U.S.C. 552(a)(2). A public reading area is located in the Executive Office of the President Library, Room G–102, New Executive Office Building, 725 17th Street NW, Washington, D.C. 20503, phone (202) 395–5715. Some of these materials are also available from the Executive Office of the President's Publications Office, Room 2200 New Executive Office Building, 725 17th Street NW, Washington, D.C. 20503, phone (202) 395–7332. OMB issuances are also available via fax-on-demand at (202) 395–9068, and are available electronically from the OMB homepage at http:/www.whitehouse.gov/WH/EOP/omb. In addition, OMB maintains the Office of Information and Regulatory Affairs (OIRA) Docket Library, Room 10102, New Executive Office Building, 725 17th Street NW, Washington, D.C. 20503, phone (202) 395–6880. The Docket Library contains records related to information collections sponsored by the Federal government and reviewed by OIRA under the Paperwork Reduction Act of 1995. The Docket Library also maintains records related to proposed Federal agency regulatory actions reviewed by OIRA under Executive Order 12866 ''Regulatory Planning and Review''. Telephone logs and materials from meetings with the public attended by the OIRA Administrator are also available in the Docket Library.

(b) The Deputy Assistant Director for Administration is responsible for acting on all initial requests. Individuals wishing to file a request under the Freedom of Information Act (FOIA) should address their request in writing to the Deputy Assistant Director for Administration, Office of Management and Budget, 725 17th Street NW, Washington, DC 20503, Phone 395–5715. Requests for information shall be as specific as possible.

(c) Upon receipt of any request for information or records, the Deputy Assistant Director for Administration will determine within 20 days (excepting Saturdays, Sundays and legal public holidays) after the receipt of such request whether it is appropriate to grant the request and will immediately provide written notification to the person making the request. If the request is denied, the written notification to the person making the request shall include the names of the individuals who participated in the determination, the reasons for the denial, and a notice that an appeal may be lodged within the Office of Management and Budget. (Receipt of a request as used herein means the date the request is received in the office of the Deputy Assistant Director for Administration.)

(d) Expedited processing. (1) Requests and appeals will be taken out of order and given expedited treatment whenever it is determined that they involve:

(i) Circumstances in which the lack of expedited treatment could reasonably be expected to pose an imminent threat to the life or physical safety of an individual;

(ii) An urgency to inform the public about an actual or alleged federal government activity, if made by a person primarily engaged in disseminating information;

(iii) The loss of substantial due process rights; or

(iv) A matter of widespread and exceptional media interest in which there exist possible questions about the government's integrity which effect public confidence.

(2) A request for expedited processing may be made at the time of the initial request for records or at any later time.

(3) A requester who seeks expedited processing must submit a statement, certified to be true and correct to the best of that person's knowledge and belief, explaining in detail the basis for requesting expedited processing. For example, a requester within the category described in paragraph (d)(1)(ii) of this section, if not a full-time member of the news media, must establish that he or she is a person whose main professional activity or occupation is information dissemination, though it need not be his or her sole occupation. A requester within the category (d)(1)(ii) of this section also must establish a particular urgency to inform the public about the government activity involved in the request, beyond the public's right to know about government activity generally. The formality of certification may be waived as a matter of administrative discretion.

(4) Within ten days of its receipt of a request for expedited processing, OMB

will decide whether to grant it and will notify the requester of the decision. If a request for expedited treatment is granted, the request will be given priority and will be processed as soon as practicable. If a request for expedited processing is denied, any appeal of that decision will be acted on expeditiously.

(e) Appeals shall be set forth in writing within 30 days of receipt of a denial and addressed to the Deputy Assistant Director for Administration at the address specified in paragraph (b) of this section. The appeal shall include a statement explaining the basis for the appeal. Determinations of appeals will be set forth in writing and signed by the Deputy Director, or his designee, within 20 days (excepting Saturdays, Sundays, and legal public holidays). If, on appeal, the denial is in whole or in part upheld, the written determination will also contain a notification of the provisions for judicial review and the names of the persons who participated in the determination.

(f) In unusual circumstances, the time limits prescribed in paragraphs (c) and (e) of this section may be extended for not more than 10 days (excepting Saturdays, Sundays, or legal public holidays). Extensions may be granted by the Deputy Assistant Director for Administration. The extension period may be split between the initial request and the appeal but in no instance may the total period exceed 10 working days. Extensions will be by written notice to the persons making the request and will set forth the reasons for the extension and the date the determination is expected.

(g) With respect to a request for which a written notice under paragraph (f) of this section extends the time limits prescribed under paragraph (c) of this section, the agency shall notify the person making the request if the request cannot be processed within the time limit specified in paragraph (f) of this section and shall provide the person an opportunity to limit the scope of the request so that it may be processed within that time limit or an opportunity to arrange with the agency an alternative time frame for processing the request or a modified request. Refusal by the person to reasonably modify the request or arrange such an alternative time frame shall be considered as a factor in determining whether exceptional circumstances exist for purposes of 5 U.S.C. 552 (a)(6)(C). When OMB reasonably believes that a requester, or a group of requestors acting in concert, has submitted requests that constitute a single request, involving clearly related matters, OMB may aggregate those requests for purposes of this paragraph. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

(h) As used herein, but only to the extent reasonably necessary to the proper processing of the particular request, the term *unusual circumstances* means:

(1) The need to search for and collect the requested records from establishments that are separated from the office processing the request;

(2) 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

(3) The need for consultation, which shall 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 which have a substantial subject matter interest therein.

6. Section 1303.20 is revised to read as follows:

§ 1303.20 Inspection and copying.

When a request for information has been approved pursuant to § 1303.10, the person making the request may make an appointment to inspect or copy the materials requested during regular business hours by writing or telephoning the Deputy Assistant Director for Administration at the address or telephone number listed in § 1303.10(b). Such materials may be copied and reasonable facilities will be made available for that purpose. Copies of individual pages of such materials will be made available at the price per page specified in § 1303.40(d); however, the right is reserved to limit to a reasonable quantity the copies of such materials which may be made available in this manner when copies also are offered for sale by the Superintendent of Documents.

7. Section 1303.30 (d) and (e) are revised to read as follows:

§ 1303.30 Definitions.

* * * * *

(d) The term search means the process of looking for and retrieving records or information responsive to a request. It includes page-by-page or line-by-line identification of information within records and also includes reasonable efforts to locate and retrieve information from records maintained in electronic form or format. OMB employees should ensure that searching for material is done in the most efficient and least expensive manner so as to minimize costs for both the agency and the requester. For example, employees should not engage in line-by-line search when merely duplicating an entire document would prove the less expensive and quicker method of complying with a request. Search should be distinguished, moreover, from review of material in order to determine whether the material is exempt from disclosure (see paragraph (f) of this section).

(e) The term duplication means the making of a copy of a document, or of the information contained in it, necessary to respond to a FOIA request. Such copies can take the form of paper, microform, audio-visual materials, or electronic records (e.g., magnetic tape or disk), among others. The requesters specified preference of form or format of disclosure will be honored if the record is readily reproducible in that format.

* * * * *

8. In § 1303.60, paragraph (c) and the concluding text of paragraph (d) are revised to read as follows:

§ 1303.60 Miscellaneous fee provisions.

* * * * *

(c) *Aggregating requests.* A requester 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 OMB reasonably believes that a requester, or a group of requestors acting in concert, has submitted requests that constitute a single request, involving clearly related matters, OMB may aggregate those requests and charge accordingly. One element to be considered in determining whether a belief would be reasonable is the time period over which the requests have occurred.

(d) Advance payments. * * *

(1) * * *

(2) * * *

When OMB acts under paragraph (d)(1) or (2) of this section, the administrative time limits prescribed in the FOIA, 5 U.S.C. 552(a)(6) (i.e., 20 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after OMB has received fee payments described above.

* * * * *

[FR Doc. 97–26553 Filed 10–8–97; 8:45 am]

BILLING CODE 3110–01–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Parts 1910, 1917, and 1918

[Docket No. S–025A]

RIN 1218–AA56

Longshoring and Marine Terminals

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Limited opening of the record; Notice of informal public meeting.

SUMMARY: The Occupational Safety and Health Administration (OSHA) published a final rule on July 25, 1997, revising all of 29 CFR part 1918 (the Longshoring Standard) and related sections of 29 CFR part 1917 (the Marine Terminals Standard) (62 FR 40152). In the preamble of the final rule, OSHA discussed the practice of lifting two empty intermodal containers together, one on top of the other, connected by semi-automatic twist locks (hereafter referred to as ''piggybacking'' of two containers using twist locks). To secure them for shipping, containers have twist locks placed between the corner fittings of one container and the bottom fittings of the container that rests on top of the first. In a piggyback lift, the bottom container's weight is borne by the top container and twist locks. The force of lifting the bottom container is also transferred through the twist locks to the bottom fittings of the top container. Although OSHA expressed safety concerns regarding piggybacking, the rulemaking record did not contain enough information to enable OSHA to determine how to regulate this practice. Therefore, OSHA is reopening the record to conduct a second phase of the rulemaking to determine whether to allow ''piggybacking,'' and if so, under what conditions. Based on the information gathered during this extension of the rulemaking's proceedings, OSHA will issue a proposal to address this practice.

This notice requests written comment and schedules an informal public meeting on safety issues and risks and on the technological and economic feasibility associated with piggybacking of two containers using twist locks.

DATES: Written comments on the proposed standard and notices of intention to appear at the informal public meeting on the proposed standard must be postmarked by December 8, 1997. Parties who request more than 10 minutes for their presentations at the informal public meeting and parties who will submit documentary evidence at the meeting must submit the full text of their testimony and all documentary evidence postmarked no later than January 13, 1998. The informal public meeting will take place in Washington, DC and is scheduled to begin on January 27, 1998.

ADDRESSES: Submit written comments to the Docket Office, Docket S–025A, Room N–2625, U.S. Department of Labor, Occupational Safety and Health Administration, 200 Constitution Avenue, NW., Washington, DC 20210. Telephone: (202) 219–7894. Comments on the proposal are to be submitted in quadruplicate or 1 original (hard copy) and 1 disk (5¼ or 3½ inch) in WP 5.0, 5.1, 6.0 or ASCII. Comments of 10 pages or less may be faxed to the Docket Office, fax number (202) 219–5046, if followed by a hard copy.

Send notices of intention to appear, testimony, and documentary evidence which will be introduced into the meeting record to Mrs. Theda Kenney, OSHA Office of Safety Standards, Docket No. S–025A, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, telephone (202) 219–8061.

The informal public meeting will be held in Washington, D.C., beginning January 27, 1998 at 10 a.m. in the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Liberatore, Director of the Office of Maritime Safety Standards, or Paul Rossi, Project Officer, Office of Maritime Safety Standards, Occupational Safety and Health Administration, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–7234.

SUPPLEMENTARY INFORMATION: In 1993, OSHA received a letter from Sea-Land Service, Inc. requesting that OSHA interpret its existing longshoring standards to allow the lifting of two empty 40-foot International Standards Organization (ISO) freight containers that are vertically coupled using semi-automatic twist locks (Ex. 1, Docket S–025A). OSHA's existing standards did not expressly prohibit this practice, which utilizes the top container and twist locks as a ''lifting appliance'' to lift the bottom container. In its response, OSHA allowed Sea-Land to continue this practice, provided that certain requirements were met (Ex. 2, Docket S–025A). OSHA's response from its Compliance Office identified applicable OSHA standards and related industry practices associated with container cargo handling operations. These requirements addressed: Inspecting containers for visible defects, verifying that both containers are empty, assuring that containers are properly marked, assuring that twist locks operate in the same manner, assuring that the load does not exceed the capacity of the crane, assuring that the top container is vertically lifted, having available for inspection manufacturers' documents that verify the capacities of the twist locks and corner castings, and directing employees to stay clear of the lifting area.

OSHA's existing longshoring standards, which referenced ILO Convention 32, did not require the certification of ''lifting appliances.'' This term was not a part of the existing Convention 32 which was adopted in 1932 before the advent of containers and twist locks that were developed by the marine cargo handling industry in the 1960s.

In the preamble to the proposed rule (59 FR 28602), OSHA discussed differences between ILO Convention 32 and ILO Convention 152, including the requirement in the latter convention to certify lifting appliances. Convention 152, Article 22, adopted June 25, 1979, requires that proof load testing be conducted every 5 years, and applies to all ships' lifting appliances. Within Article 3 of ILO 152, paragraph (e), defines the term ''lifting appliance'' as follows:

> ''lifting appliance'' covers all stationary or mobile cargo handling appliances, including shore-based power-operated ramps, used on shore or on board ship for suspending, raising or lowering loads or moving them from one position to another while suspended or supported (Ex. 3, Docket S–025A). (emphasis added)

Thus, the term ''lifting appliance'' was intended to cover all appliances used to lift or move loads, with no exceptions. OSHA carried this intention forward in its proposal and did not propose to except any lifting equipment from certification.

OSHA stated in the proposed rule that, under Convention 152, when a container was used to lift another container, the top container would fall within the definition of ''lifting appliance'':

> In those situations where one container is used to lift another container, using twist locks, then the upper container and twist locks become, in effect, a lifting appliance and must be certified as such. (59 FR 28602)

In response to this proposed interpretation of Article 3, paragraph (e) of ILO Convention 152, OSHA received comments only from the International

Longshoremen's and Warehousemen's Union (ILWU) (Exs. 4, 5, and 6, Docket S–025A). Although these comments favored the proposed interpretation and requested the Agency to include it as a requirement in the regulatory text, these commenters included no specific information regarding the piggybacking of two containers using twist locks. Sea-Land Services Inc. submitted a detailed six page comment (Ex. 7, Docket S–025A) addressing a number of the proposed changes to the Marine Terminals and Longshoring Standards, but did not address this issue. OSHA received a late, post-hearing submission from the International Longshoremen's Association (ILA), however, that alerted the Agency to what might be a serious problem with this type of lift, citing several incidents at U.S. ports where failures had occurred (Ex. 8, Docket S–025A). OSHA was not able to rely on this letter to support regulatory action in the final rule because it was not a timely submission to the record. However, the letter made OSHA aware of safety concerns that might need to be addressed through supplementary rulemaking. As a result of the dearth of information about safety considerations associated with the practice of piggybacking two containers using twist locks, as well as insufficient information or elements relating to feasibility (such as the capability of top containers and twist locks to withstand such loading and the cost impacts and productivity effects of piggybacking), OSHA reserved judgment on the appropriate regulatory approach to this practice, pending further study.

This notice reopens the record and requests written comment on this narrow issue, and schedules an informal public meeting to consider whether OSHA should allow the practice of lifting vertically coupled containers, and if so, under what circumstances. OSHA solicits all relevant information, including data on the following issues:

Have intermodal containers been designed and tested for the purposes of piggyback lifting?

Have the twist locks been designed and tested for lifting containers?

What information do container and twist lock manufacturers have regarding the use of their products as lifting appliances?

Do any international bodies currently certify containers and twist locks as ''lifting appliances?'

Is there any scientific or engineering data that addresses maintenance testing and ''life'' of the components used for lifting purposes?

Has the impact of adverse weather conditions been evaluated in both design and operational concerns with regard to double container lifts?

What precautions can be taken to assure that the containers being lifted are empty?

What precautions can be taken to assure that the twist locks are all locked properly when the lifting occurs?

What precautions can be taken to assure that employees are not exposed to the hazard of a falling container?

What precautions can be taken to assure that defective or damaged containers are not used to hoist other containers?

To what extent are vertically coupled containers currently being lifted and by whom?

If the standard were to require the employer to certificate the upper container and twist locks for use as a lifting appliance, how many containers and twist locks would need to be certificated? Would vessel sharing agreements have any effect on the ability of employers to do such certification?

What would it cost to certify the upper containers and twist locks for use as lifting appliances?

What are the potential productivity gains, if any, associated with lifting vertically coupled containers?

As noted above, OSHA currently allows Sea-Land to perform piggybacking in accordance with a series of precautions set forth in Exhibit 2. Are these precautions sufficiently protective?

What are the costs and cost-savings (productivity gains) of piggybacking under the current requirements of Exhibit 2? How would they be affected by certification or other requirements?

What information (both statistical and anecdotal) is available on incidents involving vertically coupled containers that have fallen and hurt or killed employees or caused ''near-misses?'

Public Participation

Interested persons are requested to submit written data, views and arguments concerning the issues raised by this notice. These comments must be postmarked by December 8, 1997. Comments are to be submitted in quadruplicate or 1 original (hard copy) and 1 disk (5¼ or 3½) in WP 5.0, 5.1, 6.0 or ASCII. Note: Any information not contained on disk, e.g., studies, articles, etc., must be submitted in quadruplicate to: Docket Office, Docket No. S–025A, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone No. (202) 219–7894.

All written comments received within the specified comment period will be made a part of the record and will be available for public inspection and copying at the above Docket Office address.

Notice of Intention To Appear at the Informal Meeting

An informal public meeting will be held in the Frances Perkins Building, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210 on January 27, 1998, beginning at 10 a.m. The exact location of the meeting will be posted in the lobby.

Persons who wish to participate at this meeting must file a notice of intention to appear by December 8, 1997. The notice of intention to appear must contain the following information:

1. The name, address, and telephone number of each person to appear;
2. The capacity in which the person will appear;
3. The approximate amount of time required for the presentation;
4. The issues that will be addressed;
5. A brief statement of the position that will be taken with respect to each issue; and
6. Whether the party intends to submit documentary evidence and, if so, a brief summary of it.

The notice of intention to appear must be mailed to Mrs. Theda Kenney, OSHA Office of Safety Standards, Docket No. S–025A, U.S. Department of Labor, Room N–3647, 200 Constitution Avenue, NW., Washington, DC 20210, Telephone (202) 219–8061.

A notice of intention to appear also may be transmitted by facsimile to (202) 219–7477, by the same date, provided that the original and 3 copies are sent to the same address and postmarked no later than 3 days later.

Filing of Testimony and Evidence Before the Meeting

Any party requesting more than ten (10) minutes for presentation at the informal public meeting, or who intends to submit documentary evidence, must provide in quadruplicate the testimony and evidence to be presented at the informal public meeting. One copy must not be stapled or bound and be suitable for copying. These materials must be provided to Mrs. Theda Kenney, OSHA Office of Safety Standards at the address above and be postmarked no later than 15 days prior to the date of the meeting. Any party who has not substantially complied with the above requirement may be limited to a ten-minute presentation and may be requested to return for questioning at a later time.

Any party who has not filed a notice of intention to appear may be allowed to testify for no more than 10 minutes as time permits, at the discretion of the Facilitator.

Notice of intention to appear, testimony and evidence will be available for inspection and copying at the Docket Office at the address above.

Informal Public Meeting

The informal public meeting will commence at 10 a.m. OSHA has scheduled this meeting to enable interested persons to address the Agency on the issues discussed in this notice. The meeting will be presided over by a Facilitator designated by OSHA.

Authority and Signature

This document has been prepared under the direction of Greg R. Watchman, Acting Assistant Secretary of Labor for Occupational Safety and Health, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. It is issued under sections 4, 6, and 8 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 653, 655, 657), section 41 of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. 941), and 29 CFR part 1911.

Signed at Washington, DC this 3rd day of October, 1997.

Greg Watchman,

Acting Assistant Secretary of Labor.

[FR Doc. 97–26819 Filed 10–8–97; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 183

[CGD 97–060]

Standards for Navigation Lights Used on Recreational Boats

AGENCY: Coast Guard, DOT.

ACTION: Request for comments.

SUMMARY: This document solicits comments concerning the desirability of requiring manufacturers and importers of navigation lights used on recreational boats to construct and label their lights in accordance with a recognized industry standard. A request for public input was the recommendation of the National Boating Safety Advisory Council.

DATES: Comments must be received by April 7, 1998.

ADDRESSES: Comments may be mailed to the Executive Secretary, Marine Safety Council (G–LRA/3406) (CGD 97–060), U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or may be delivered to room 3406 at the above address between 8 a.m. and 3 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 267–1477.

The Executive Secretary maintains the public docket for this notice. Comments will become a part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters.

FOR FURTHER INFORMATION CONTACT: Mr. Randolph Doubt, Project Manager, Recreational Boating Product Assurance Division, (202) 267–0984.

You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet at the Web Site for the Office of Boating Safety at URL address www.uscgboating.org/.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages you to submit comments about this document. Please include your name and address, identify this notice (CGD 97–060) and the specific section of this document to which each comment applies, and give the reason for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, to assist us with copying and electronic filing. If you want us to acknowledge receiving your comments, please enclose a stamped, self-addressed postcard or envelope.

Background Information

Prior to April 1997, manufacturers of navigation lights for recreational vessels could voluntarily apply for a Coast Guard ''letter of acceptance'' for each light fixture placed on the market, and if granted, the manufacturer could state that the light was ''USCG Accepted'' on the package. The letter of acceptance was an indication that the Coast Guard had reviewed a laboratory report submitted by the light manufacturer and that based on a comparison of the report with the navigation rules, the Coast Guard did not object to the item being offered for sale to the boating public. Since letters of acceptance were never a requirement, were not equivalent to ''USCG Approval'' and were therefore a source of confusion, as of April 1997, letters of acceptance are no longer issued. Currently there is no way for boat manufacturers and the boating public to determine whether navigation light fixtures they purchase comply with applicable requirements in the Navigation Rules, except for light manufacturers' statements in that regard.

In contrast to Coast Guard practice with regard to recreational vessels, existing regulations applicable to commercial vessels in 46 CFR 111.75–17 require each navigation light to meet the technical details of the applicable navigation rules and to be certified by an independent laboratory to the requirements of Underwriters Laboratories Standard UL 1104 or an equivalent standard. The commercial vessel regulations further require that navigation lights be labeled to indicate: (1) The name or number of the standard to which the light was type-tested; (2) the name or registered certification mark of the independent laboratory that tested the fixture; (3) the fixture manufacturer's name; (4) the model number of the fixture; (5) the visibility of the light in nautical miles; (6) the date on which the fixture was type-tested; and (7) the identification of the bulb used in the compliance test. The independent laboratory must be accepted by the Commandant for the testing and listing or certification of electrical equipment.

The National Boating Safety Advisory Council (NBSAC) is a Federal advisory committee which provides advice and makes recommendations to the Coast Guard regarding regulations and other boating safety matters. At its April 1997 meeting several National Boating Safety Advisory Council members noted that while Annex I to the Navigation Rules in 33 CFR Part 84 specifies technical details for proper cutoff angles, color specifications, and the intensity of navigation lights and Coast Guard regulations require certification of navigation lights installed on commercial vessels, there are no similar regulations for lights offered for sale to recreational boat manufacturers and the boating public.

The NBSAC therefore recommend that the Coast Guard solicit comments on the benefits of, and objections to, requiring navigation light manufacturers and importers to demonstrate that lights offered for sale to boat manufacturers and the boating public comply with applicable requirements in the Navigation Rules. Under 46 USC 4302, 4303, and 33 USC 2071, the Coast Guard has the authority to establish requirements for the installation, carrying, or use of associated equipment on recreational vessels. All comments received during the comment period will be placed in the public docket for review by NBSAC and the Coast Guard in considering the formulation of any

regulatory and nonregulatory measures that may follow from this notice.

Pertinent Questions

In view of the discussion above, please respond to the following questions:

(1) Should the Coast Guard require third party certification, similar to that required for commercial vessel navigation lights, so that boat builders, boat owners, marine surveyors and officials conducting law enforcement boarding would have a means for determining whether navigation lights sold for use or installed on recreational boats complied with applicable requirements in the Navigation Rules?

(2) What are the expected costs and benefits of regulations requiring manufacturers and importers of navigation lights used on recreational boats to construct and label their lights in accordance with a recognized industry standard?

(3) Is it appropriate for the Coast Guard to impose a third party certification requirement for navigation lights sold for installation on recreational boats?

Dated: October 1, 1997.

Ernest R. Riutta,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Operations.

[FR Doc. 97–26697 Filed 10–8–97; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 81

[CA–003–BU; FRL–5907–8]

Clean Air Act Reclassification; California-Santa Barbara Nonattainment Area; Ozone

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of the public comment period.

SUMMARY: On September 2, 1997, EPA published a proposed rule (62 FR 46234) proposing to determine that the Santa Barbara moderate ozone nonattainment area has not attained the 1-hour ozone national ambient air quality standard (NAAQS) by the Clean Air Act (CAA) mandated attainment date for moderate nonattainment areas, November 15, 1996. If EPA takes final action on the determination as proposed, the Santa Barbara ozone nonattainment area will be reclassified by operation of law as a serious nonattainment area. On September 24, 1997, the Santa Barbara County Air Pollution Control District requested a 30-day extension of the comment period in order to allow a better opportunity for local stakeholders to provide input to EPA. In response to that request, EPA is announcing a 30-day extension of the public comment period on the September 2, 1997, proposed rule.

DATES: Written comments on the September 2, 1997, proposed rule must be received in writing by November 3, 1997.

ADDRESSES: Comments must be submitted to: U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105.

Copies of EPA's draft technical support document for this rulemaking and EPA's policies governing attainment findings and extension requests are contained in the docket for this rulemaking. A copy of EPA's proposal (62 FR 46234) and the TSD are also available in the air programs section of EPA Region 9's website, http://www.epa.gov/region09. The docket is available for inspection during normal business hours at the following location: U.S. Environmental Protection Agency, Region 9, Office of Air Planning, Air Division, 17th Floor, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1248.

FOR FURTHER INFORMATION CONTACT: Dave Jesson, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, California 94105, (415) 744–1288.

Dated: October 2, 1997.

John Wise,

Acting Regional Administrator.

[FR Doc. 97–26865 Filed 10–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–5902–8]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of intent to delete the Cleve Reber Superfund Site from the National Priorities List and request for comments.

SUMMARY: The Environmental Protection Agency (EPA) Region 6 announces its intent to delete the Cleve Reber Superfund Site (the ''Site'') from the National Priorities List (NPL) and requests public comment on this proposed action. All public comments regarding this proposed action which are submitted within 30 days of the date of this notice, to the address indicated below, will be considered by EPA. The NPL, promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, is codified at appendix B to the National Oil and Hazardous Substances Pollution Contingency Plan (NCP), 40 CFR part 300. EPA in consultation with the State of Louisiana, through the Louisiana Department of Environmental Quality (LDEQ), has determined that no further response is appropriate, and that, consequently, the Site should be deleted from the NPL.

DATES: EPA will consider comments submitted by November 10, 1997.

ADDRESSES: Comments may be mailed to: Ms. Janetta Coats, Community Relations Coordinator (6SF–PO), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–6617.

INFORMATION REPOSITORIES: Comprehensive information on the Site has been compiled in a public deletion docket which may be reviewed and copied during normal business hours at the following Cleve Reber Superfund Site information repositories:

U.S. EPA Region 6 Library (12th Floor), 1445 Ross Avenue, Dallas, Texas 75202–2733, 1–800–533–3508.

Ascension Parish Public Library, 500 Mississippi Street, Donaldsonville, Louisiana 70346, (504) 473–8052.

FOR FURTHER INFORMATION CONTACT: Ms. Caroline A. Ziegler, Remedial Project Manager (6SF–LP), U.S. Environmental Protection Agency, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, (214) 665–2178.

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction
II. NPL Deletion Criteria
III. Deletion Procedures
IV. Basis for Intended Site Deletion

I. Introduction

This is the EPA Region 6 Notice of Intent to Delete (NOID) the Site from the NPL. The NPL is the list, compiled by EPA pursuant to CERCLA Section 105, of uncontrolled hazardous substance releases in the United States that are priorities for long-term remedial evaluation and response. As described in 40 CFR 300.425(e)(3) of the NCP, sites

deleted from the NPL remain eligible for remedial actions in the unlikely event that conditions at the site warrant such action.

The EPA will consider comments concerning this NOID which are submitted within thirty days of the date of this NOID. EPA has also published a notice of the availability of this NOID in a major local newspaper of general circulation at or near the Site.

Section II of this NOID explains the NCP criteria for deleting sites from the NPL. Section III discusses procedures that EPA is using for this action. Section IV discusses the Cleve Reber Superfund Site and explains that the Site meets the NCP deletion criteria.

II. NPL Deletion Criteria

The NCP, at 40 CFR 300.425(e), provides that releases may be deleted from the NPL if no further response is appropriate. In making a determination to delete a release from the NPL, EPA shall consider, in consultation with the State, whether any of the following criteria has been met:

i. Responsible parties or other persons have implemented all appropriate response actions required;

ii. All appropriate Fund-financed [1] response under CERCLA has been implemented, and no further action by responsible parties is appropriate; or

iii. The remedial investigation has shown that the release poses no significant threat to public health or the environment and, therefore, taking of remedial measures is not appropriate.

If, at the site of a release, EPA selects a remedial action that results in any hazardous substances, pollutants, or contaminants remaining at the site, CERCLA Subsection 121(c), 42 U.S.C. 121(c), requires that EPA review such remedial action no less often than each 5 years to assure that human health and the environment are being protected by the remedial action. Since hazardous substances will remain at the Site, [2] EPA shall conduct such reviews. If new information becomes available which indicates a need for further action, EPA may initiate remedial actions. Whenever there is a significant release from a site deleted from the NPL, the site may be restored to the NPL without application of the Hazard Ranking System. [3]

[1] The ''Fund'' referred to here is the Hazardous Substance Superfund established by section 9507 of the Internal Revenue Code of 1986.

[2] Hazardous substances remain on the Site under a multi-layer soil cap which covers approximately seven acres of the Site. EPA considers the cap to be protective; nonetheless, since hazardous substances will remain on the Site, EPA must conduct the CERCLA-required five-year reviews.

[3] The Hazardous Ranking System is the method used by EPA to evaluate the relative potential of hazardous substance releases to cause health or safety problems, or ecological or environmental damage.

III. Deletion Procedures

EPA followed these procedures regarding the proposed deletion:

(1) EPA Region 6 made a determination that no further response action is appropriate and that the Site may be deleted from the NPL;

(2) EPA has consulted with LDEQ, and by letter dated September 12, 1997, LDEQ concurred in EPA's deletion decision;

(3) EPA has published, in a major local newspaper of general circulation at or near the Site, a notice of availability of the NOID, which includes an announcement of a 30-day public comment period regarding the NOID, and EPA distributed the NOID to appropriate State, local and Federal officials, and to other interested parties; and

(4) EPA placed copies of information supporting the proposed deletion (*i.e.*, the public deletion docket) in the Site information repositories (the locations of these repositories are identified above).

Deletion of a site from the NPL does not itself create, alter, or revoke any individual's rights or obligations. The NPL is designed primarily for informational purposes and to assist EPA management. As mentioned in Section II of this Notice, 40 CFR 300.425(e)(3) of the NCP states that the deletion of a site from the NPL does not preclude eligibility of the site for future response actions.

EPA Region 6 will accept and evaluate public comments on this NOID before making a final decision to delete. If necessary, EPA will prepare a Responsiveness Summary to address any significant public comments received.

Deletion of the Site from the NPL will occur when the EPA Regional Administrator places a final notice in the **Federal Register**. Generally, the NPL will reflect deletions in the final update following the NOID. Public notices and copies of the Responsiveness Summary will be made available to local residents upon request to the EPA Remedial Project Manager, Caroline Ziegler at the address listed above. These will also be placed in both repository locations listed above, where they can be obtained by request.

IV. Basis for Intended Site Deletion

The following information provides the EPA's rationale for the proposal to delete the Site from the NPL:

A. Site Location

The Site is located two miles southwest of Sorrento in Ascension Parish, Louisiana. The Site is an abandoned 25-acre landfill. Prior to the completion of the remedial action on the Site, the Site contained one large pond (about 10 acres) and three small ponds (approximately one acre total). The Site is bordered on the north by residential properties, on the east and south by swampland, and on the west by Louisiana Highway 70.

The Site lies in the Mississippi alluvial plain section of the East Coastal Plain Physiographic Province. The Site is on the Prairie Formation of Pleistocene Age, which consists generally of undifferentiated sediments. The sediments are made up of tan and gray clays and clayey and sandy silts. The major fresh water aquifers beneath the Site are composed of older deltaic deposits. These aquifers used for water supplies include the Gonzales aquifer which is at a depth of about 500 feet and an overlaying Norco aquifer which is at a depth of about 260 feet below the ground surface. The shallow groundwater is generally within a few feet of the surface and is not a documented source of potable water in the area.

B. Site History

Pits located on the site were originally used as the source of borrow material during the construction of embankments for the Sunshine Bridge and portions of Interstate Highway 10. In 1970 the land was leased for use as a landfill by the Environmental Controls Company (ECCO) of Louisiana, with Mr. Cleve Reber as the president. In August 1970, Ascension Parish entered into a sanitary landfill operation agreement with ECCO. Between 1970 and 1974, both municipal and industrial wastes were disposed in the borrow pits. Trenches were also dug on the Site, and were filled with wastes. One large pit and three smaller pits filled with rain water and became ponds. In July 1974, the landfill operators were found to be in violation of the State sanitation code, and they were ordered to stop receiving waste. Thereafter, the Site was abandoned by ECCO.

In 1981 the State of Louisiana, in response to citizen complaints, funded a study to collect data to develop a plan to close the Site. Tests showed the presence of significant levels of hazardous substances including hexachlorobenzene and hexachlorobutadiene. The Site was promulgated to the National Priorities

List (NPL) in September 1983, (see 48 FR 40658, September 8, 1983).

The State fenced the Site in early 1983 due to citizen concerns. In July 1983, EPA conducted an emergency removal. As part of the removal, over 1,100 drums were removed from the Site. Piles of waste located on the surface of the Site were also removed. As a temporary protective measure, a thin clay cap was placed over areas thought to contain buried drums and wastes. These areas of buried waste were later permanently addressed as part of a remedial action.

A Remedial Investigation (RI) and Feasibility Study (FS) was completed by EPA in May 1985. In order to include an expanded analysis of innovative remedial technologies, and to quantify the groundwater contaminants at much lower detection levels, a supplemental RI/FS was initiated in August 1985 and completed in April 1986.

The major volume of waste disposed at the Site was municipal waste. The analytical results of field samples collected during the original and supplemental RI indicated that all significant contamination was restricted to the Site. On-site media including the surface water, sediments, surface soils, waste pits, and shallow groundwater were contaminated with organic pollutants. The primary organic pollutants of concern included hexachlorobenzene, hexachlorobutadiene, hexachloroethane and tetrachloroethene. Inorganic analyses indicated a wide range of inorganic pollutant concentration levels in the on-site media and in background samples. No consistently high concentrations were observed. This made qualitative evaluations of any inorganic concentrations found very difficult and impractical.

The EPA issued a Record of Decision (ROD)[4] on March 31, 1987. The selected remedy called for excavation and on-site incineration of buried drums and sludges, draining and backfilling on-site ponds, placing a clay cap over the landfill areas, and groundwater monitoring. The estimated cost of the cleanup was $25 million.

On September 30, 1988, EPA issued a Unilateral Administrative Order, amended on February 5, 1991 (hereinafter the 1988 order and its 1991 amendment are referred to collectively as the Order), addressed to a total of five responsible parties. The Order required the implementation of the remedial design and the remedial action for the Site and the performance of operation and maintenance subsequent to completion of implementation of the remedy. Some of these responsible parties completed the remedial design and remedial action at a cost of over $53 million. The remedial action began in August 1993, and ended in May 1996 with the completion of the cap.

Dewatering and backfilling of the three Site ponds identified in the ROD was completed in July 1995. Ponds were dewatered to a level of approximately one foot above the pond bottom. Ponds were then backfilled with sand until a firm working surface was achieved. The sand was then covered with a geotextile material. Approximately 5 feet of clay was placed over the geotextile in order to achieve grades that would be resistant to erosion, and to complete the backfill operation. The clay fill was installed and compacted in 8-inch lifts,[5] and density tests were performed on every lift. If any lift failed the testing it was reworked and retested. A 6-inch layer of topsoil was placed on top of the clay fill prior to landscaping. These multi-layers serve to form an impermeable cap.

Prior to excavating the waste and under EPA oversight, the responsible parties constructed buildings capable of controlling air emissions over the areas to be excavated. These ''Excavation and Feed Preparation'' buildings were large aircraft hanger-like structures designed to prevent escape of volatile organic compounds (VOCs). The responsible parties kept a negative air pressure vacuum in the buildings in order to maintain VOC concentrations at less than 50 parts per million (ppm), and to prevent an explosive concentration of gases from accumulating. The exhausted air from the buildings was treated with fume incineration and activated carbon prior to atmospheric emission in order to insure that VOC action levels were not exceeded at the fence line, or at residential ambient air monitoring stations.

The horizontal limits of excavation at the Site were based on RI findings. Sheet pilings were installed around the perimeter of the three excavation areas to mark the horizontal limits, support the sidewalls and to control the flow of water into the excavations. Vertical limits of excavation were based upon visual determination of the limits of industrial waste present at the areas in question. The responsible parties, subject to EPA review and approval, visually inspected the material to be excavated and separated it into industrial waste, municipal waste, and natural soils based on physical form, color, and texture. Excavation continued until visual observation confirmed that all visible industrial waste had been removed. Materials classified as industrial waste were incinerated. The resulting incinerator ash and the materials classified as municipal wastes and native soil were used as a backfill material into the excavated areas. Backfill material was compacted until it was level with the base of the landfill cap. The completion of the landfill cap is described below.

Thermal treatment of industrial waste, drums, wastewater treatment plant sludges, oils and grease was conducted on-site in a Shirco-infrared type incinerator operated in compliance with the approved operating conditions. A trial burn had been conducted at the Site between July 1 and July 3, 1994. The trial burn results showed that the concentrations of the constituents of concern were all in compliance with the regulatory limits. An average destruction and removal efficiency (DRE) of >99.99939% for hexachlorobenzene and >99.9940% for hexachlorobutadiene were achieved. About 25,000 tons of waste material was incinerated. Waste incineration was completed in September 1995.

The incinerator ash/scrubber filter cake that did not meet the backfill material criteria due to its high metals content was stabilized. Approximately 500 tons of incinerator ash/scrubber filter cake was stabilized prior to placement into the excavated areas as backfill.

The sources of wastewater produced on the Site included groundwater from waste excavation areas, surface water from the on-site ponds, decontamination water, and wastewater from the incineration operations. The wastewater was treated on-site to meet the National Pollutant Discharge Elimination System (NPDES) discharge criteria set by EPA and Louisiana Department of Environmental Quality (LDEQ), and, subsequently, the wastewater was discharged to the Mississippi River via a dedicated pipeline. The wastewater treatment plant included air stripping for VOCs removal, pH adjustment for metals precipitation, coagulation and flocculation, filtration (filter presses), and carbon adsorption units. The wastewater treatment plant operated from November 1993 to December 1995. About 64 million gallons of wastewater were treated and discharged.

A final multi-layer cap was placed over all waste material (and backfill) which remained in the excavation areas. This cap covers approximately seven

[4] EPA's Record of Decision documents the selection of the remedial alternative which will be used to cleanup the site in question.

[5] A lift is a layer of excavated material or fill material.

acres of the Site. The cap was installed between November 1995 and May 1996. In preparation for the final cap profile, clean backfill material was applied on top of the waste, and the backfill was graded to the appropriate elevations per the design specifications. A synthetic drainage net, a half foot sand layer and an eighty millimeter High Density Polyethylene (HDPE) were placed on top of the backfill. This allowed for installation of gas vents into the constructed sand layer. The vents extend up through the cap and are used to monitor for gas breakthrough using carbon canister detection units. This system was devised in order to determine if any residual treated waste beneath the cap is breaking down and causing formation of gas. The purpose of the system is to enable contingency plans to be implemented if gas is detected.

A two foot clay layer was installed and compacted in 8-inch lifts on top of the gas vent layer. On top of this clay layer a geotextile and HDPE were installed prior to covering the whole area with one foot of topsoil. The topsoil, which is the exposed portion of the cap, was seeded with vegetation that is intended to anchor the topsoil during rainfall events. To complete the cap, the carbon canisters were attached to the gas vents.

As part of the landfill construction, perforated stainless steel pipes wrapped with a filter fabric were laid in along the bottom, beneath the waste layers. There are various PVC pipe stands which stick up through the cap that are attached to the piping beneath the landfill. These pipe stands are checked on a regular basis (once every three months) for their integrity, as well as to see if any liquids have collected into the pipe system. This system is known as a leachate collection system. The leachate (leachate is any water that percolates through the landfill) can be collected and analyzed.

The responsible parties constructed the remedy at the Site to meet performance standards specified in the ROD. The remedy implemented to address the contamination at the Site has achieved the remedial action objectives and the remediation goals described in the ROD. EPA and the LDEQ have determined that the remedy which includes long-term groundwater monitoring as well as an inspection and maintenance program for the Site is performing as designed, and is operational and functional. No additional treatment or other measures to restore ground-or surface-water quality have been identified as being required.

C. Characterization of Risk

Continued monitoring of groundwater demonstrates that no significant risk to public health or the environment is posed by the hazardous materials remaining at the Site. Based on the successful remedial actions addressing the hazardous materials on-site, the monitoring results of operation and maintenance (O & M) activities to date, and the public health consultation by the Agency for Toxic Substances and Disease Registry (ATSDR), EPA verifies the implemented Site remedy is protective of human health and the environment.

D. Community Involvement

Public participation activities have been satisfied as required in CERCLA Subsection 113(k), 42 U.S.C. 9613(k), and in CERCLA Section 117, 42 U.S.C. 9617. Documents in the deletion docket on which EPA relied for recommendation of the Site deletion from the NPL have been made available to the public in the two information repositories the location of which is identified above.

E. Proposed Action

In consultation with the LDEQ, EPA has concluded that responsible parties have implemented all appropriate response actions required at the Site (neither the CERCLA-required five-year reviews, nor operation and maintenance of the constructed remedy is considered further response action for these purposes), that all appropriate Fund-financed response actions under CERCLA have been implemented, and that no further response action by responsible parties is appropriate. Moreover, EPA, in consultation with LDEQ, has determined that Site investigations show that the Site now poses no significant threat to public health or the environment; consequently, EPA proposes to delete the Site from the NPL.

Dated: September 25, 1997.

Jerry Clifford,

Acting Regional Administrator, U.S. EPA Region 6.

[FR Doc. 97–26528 Filed 10–8–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Parts 15, 73, 74, and 76

[ET Docket No. 97–206; FCC 97–340]

Technical Requirements To Enable Blocking of Video Programming Based on Program Ratings

AGENCY: Federal Communications Commission.

ACTION: Proposed rule.

SUMMARY: By this *Notice of Proposed Rule Making* (''NPRM''), the Commission proposes to amend its rules to require that most television receivers be equipped with features that enable viewers to block the display of video programming with a common rating. Furthermore, the Commission proposes to amend its rules to ensure the ratings information that is associated with a particular video program is not deleted from transmission by broadcast television stations, low power television stations, television translator and booster stations, and cable television systems. The Commission also proposes that similar requirements should be placed on other services that can be used to distribute video programming to the home, such as Multipoint Distribution Services (MDS) and Direct Broadcast Satellite Service (DBS). This action is taken in response to the Parental Choice in Television Programming requirements contained in section 551 (c), (d), and (e) of the Telecommunications Act of 1996 (Pub. L. No. 104–104, 111 Stat. 56), which amended sections 303 and 330 of the Communications Act of 1934 (47 U.S.C. 303 and 330). The proposals contained in this *NPRM* are intended to give parents the ability to block video programming that they do not want their children to watch.

DATES: Comments must be filed on or before November 24, 1997, and reply comments must be filed on or before December 8, 1997.

FOR FURTHER INFORMATION CONTACT: Neal McNeil, Office of Engineering and Technology, (202) 418–2408.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Proposed Rulemaking*, ET Docket 97–206, FCC 97–340, adopted September 25, 1997 and released September 26, 1997. The full text of this document is available for inspection and copying during regular business hours in the FCC Reference Center, Room 239, 1919 M Street, NW, Washington, DC. The complete text of this document also may be purchased from the Commission's

duplication contractor, International Transcription Service, Inc., (202) 857–3800, 1231 20th Street, NW, Washington, DC 20036.

Summary of Notice of Proposed Rule Making

1. In the Telecommunications Act of 1996 (the Telecommunication Act), Congress determined that parents should be provided ''with timely information about the nature of upcoming video programming and with the technological tools that allow them easily to block violent, sexual, or other programming that they believe harmful to their children * * *.'' Accordingly, Congress (1) mandated the inclusion in most new television receivers of the so-called ''V-chip'' technology, which will enable viewers to block the display of all programs with a common rating, and (2) authorized the Commission to ''Prescribe * * * guidelines and recommended procedures for the identification and rating of (such) video programming, * * *'' if distributors of video programming do not establish acceptable voluntary procedures within one year.

2. With respect to V-chip technology, section 551(c) of the Telecommunications Act directs the Commission to adopt rules requiring that any ''apparatus designed to receive television signals that are shipped in interstate commerce or manufactured in the United States and that have a picture screen 13 inches or greater in size (measured diagonally) * * * be equipped with a feature designed to enable viewers to block display of all programs with a common rating * * *.'' Section 551(d) states that the Commission must ''require that all such apparatus be able to receive the rating signals which have been transmitted by way of line 21 of the vertical blanking interval * * *.'' That provision also instructs the Commission to oversee ''the adoption of standards by industry for blocking technology,'' and to ensure that blocking capability continues to be available to consumers as technology advances.

3. With respect to the ratings, the Telecommunications Act directs the Commission to establish a program ratings system, but only if the Commission determines that distributors of video programming have not: (1) Established voluntary rules for rating video programming that contains sexual, violent, or other indecent material about which parents should be informed before it is displayed to children, and such rules are ''acceptable to the Commission;'' and (2) agreed voluntarily to broadcast signals that contain ratings of such programming. Distributors of video programming were given 1 year from the date of enactment of the Telecommunications Act, until February 8, 1997, to meet these requirements.

4. The Commission Is adopting this *Notice of Proposed Rulemaking* to begin the process of requiring television manufacturers to include blocking technology in their television receivers and to ensure that any ratings information that is provided with video programming is transmitted to the television receiver intact and without disruption by any broadcast, cable television, or other video programming distribution service.

Initial Regulatory Flexibility Analysis

5. As required by section 603 of the Regulatory Flexibility Act,[1] the Commission has prepared an Initial Regulatory Flexibility Analysis (IRFA) of the expected significant economic impact on small entities by the policies and rules proposed in this *Notice of Proposed Rule Making (Notice).* Written public comments are requested on the IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the *Notice* provided above. The Secretary shall send a copy of this Notice, including the IRFA, to the Chief Counsel for Advocacy of the Small Business Administration in accordance with paragraph 603(a) of the Regulatory Flexibility Act.

A. Need for and Objectives of the Proposed Rules

6. The proposed rules are intended to address the Parental Choice in Television Programming requirements contained in section 551(c) and 551(d) of the Telecommunications Act of 1996.[2] Congress has determined that parents should be provided ''with timely information about the nature of upcoming video programming and with the technological tools that allow them to block violent, sexual, or other programming that they believe harmful to children. Accordingly, Congress (1) mandated the inclusion in most new television receivers of the so-called ''V-chip'' technology, which will be capable of reading program ratings and blocking programming, if requested, and (2) authorized the Commission to establish a rating system and rules requiring the transmission of program ratings if distributors of video programming do not establish acceptable voluntary procedures within one year.

B. Legal Basis

7. The proposed action is taken pursuant to sections 4(i), 303(f), 303(r), 303(v), 303(x), and 330(c) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i), 303(f), 303(v), 303(x), and 330(c).

C. Description and Estimate of the Number of Small Entities to Which the Proposed Rules Will Apply

8. For the purposes of this Notice, the RFA defines a ''small business'' to be the same as a ''small business concern'' under the Small Business Act, 15 U.S.C. 632, unless the Commission has developed one or more definitions that are appropriate to its activities.[3] Under the Small Business Act, a small business concern is one that: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) meets any additional criteria established by the Small Business Administration (SBA).[4]

9. The Commission has not developed a definition of small entities applicable to V-chip technology. Therefore, we will utilize the SBA definition applicable to manufacturers of Radio and Television Broadcasting and Communications Equipment. According to the SBA's regulations, television equipment manufacturers must have 750 or fewer employees in order to qualify as a small business concern.[5] Census Bureau data indicates that there are 858 U.S. companies that manufacture radio and television broadcasting and communications equipment, and that 778 of these firms have fewer than 750 employees and would be classified as small entities.[6] The Census Bureau category is very broad, and specific figures are not available as to how many of these firms are manufacturers of television equipment. However, we believe that many of the companies that manufacture television equipment will be affected by this rulemaking may qualify as small entities. We seek comments to this IRFA regarding the number of small entities to which the proposed rule pertains.

10. According to SBA regulations, a computer manufacturer must have 1,000 or fewer employees in order to qualify as a small entity. Census Bureau data indicates that there are 1716 firms that manufacture electronic computers. Of

[1] 5 U.S.C. 603.

[2] Pub. L. 104–104, 111 Stat. 56 (1996).

[3] *See* 5 U.S.C. 601(3).

[4] 15 U.S.C. 632.

[5] 13 CFR 121.201, (SIC) Code 3663.

[6] U.S. Department of Commerce, *1992 Census of Transportation, Communications, and Utilities,* SIC Code 3663 (issued may 1995).

those, 659 have fewer than 500 employees and qualify as small entities. The remaining 57 firms have 500 or more employees; however, we are unable to determine how many of those have fewer than 1,000 employees and therefore also qualify as small entities under the SBA definition.

11. This proposal will begin the process of requiring television manufacturers to include blocking technology in their television receivers and to ensure that any ratings information that is provided with video programming is transmitted to the television receiver intact and without disruption by any broadcast, cable television, or other television program distribution services.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

12. The Commission's rules require television receivers to be verified for compliance with applicable FCC technical requirements. See 47 CFR 15.101, 15.117, and 2.951, *et seq.* Documentation concerning the verification must be kept by the manufacturer or importer. The rules ultimately adopted in this proceeding will require that television receivers comply with industry-developed standards for blocking display of video programming based on program ratings. However, verification testing regarding program blocking is not necessary because compliance with the industry-developed standards, and the associated Commission rules, can be determined easily during the television receiver design process. The Commission may, of course, ask manufacturers and importers to document upon occasion how a particular television receiver complies with the program blocking requirements.

E. Significant Alternatives to Proposed Rules Which Minimize Significant Economic Impact on Small Entities and Accomplish Stated Objectives

13. Section 330(c)(4) of the Act directs the Commission to consider the existence of appropriate alternative blocking technologies and to amend its rules to permit, as an alternative to the ratings-based approach, use of a technology that: (1) ''Enables parents to block programming based on identifying programs without ratings''; (2) ''is available to consumers at a cost which is comparable'' to the cost of ratings-based technology; and (3) ''will allow parents to block a broad range of programs on a multichannel system as effectively and as easily'' as ratings-based technology. At this time, we are not aware of any such alternative blocking technologies. Accordingly, we invite comment regarding the existence of such alternate blocking technologies and whether it would be appropriate to permit them at this time in lieu of ratings-based blocking technology. In order to evaluate possible alternative blocking technologies, we solicit information regarding the cost of any alternative blocking technology as well as the cost of implementing ratings-based technology pursuant to EIA–608.

14. Section 303(x) of the Act makes it clear that the program blocking requirements were intended to apply to any ''apparatus designed to receive television signals'' that has a picture screen of 13 inches or larger. We believe that the program blocking requirements we are proposing should apply to any television receiver (including personal computers) meeting the screen size requirements, regardless of whether it is designed to receive video programming that is distributed only through cable television systems, MDS, DBS, or by some other distribution system.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

15. None.

List of Subjects

47 CFR Part 15

Communications equipment, Computer technology.

47 CFR Part 73

Communications equipment, Television.

47 CFR Part 74

Communications equipment, Television.

47 CFR Part 76

Cable television.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26700 Filed 10–8–97; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

RIN 1018–AE31

Endangered and Threatened Wildlife and Plants; Reopening of Comment Period on Proposed Endangered Status for the Illinois Cave Amphipod

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: The Fish and Wildlife Service (Service) provides notice that the comment period is reopened on the proposal to list the Illinois cave amphipod (*Gammarus acherondytes*) as endangered, pursuant to Endangered Species Act of 1973, as amended. The Service is reopening the comment period to allow members of the public additional time to submit comments on this proposal.

DATES: The reopened comment period on the proposal will close on December 8, 1997. Comments must be received by the Service on or before that date in order to be assured of consideration.

ADDRESSES: Comments and materials concerning the proposal should be sent to the U.S. Fish and Wildlife Service, Ecological Services Field Office, 4469 48th Avenue Court, Rock Island, Illinois. Comments and materials received will be available for public inspection by appointment during normal business hours at the above address.

FOR FURTHER INFORMATION CONTACT: Richard C. Nelson, Field Supervisor, Illinois Field Office (see **ADDRESSES** section) (telephone 309/793–5800; facsimile 309/793–5804).

SUPPLEMENTARY INFORMATION:

Background

On July 28, 1997, the Service proposed to add the Illinois cave amphipod (amphipod) to the list of endangered and threatened animals (62 CFR 40319). The amphipod is historically known from six underground cave streams in St. Clair and Monroe Counties in southwestern Illinois. Recent searches for the amphipod indicate that it may exist in only three cave streams in Monroe County, all within a 10-mile radius of Waterloo, Illinois. The cause of the amphipod's decline in geographic range and in the number of populations is believed to be deteriorating water quality in the cave streams which it

inhabits. Surface pollutants can readily enter the cave stream systems by way of sinkholes that directly connect the land surface to the underground cave systems. Agricultural chemicals and effluent from improperly installed or maintained residential septic and sewage systems likely are the primary pollutants affecting subsurface water quality and the health of the amphipod.

The comment period for the proposal ended on September 26, 1997. During that comment period the Service received requests for an extension of the comment period from the Illinois Farm Bureau Federation, the St. Clair County Farm Bureau Federation, the Growmark Corporation, and Congressman Jerry F. Costello. The Service recognizes that seasonal agricultural activities may have made it difficult for some interested and potentially affected parties to prepare and submit timely comments on the proposal. Therefore, the Service is reopening the comment period for another 60 days to provide all interested parties a reasonable opportunity to submit comments.

Author: The primary author of this notice is Ronald L. Refsnider, U.S. Fish and Wildlife Service, Bishop Henry Whipple Federal Building, 1 Federal Drive, Ft. Snelling, Minnesota 55111–4056 (612/725–3536 ext. 241 or fax 612/725–3526).

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

Dated: October 1, 1997.

John A. Blankenship,

Assistant Regional Director, Region 3, Ft. Snelling, Minnesota.

[FR Doc. 97–26791 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–55–P

Notices

Federal Register
Vol. 62, No. 196
Thursday, October 9, 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

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment Request—Evaluation of the State Nutrition Education Network Cooperative Agreements

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Food and Consumer Service's intention to request Office of Management and Budget approval of the Evaluation of the State Nutrition Education Network Cooperative Agreements.

DATES: Written comments on this notice must be received by December 8, 1997.

ADDRESSES: Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on 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. Comments may be sent to: Michael E. Fishman, Acting Director, Office of Analysis and Evaluation, Food and Consumer Service, U.S. Department of Agriculture, 3101 Park Center Drive, Alexandria, VA 22302.

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

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the proposed information collection forms should be directed to Michael E. Fishman, (703) 305–2117.

SUPPLEMENTARY INFORMATION:

Title: Evaluation of the State Nutrition Education Network Cooperative Agreements.

OMB Number: Not yet assigned.

Expiration Date: N/A.

Type of Request: New collection of information.

Abstract: The evaluation of the State Nutrition Education Network Cooperative Agreement projects is intended to help the Food and Consumer Service identify the most effective strategies for establishing and sustaining state-level nutrition education networks. It is not designed to measure the performance of any particular individual or State. Information gathered from States will be aggregated so that important trends relating to network development can be identified. Overarching questions guiding this evaluation process include: (1) How effective were the processes employed by cooperators in reaching the goals of the project? (2) What lessons can be learned about effective development of nutrition education networks? and; (3) What can FCS do to foster the development of statewide nutrition education networks?

Twenty-two State nutrition support networks are participating in the evaluation. Interviews will be conducted with the project director(s), network coordinators, the food stamp agency representative and up to five other key network members one to three times over the course of two years. Template protocols have been developed and will be tailored to the unique background and environment of each State. For several of the States, interviews will be held in person as part of a site visit to the State; for the remainder, interviews will be conducted by telephone.

Estimate of Burden: Public reporting burden is estimated to range between 3 and 5 hours for the Project Director and the Network Coordinator, and 1 to 2 hours for other network members. One to three interviews will be conducted over two years.

Respondents: Interviews will be conducted with the project director(s), network coordinators, the food stamp agency representative and up to five other key network members.

Estimated Number of Respondents: An average of eight respondents for the 22 networks or a total of 176.

Estimated Number of Responses per Respondent: Two.

Estimated Total Annual Burden on Respondents: 748 hours.

Dated: September 19, 1997.

Yvette S. Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 97–26784 Filed 10–8–97; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Foreign Agricultural Service

Public Briefing on Development of a U.S. Action Plan on Food Security

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given that a public meeting regarding development of a U.S. Action Plan on Food Security will take place on November 5, to brief the public on a discussion paper that is being developed on international topics to be addressed in the U.S. Action Plan and to respond to questions and receive reactions. A similar meeting will be held in December on domestic topics. The purpose of these meetings is to facilitate public participation in the process of developing the U.S. Action Plan on Food Security.

DATES: The meeting will be held November 5, 9 a.m. to 4 p.m. in Room 107A. Administration Building, U.S. Department of Agriculture in Washington, D.C.

SUPPLEMENTARY INFORMATION: The meeting is open to the public. The discussion paper will be released to the public on World Food Day, October 16 and will be available on the U.S. Government Food Security home page (http://www.fas.ussda.gov/icd/summit/summit.html). Additional information will also be posted on the home page.

Requests for copies of the paper and inquiries may be directed to the Office of the National Food Security Coordinator, Foreign Agricultural

Service, Room 3008 South Building, U.S. Department of Agriculture, 14th and Independence Ave. SW, Washington, D.C. 20250, telephone (202) 690–0776 or fax (202) 720–6103.

The topics to be addressed at the November 5 meeting are as follows:

Combined International/Domestic Topic

1. Human Rights as a Framework for Food Security

Priority International Topics

2. Appropriate Research, Education, and Extension for Food Production and Food Systems
   Economically, Environmentally and Socially Sustainable Agriculture
3. Measuring Hunger and Mapping Risk
4. Economic Policy, Trade, and Food Distribution
5. Prioritize the Allocation of Foreign Assistance to Promote Food Security
   Health, Nutrition, and Population Stabilization
   The Role of Women
6. Effective Use of Food Aid to Promote Food Security
7. Maximizing and Targeting Resources.

Signed in Washington, DC, September 30, 1997.

Chistopher E. Goldthwait,

Acting Administrator, Foreign Agricultural Service.

[FR Doc. 97–26708 Filed 10–8–97; 8:45 am]

BILLING CODE 3410–10–M

DEPARTMENT OF AGRICULTURE

Forest Service

Klamath Provincial Advisory Committee (PAC)

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Klamath Provincial Advisory Committee will meet on October 30 and 31, 1997 at the Trinity County Library, 211 N. Main Street, Weaverville, California. On October 30, the meeting will begin at 9 a.m. and adjourn at 5 p.m. The meeting on October 31 will resume at 8 a.m. and adjourn at 3 p.m. Agenda items to be covered include: (1) Socio-economic considerations associated with the Northwest Forest Plan; (2) a presentation concerning the January 1997 storm damage; (3) subcommittee reports; and (4) public comment periods. All PAC meetings are open to the public. Interested citizens are encouraged to attend.

FOR FURTHER INFORMATION CONTACT: Connie Hendryx, USDA, Klamath National Forest, at 1312 Fairlane Road, Yreka, California 96097; telephone 916–842–6131, (FTS) 700–467–1309.

Dated: October 2, 1997.

Barbara Holder,

Forest Supervisor and Designated Federal Official.

[FR Doc. 97–26794 Filed 10–8–97; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Natural Resources Conservation Service

Task Force on Agricultural Air Quality

AGENCY: Natural Resources Conservation Service.

ACTION: Notice of meeting.

SUMMARY: The Task Force on Agricultural Air Quality will meet to discuss the relationship between agricultural production and air quality. The meeting is open to the public.

DATES: The meeting will convene Wednesday, October 29, 1997 at 9 a.m. and continue until 4 p.m. The meeting will resume Thursday, October 30, 1997 from 9 a.m. to 3 p.m. Written material and requests to make oral presentations should reach the Natural Resources Conservation Service on or before October 27, 1997.

ADDRESSES: The meeting will be held at the Washington Plaza Hotel, 10 Thomas Circle NW, Washington, DC, telephone (202) 842–1300. Written material and requests to make oral presentations should be sent to George Bluhm, University of California, Land, Air, Water Resources, 151 Hoagland Hall, Davis, CA 95616–6827.

FOR FURTHER INFORMATION CONTACT: George Bluhm, Designated Federal Official, telephone (916) 752–1018, fax (916) 752–1552.

SUPPLEMENTARY INFORMATION: Notice of this meeting is given under the Federal Advisory Committee Act, 5 U.S.C. App. 2. Additional information about the Task Force on Agricultural Air Quality, including any revised agendas for the October 29–30, 1997 meeting that may appear after this **Federal Register** Notice is published, may be found on the World Wide Web at http://www.nhq.nrcs.usda.gov/BCS/air/farmbill.html.

Draft Agenda of the October 29–30, 1997, Meeting

A. Opening Remarks
   1. Welcome to Washington—P. Wakelyn
   2. Comments and introductions from the Chair—P. Johnson
B. Past Actions
   1. Report on the letter of advice on air research needs to the Secretary—J. Trotter
   2. Senate Agriculture Committee hearing on agricultural air quality—P. Wakelyn, S. Shaver
   3. House Agriculture Committee hearing on agricultural air quality—C. Parnell, Jr.
   4. EPA regional haze rules—S. Shaver
C. Status Reports on Efforts in Progress
   1. MOU between USDA and EPA—S. Shaver, G. Bluhm
   2. Agricultural burning—B. Odum
   3. Oversight issues—W. Hambleton
   4. PM research issues—M. Cunha, R. Flocchini
   5. Ozone issues—J. Miller
   6. Health effects—T. Ferguson, V. Chavez
   7. Monitoring issues—C. Parnell Jr.
   8. Odorants—J. Sweeten
D. New Issues and Parking Lot
   1. Nitrous oxide—J. Smith
   2. Carbon sequestration CRP—T. Elliot
   3. As time allows, other issues brought up by the public or Task Force members
E. Set date and location for next meeting

Procedural

This meeting is open to the public. At the discretion of the Chair, members of the public may present oral presentations during the October 29–30 meeting. Persons wishing to make oral presentations should notify George Bluhm no later than October 27, 1997. If a person submitting material would like a copy distributed to each member of the committee in advance of the meeting, that person should submit 25 copies to George Bluhm no later than October 27, 1997.

Information on Services for Individuals With Disabilities

For information on facilities or services for individuals with disabilities or to request special assistance at the meeting, contact George Bluhm as soon as possible.

Lee P. Herndon,

Director, Institutes Division.

[FR Doc. 97–26789 Filed 10–8–97; 8:45 am]

BILLING CODE 3014–16–P

BROADCASTING BOARD OF GOVERNORS

Sunshine Act Meeting

DATE AND TIME: October 14, 1997; 9:30 a.m.

PLACE: Cohen Building, Room 3321, 330 Independence Ave., SW., Washington, DC 20547.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c) (2) and (6)) There will also be a separate closed meeting of the board of directors of RFE/RL, Inc., a nonprofit private corporation funded by grants from the Broadcasting Board of Governors.

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Brenda Thomas at (202) 401–3736.

Dated: October 7, 1997.

David W. Burke,

Chairman.

[FR Doc. 97–27023 Filed 10–7–97; 2:09 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. A(32b1)–3–97]

Foreign-Trade Zone No. 143—Sacramento, CA Area Request for Manufacturing Authority, Zytec Services and Logistics (Computers and Related Electronic Products), Lincoln, CA; Correction

The **Federal Register** notice (62 FR 45394, 8/27/97) describing the application submitted to the Foreign-Trade Zones Board (the Board) by Zytec Services and Logistics (ZSL), an operator of FTZ 143, requesting authority on behalf of ZSL to manufacture and assemble computers and related electronic products and subassemblies within FTZ 143, is corrected as follows: in paragraph 3, sentence 1, the list of components purchased from abroad should exclude optical fiber and bearings.

Dated: October 2, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–26701 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket No. 73–97]

Foreign-Trade Zone 138—Columbus, Ohio, Application for Foreign-Trade Subzone Status, Lucent Technologies Inc. (Telecommunications Equipment), Columbus, OH

An application has been submitted to the Foreign-Trade Zones Board (the Board) by the Rickenbacker Port Authority, grantee of FTZ 138, requesting special-purpose subzone status for the manufacturing and distribution facility (telecommunications equipment) of Lucent Technologies Inc., located in Columbus, Ohio. The application was submitted pursuant to the Foreign-Trade Zones Act, as amended (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on September 29, 1997.

The Lucent facility (3 buildings/2 million square feet on 252 acres) are located at 6200 E. Broad Street in Columbus (Franklin County), Ohio. The facilities (5,000 employees) are used for the manufacture of telecommunications equipment, including wireless infrastructure products, and switching and networking equipment. A number of components are purchased from abroad (ranging, on average, from 10–30% of total material value) including amplifiers, printed circuit boards, semiconductors, integrated circuits, resistors, connectors, cable, housings for outlets, junctions and switches, wiring devices, and parts for telecommunications assemblies (1997 duty range: free-8.5%, most becoming duty-free by 2000). Some 35 percent of production is currently exported (expected to increase to 50 percent by 2000).

Zone procedures would exempt Lucent from Customs duty payments on foreign components used in export production. On its domestic sales, Lucent would be able to choose the lower duty rate that applies to the finished products (4.8%–8.5%, most becoming duty-free by 2000) for the foreign components noted above. The application indicates that the savings from zone procedures would help improve the plant's international competitiveness.

In accordance with the Board's regulations, a member of the FTZ Staff has been designated examiner to investigate the application and report to the Board.

Public comment on the application is invited from interested parties. Submissions (original and three copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 8, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period to December 23, 1997. A copy of the application and the accompanying exhibits will be available for public inspection at each of the following locations.

Office of the Executive Secretary, Foreign-Trade Zones Board, U.S. Department of Commerce, Room 3716, 14th and Pennsylvania Avenue, N.W., Washington, D.C. 20230.

U.S. Department of Commerce Export Assistance Center, 37 North High St., 4th Fl, Columbus, Ohio 43215.

Dated: October 1, 1997.

John J. DaPonte, Jr.,

Executive Secretary.

[FR Doc. 97–26702 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

[A–533–809]

Certain Forged Stainless Steel Flanges From India; Extension of Time Limit for New Shipper Antidumping Duty Administrative Review

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

ACTION: Extension of time limit for new shipper antidumping duty administrative review of certain forged stainless steel flanges from India.

SUMMARY: The Department of Commerce (''the Department'') is extending the time limit for the preliminary results of the new shipper antidumping duty administrative review of the antidumping order on certain forged stainless steel flanges from India. This review covers one manufacturer and exporter of the subject merchandise, Panchmahal Steels, Ltd., for the period February 1, 1996 through January 31, 1997. This extension is made pursuant to the Tariff Act of 1930, as amended by the Uruguay Round Agreements Act (''the Act''), and the Department's

regulations as published in the **Federal Register** on May 11, 1995 (60 FR 25130).

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas Killiam, Alain Letort or John R. Kugelman, AD/CVD Enforcement Group III—Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington D.C. 20230, telephone (202) 482–2704, 482–4243 or 482–0649, respectively.

SUPPLEMENTARY INFORMATION: The Department initiated this new shipper review on May 2, 1997 (62 FR 24088). The current deadline for the preliminary results is October 27, 1997. Pursuant to 19 CFR § 353.22(h)(7), the Department has determined that this case is extraordinarily complicated and, therefore, is extending the deadline for issuing the preliminary results. This extension is necessary to provide the Department additional time to consider certain issues of complex nature, including whether certain transactions were home-market, third-country, or U.S. sales, and the nature of home-market customers (*e.g.,* producers, end-users, or resellers to the United States).

In accordance with 19 CFR § 353.22(h)(7), the Department will extend the time limit for completion of the preliminary results of this new shipper review to no later than January 27, 1998. We plan to issue the final results within 90 days after the date the preliminary results are issued.

This extension of time limit is in accordance with section 751(a)(2)(B)(iv) of the Act.

Dated: September 29, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary AD/CVD Enforcement Group III.

[FR Doc. 97–26715 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–001]

Potassium Permanganate From the People's Republic of China; Notice of Rescission of Antidumping Duty Administrative Review

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

ACTION: Notice of rescission of antidumping duty administrative review.

SUMMARY: On January 30, 1997, Zunyi Chemical Factory, a producer of potassium permanganate in the People's Republic of China, requested that the Department of Commerce conduct an administrative review of their merchandise for the period January 1, 1996, through December 31, 1996. On March 3, 1997, we published a notice of initiation of this antidumping duty administrative review. This review has now been rescinded as a results because there have been on entries into the United States of subject merchandise during the period of review.

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Paul Stolz or Thomas Futtner, Office of Antidumping/Countervailing Duty Enforcement, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–4474 and (202) 482–3814 respectively.

SUPPLEMENTARY INFORMATION: On January 31, 1984, the Department of Commerce (the Department) published in the **Federal Register** (49 FR 3898) the antidumping duty order on potassium permanganate from the People's Republic of China (PRC). On January 30, 1997, Zunyi Chemical Factory (Zunyi), a producer of the subject merchandise, requested that the Department conduct an administrative review for the period January 1, 1996, through December 31, 1996, in accordance with 19 CFR 353.22(a). On March 3, 1997, we published a notice of initiation (62 FR 9413) of this antidumping duty administrative review. Subsequently, Zunyi reported that it had made no shipments of the subject merchandise during the period of review (POR). We verified this information with the U.S. Customs Service.

Because the only firm for which a review was requested made no entries into the Customs territory of the United States during the POR, the Department is rescinding this review. Moreover, since Zunyi has never demonstrated that it is an exporter entitled to a separate rate, the cash deposit rate for sales of the subject merchandise will continue to be the rate established for exporters of such merchandise or, if Zunyi is the exporter, the PRC-wide rate from the most recently completed administrative review.

This notice is published in accordance with section 751(a)(1) of the Tariff Act of 1930, as amended (19 U.S.C. Sec. 1675(a)(1)) and 19 CFR 353.22 (1996).

Dated: October 3, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II, Import Administration.

[FR Doc. 97–26850 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

International Trade Administration

Harvard Medical School; Notice of Decision on Application for Duty-Free Entry of Electron Microscope

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–072. *Applicant:* Harvard Medical School, Southborough, MA 01772–9102. *Instrument:* Electron Microscope, Model JEM–1010. *Manufacturer:* JEOL, Ltd., Japan. *Intended Use:* See notice at 62 FR 45397, August 27, 1997. *Order Date:* June 17, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as this instrument is intended to be used, was being manufactured in the United States at the time the instrument was ordered. *Reasons:* The foreign instrument is a conventional transmission electron microscope (CTEM) and is intended for research or scientific educational uses requiring a CTEM. We know of no CTEM, or any other instrument suited to these purposes, which was being manufactured in the United States at the time of order of the instrument.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–26713 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Applications for Duty-Free Entry of Scientific Instruments

Pursuant to Section 6(c) of the Educational, Scientific and Cultural Materials Importation Act of 1966 (Pub. L. 89–651; 80 Stat. 897; 15 CFR part 301), we invite comments on the question of whether instruments of equivalent scientific value, for the

purposes for which the instruments shown below are intended to be used, are being manufactured in the United States.

Comments must comply with 15 CFR 301.5(a) (3) and (4) of the regulations and be filed within 20 days with the Statutory Import Programs Staff, U.S. Department of Commerce, Washington, D.C. 20230. Applications may be examined between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–077. *Applicant:* University of Washington, School of Oceanography, Box 357940, Seattle, WA 98195–7940. *Instrument:* Isotope Ratio Mass Spectrometer, Model DELTA^{plus}. *Manufacturer:* Finnigan MAT, Germany. *Intended Use:* The instrument will be used in a diverse group of geochemical studies of oceanic, atmospheric and terrestrial problems. Isotope and gas ratio measurements will be used to help determine the following: (1) Rates of anthropogenic CO_2 uptake by the ocean, (2) rates of oceanic productivity, (3) organic matter cycling in the Amazon basin, (4) the source of increase of atmospheric methane and carbon monoxide, (5) denitrification rates in the water column and shelf sediments, (6) terrestrial versus marine sources of organic matter in shelf sediments, (7) the diet of juvenile polychaetes and (8) the impact of food web structure on carbon export in the equatorial Pacific. *Application accepted by Commissioner of Customs:* August 28, 1997.

Docket Number: 97–078. *Applicant:* University of Missouri at Kansas City, School of Biological Sciences, Room 417 BSB, 5007 Rockhill Road, Kansas City, MO 64110. *Instrument:* Free-Flow Electrophoresis Device. *Manufacturer:* Dr. Weber GmbH, Germany. *Intended Use:* The instrument will be used in several research projects for: (1) The separation of cells, for example, B lymphocytes from whole blood, to be used for immortalization by Epstein-Barr virus, (2) the separation of intracellular organelles and vesicles from cells to study protein expression and secretion and (3) the separation and purification of protein subunits in denaturing solvents for further studies of protein function. In addition, the instrument will be used for training undergraduate, graduate and professional students and postdoctoral fellows in the technique of free-flow electrophoresis. *Application accepted by Commissioner of Customs:* September 5, 1997.

Docket Number: 97–079. *Applicant:* Pennsylvania State University at Erie, The Behrend College, 5091 Station Road, Erie, PA 16563–1702. *Instrument:* Thermodynamic Measurement Equipment, Model pvT 100. *Manufacturer:* SWO Polymertechnik GmbH, Germany. *Intended Use:* The instrument will be used to assist students in researching pressure, volume and temperature phenomena to better identify polymer material behavior. The objectives of the experimentation will be to provide students in the Plastics Engineering Technology program with basic fundamental material characterization properties to further enhance their understanding of material flow. *Application accepted by Commissioner of Customs:* September 5, 1997.

Docket Number: 97–080. *Applicant:* Cornell University, 335 Savage Hall, Ithaca, NY 14853. *Instrument:* Rapid Mixing Accessory, Model SFA–20/Spex. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used to obtain quantitative information regarding the rates by which Vitamin A derivatives interact with binding proteins and with biological membranes. The aim of this study is to clarify the mechanisms by which retinoids move between cells and sub-cellular compartments *in vivo* and the factors that regulate the distribution of these compounds. *Application accepted by Commissioner of Customs:* September 8, 1997.

Docket Number: 97–081. *Applicant:* University of North Carolina at Chapel Hill, Department of Physics and Astronomy, 141 Phillips Hall CB# 3255, Chapel Hill, NC 27599–3255. *Instrument:* X-Ray Diffractometer with Accessory, Model DIP–2020 V. *Manufacturer:* Nonius-Enraf, The Netherlands. *Intended Use:* The instrument will be used to perform in-situ and ex-situ x-ray diffraction experiments in conjunction with property measurement. The materials to be studied will include C_{60} derivative compounds, carbon nonotubes, new semiconducting materials based on Si/Ge clathrates, noncrystals, high temperature superconductor films and novel magnetic multilayers. In addition, the instrument will be used to teach x-ray diffraction techniques and its applications in materials science. *Application accepted by Commissioner of Customs:* September 9, 1997.

Docket Number: 97–082. *Applicant:* University of Minnesota, Department of Biochemistry, Medical School, 4–225 Millard Hall, 435 Delaware Street, S.E., Minneapolis, MN 55455. *Instrument:* Stopped-Flow Reaction Analyzer, Model SX.18MV. *Manufacturer:* Applied Photophysics, Ltd., United Kingdom. *Intended Use:* The instrument will be used to study the reaction rates of enzymes and proteins with their substrates of other small molecules that they bind. The instrument can measure the optical and fluorescence changes that occur during the binding and shape change processes and assign rates to these changes. In addition, the instrument will be used for educational purposes in the course Biochemistry 5–528 ''Kinetics of Biological Systems.'' *Application accepted by Commissioner of Customs:* September 10, 1997.

Docket Number: 97–083. *Applicant:* Indiana University-Purdue University at Indianapolis, 402 North Blackford Street, Indianapolis, IN 46202. *Instrument:* Stopped-Flow Spectrometer, Model SX–61DX2. *Manufacturer:* Hi-Tech Scientific, United Kingdom. *Intended Use:* The instrument will be used for educational purposes in the following courses: (1) C363 Experimental Physical Chemistry—experimental work to illustrate the principles of physical chemistry, (2) C411 Principles of Chemistry Instrumentation Laboratory—laboratory instruction in instrument analysis techniques, (3) C435 Inorganic Chemistry Laboratory—synthesis, characterization and study of chemical and physical properties of inorganic and organometallic compounds and (4) C486 Biological Chemistry Laboratory—introduction to the important techniques currently employed by practicing biological chemists. *Application accepted by Commissioner of Customs:* September 10, 1997.

Docket Number: 97–084. *Applicant:* Barnard College, 3009 Broadway, New York, NY 10027–6598. *Instrument:* Electron Microscope, Model EM208S. *Manufacturer:* Philips, The Netherlands. *Intended Use:* The instrument will be used to visualize cellular detail and relate it to some aspects of cellular or organismal structure or function in research projects on plant, animal, microbial and viral subjects. In addition, the instrument will be used for educational purposes in laboratory courses in cells and tissues, microbiology, plant physiology and neurobiology providing higher magnification and permitting finer cellular detail to be seen. *Application accepted by Commissioner of Customs:* September 10, 1997.

Docket Number: 97–085. *Applicant:* University of Minnesota, Department of Biochemistry, Medical School, 4–225 Millard Hall, 435 Delaware Street, SE, Minneapolis, MN 55455. *Instrument:* Electron Paramagnetic Resonance Spectrometer, Model E500. *Manufacturer:* Bruker, Germany. *Intended Use:* The instrument will be

used for the study of materials with electronic spins which are due to unpaired electrons associated with atoms in the material under study. These materials are biological materials and analogs with unpaired spins, either organic free radicals, metals bound to proteins or enzymes or materials in small chelate complexes used as models for biological systems. In addition, the instrument will be used for teaching the principles underlying EPR purposes in the biophysics courses MdBc5–526 and MdBc5–527.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–26712 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

University of Oklahoma; Notice of Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to Section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89–651, 80 Stat. 897; 15 CFR part 301). Related records can be viewed between 8:30 A.M. and 5:00 P.M. in Room 4211, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C.

Docket Number: 97–007R. *Applicant:* University of Oklahoma, Norman, OK 73019. *Instrument:* CO_2/Far-Infrared Laser System. *Manufacturer:* Edinburgh Instruments, Ltd., United Kingdom. *Intended Use:* See notice at 62 FR 44949, August 25, 1997.

Comments: None received. *Decision:* Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States. *Reasons:* The foreign instrument provides a structurally integrated far-infrared laser directly coupled to a CO_2 pumping laser for superior stability. This capability is pertinent to the applicant's intended purposes and we know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 97–26714 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Transition Orders; Schedule and Grouping of Five-year Reviews

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

ACTION: Notice of proposed schedule and grouping of five-year reviews of transition orders.

SUMMARY: The Department of Commerce (''the Department'') hereby publishes its proposed schedule for the conduct of the initial five-year reviews of transition orders and the International Trade Commission's (''the ITC'') proposal for grouping reviews. Parties are invited to submit comments on the proposed schedule and the proposed groupings.

FOR FURTHER INFORMATION CONTACT: Melissa G. Skinner, Office of Policy, Import Administration, International Trade Administration, U.S. Department of Commerce, at (202) 482–1560, or Vera Libeau, Office of Investigations, U.S. International Trade Commission, at (202) 205–3176.

SUPPLEMENTARY INFORMATION:

Background

Section 751(c)(6) of the Tariff Act of 1930, as amended (''the Act'') provides special rules for five-year reviews of ''transition orders'' which are defined as (1) a countervailing duty order under this title or under section 303, (2) an antidumping duty order under this title or a finding under the Antidumping Act, 1921, or (3) a suspension of an investigation under section 704 or 734, which is in effect on the date the WTO Agreement enters into force with respect to the United States (January 1, 1995). Section 751(c)(6)(B) gives the Department, in consultation with the ITC, discretion to determine the appropriate sequence of five-year reviews of transition orders. The Statement of Administrative Action notes that, to the maximum extent practicable, the agencies will review older orders first and, to accommodate special problems that may arise where reviews of transition orders are grouped, the Department may initiate reviews out of chronological sequence. *See* Statement of Administrative Action accompanying H.R. 5110 (H.R. Doc. No. 316, at 882 (1994)) (''SAA'').

The SAA provides that, at some time reasonably in advance of the commencement of the initial five-year reviews of transition orders, the Department will publish a proposed schedule including the ITC's proposal for grouping reviews. SAA at 882–883.

Proposed Schedule and Grouping

The Department and the ITC have developed, in consultation, the proposed schedule and grouping provided in the Appendix to this notice.

Methodology

Qualifying antidumping and countervailing duty orders, findings, and suspended investigations were identified by product, country, ITC case number, Department case number, and effective date. Antidumping and countervailing duty orders, findings, and suspended investigations involving the same domestic like product or involving related like products were then grouped. An average date for each group was then determined based on the effective date (month and year) of each order within a group. Groups of transition orders were then placed in chronological sequence based on the average date of the group. The list was divided to provide for monthly initiations beginning in July 1998. Although not indicated in the attached schedule, all reviews are to be completed by both the Department and the ITC 18 months from the date of initiation.

Request for Comment

Interested parties are invited to comment on the proposed schedule and grouping. Each person submitting a comment should include his or her name and address, and give reasons for any recommendations. Written comments should be submitted to both the Department and the ITC. Six copies of all comments should be submitted to the Department and a signed original and fourteen copies should be submitted to the ITC at the addresses specified below.

DATES: Written comments will be due on December 8, 1997.

ADDRESSES: At the Department, address written comments to Robert S. LaRussa, Assistant Secretary for Import Administration, Central Records Unit, Room B–1780, U.S. Department of Commerce, Pennsylvania Avenue and 14th Street, NW., Washington, D.C. 20230. Attention: Sunset. At the ITC, address written comments to Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436.

After considering the comments received, and in consultation with each other, the ITC will determine which transition orders will be grouped, and the Department will determine the review schedule. The Department

intends to publish a notice of final schedule and grouping no later than May 1, 1998.

Dated: October 2, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

PROPOSED SCHEDULE AND GROUPING

Initiation month/yr	Group avg date month/yr	Effective date (mm.dd.yy)	DOC case No.	ITC case No.[1]	Country	Product
July 98	9.66	09.13.66	A–122–006	AA–49	Canada	Steel Jacks.
	6.72	06.09.72	A–588–029	AA–85	Japan	Fish Netting of Manmade Fiber.
	6.72	06.14.72	A–427–030	AA–85	France	Large Power Transformers.
	6.72	06.14.72	A–475–031	AA–87	Italy	Large Power Transformers.
	6.72	06.14.72	A–588–032	AA–88	Japan	Large Power Transformers.
	9.72	08.28.68	A–843–803	AA–51	Kazakstan	Titanium Sponge.
	9.72	08.28.68	A–821–803	AA–51	Russia	Titanium Sponge.
	9.72	08.28.68	A–823–803	AA–51	Ukraine	Titanium Sponge.
	9.72	11.30.84	A–588–020	A–161	Japan	Titanium Sponge.
	11.72	11.22.72	A–588–038	AA–98	Japan	Bicycle Speedometers.
	3.73	03.23.73	A–602–039	AA–110	Australia	Canned Bartlett Pears.
	4.73	04.12.73	A–588–028	AA–111	Japan	Roller Chain.
Aug. 98	6.73	06.08.73	A–401–040	AA–114	Sweden	Stainless Steel Plate.
	7.73	07.10.73	A–588–041	AA–115	Japan	Synthetic Methionine.
	12.73	12.06.73	A–588–046	AA–129	Japan	Polychloroprene Rubber.
	12.73	12.17.73	A–122–047	AA–127	Canada	Elemental Sulphur.
	2.74	02.27.74	A–122–050	AA–137	Canada	Racing Plates.
	8.76	08.30.76	A–588–055	AA–154	Japan	Acrylic Sheet.
	2.77	02.02.77	A–588–056	AA–162	Japan	Melamine.
Sep. 98	3.77	03.15.77	C–351–037	C4–21	Brazil	Cotton Yarn.
	10.77	10.21.77	A–475–059	AA–167	Italy	Pressure Sensitive Tape.
	12.77	12.22.77	A–428–062	AA–172	Germany	Animal Glue.
	2.78	02.17.78	A–433–064	AA–173	Austria	Railway Track Equipment.
	5.78	05.25.78	A–588–066	AA–176	Japan	Impression Fabric.
	12.78	12.08.78	A–588–068	AA–188	Japan	Steel Wire Strand.
	4.79	03.21.79	A–405–071	AA–191	Finland	Rayon Staple Fiber.
	4.79	05.15.79	C–401–056	C4–13	Sweden	Rayon Staple Fiber.
Oct. 98	6.79	07.31.78	C–408–046	C4–7	EC	Sugar.
	6.79	06.13.79	A–423–077	AA–198	Belgium	Sugar.
	6.79	06.13.79	A–427–078	AA–199	France	Sugar.
	6.79	06.13.79	A–428–082	AA–200	Germany	Sugar.
	6.79	04.09.80	A–122–085	A–3	Canada	Sugar and Syrups.
	12.79	03.10.71	A–588–015	AA–66	Japan	Television Receivers.
	12.79	04.30.84	A–580–008	A–134	Korea	Color Television Receivers.
	12.79	04.30.84	A–583–009	A–135	Taiwan	Color Television Receivers.
	11.80	11.06.80	A–588–090	A–7	Japan	Small Electric Motors (SA).
	1.81	01.07.81	A–427–098	A–25	France	Anhydrous Sodium Metasilicate.
	4.82	04.09.82	A–427–001	A–44	France	Sorbitol.
	7.82	07.20.82	A–588–005	A–48	Japan	High Power Microwave Amplifiers.
	2.83	06.25.81	A–428–061	A–31	Germany	Barium Carbonate.
	2.83	10.17.84	A–570–007	A–149	China, PR	Barium Chloride.
Nov. 98	9.83	09.16.83	A–570–101	A–101	China, PR	Griege Polyester Cotton Print Cloth.
	10.83	09.27.82	C–357–004	C-None	Argentina	Carbon Steel Wire Rod (SA).
	10.83	11.23.84	A–357–007	A–157	Argentina	Carbon Steel Wire Rods.
	11.83	11.07.83	C–559–001	C-None	Singapore	Refrigeration Compressors (SA).
	1.84	01.19.84	A–469–007	A–126	Spain	Potassium Permanganate.
	1.84	01.31.84	A–570–001	A–125	China, PR	Potassium Permanganate.
	3.84	03.22.84	A–570–002	A–130	China, PR	Chloropicrin.
	3.85	10.16.80	C–533–063	C3–13	India	Iron Metal Castings.
	3.85	03.05.86	A–122–503	A–263	Canada	Iron Construction Castings.
	3.85	05.09.86	A–351–503	A–262	Brazil	Iron Construction Castings.
	3.85	05.09.86	A–570–502	A–265	China, PR	Iron Construction Castings.
	3.85	05.15.86	C–351–504	C–249	Brazil	Heavy Iron Construction Castings.
	3.85	03.01.85	A–475–401	A–165	Italy	Brass Fire Protection Equipment.
Dec. 98	3.85	03.12.85	C–301–401	C-None	Colombia	Textiles & Textile Products (SA).
	3.85	03.12.85	C–549–401	C-None	Thailand	Certain Textile Mill Products (SA).
	4.85	03.02.83	C–351–005	C–184	Brazil	Frozen Concentrated Orange Juice (SA).
	4.85	05.05.87	A–351–605	A–326	Brazil	Frozen Concentrated Orange Juice.
	4.85	04.18.85	A–588–401	A–189	Japan	Calcium Hypochlorite.
	5.85	03.16.76	C–351–029	C4–20	Brazil	Castor Oil.
	5.85	07.14.94	A–570–825	A–653	China, PR	Sebacic Acid.
	6.85	06.24.85	A–122–401	A–196	Canada	Red Raspberries.
	8.85	08.15.85	C–122–404	C–224	Canada	Live Swine.
	10.85	10.22.85	C–351–406	C–223	Brazil	Tillage Tools.
	11.85	11.13.85	A–357–405	A–208	Argentina	Barbed Wire.

PROPOSED SCHEDULE AND GROUPING—Continued

Initiation month/yr	Group avg date month/yr	Effective date (mm.dd.yy)	DOC case No.	ITC case No.[1]	Country	Product
Jan. 99	12.85	12.04.85	A–614–502	A–246	New Zealand	Brazing Copper Wire & Rod.
	12.85	01.29.86	A–791–502	A–247	South Africa	Brazing Copper Wire & Rod.
	12.85	12.19.85	A–588–405	A–207	Japan	Cellular Mobile Phones.
	2.86	02.14.86	A–570–501	A–244	China, PR	Paint Brushes.
	3.86	10.04.83	A–570–003	A–103	China, PR	Shop Towels.
	3.86	03.09.84	C–535–001	C–202	Pakistan	Shop Towels.
	3.86	09.12.84	C–333–401	C-None	Peru	Cotton Shop Towels (SA).
	3.86	03.20.92	A–538–802	A–514	Bangladesh	Shop Towels.
	7.86	07.17.86	A–507–502	A–287	Iran	Pistachio Nuts.
	8.86	08.28.86	A–570–504	A–282	China, PR	Candles.
	9.86	10.15.73	A–588–045	AA–124	Japan	Steel Wire Rope.
	9.86	03.25.93	A–201–806	A–547	Mexico	Steel Wire Rope.
	9.86	03.26.93	A–580–811	A–546	Korea (South)	Steel Wire Rope.
	11.86	05.21.86	A–351–505	A–278	Brazil	Malleable Cast Iron Pipe Fittings.
	11.86	05.23.86	A–580–507	A–279	Korea (South)	Malleable Cast Iron Pipe Fittings.
	11.86	05.23.86	A–583–507	A–280	Taiwan	Malleable Cast Iron Pipe Fittings.
	11.86	07.06.87	A–588–605	A–347	Japan	Malleable Cast Iron Pipe Fittings.
	11.86	08.20.87	A–549–601	A–348	Thailand	Malleable Cast Iron Pipe Fittings.
Feb. 99	1.87	12.02.86	A–570–506	A–298	China, PR	Porcelain-on-Steel Cooking Ware.
	1.87	12.02.86	A–201–504	A–297	Mexico	Porcelain-on-Steel Cooking Ware.
	1.87	12.02.86	A–583–508	A–299	Taiwan	Porcelain-on-Steel Cooking Ware.
	1.87	12.12.86	C–201–505	C–265	Mexico	Porcelain-on-Steel Cooking Ware.
	1.87	01.20.87	A–580–601	A–304	Korea (South)	Top-of-the-Stove Stainless Steel Cooking Ware.
	1.87	01.20.87	C–580–602	C–267	Korea (South)	Top-of-the-Stove Stainless Steel Cooking Ware.
	1.87	01.20.87	C–583–604	C–268	Taiwan	Top-of-the-Stove Stainless Steel Cooking Ware.
	1.87	01.20.87	A–583–603	A–305	Taiwan	Top-of-the-Stove Stainless Steel Cooking Ware.
	3.87	03.12.87	C–421–601	C–278	Netherlands	Standard Chrysanthemums.
	3.87	03.18.87	A–301–602	A–329	Colombia	Fresh Cut Flowers.
	3.87	03.18.87	A–331–602	A–331	Ecuador	Fresh Cut Flowers.
	3.87	03.19.87	C–337–601	C–276	Chile	Standard Carnations.
	3.87	03.20.87	A–337–602	A–328	Chile	Standard Carnations.
	3.87	04.23.87	A–779–602	A–332	Kenya	Standard Carnations.
	3.87	04.23.87	A–201–601	A–333	Mexico	Fresh Cut Flowers.
	3.87	04.23.87	C–333–601	C3–18	Peru	Pompon Chrysanthemums.
	5.87	01.08.87	C–351–604	C–269	Brazil	Brass Sheet & Strip.
	5.87	01.12.87	A–351–603	A–311	Brazil	Brass Sheet & Strip.
	5.87	01.12.87	A–122–601	A–312	Canada	Brass Sheet & Strip.
	5.87	01.12.87	A–580–603	A–315	Korea (South)	Brass Sheet & Strip.
	5.87	03.06.87	C–427–603	C–270	France	Brass Sheet & Strip.
	5.87	03.06.87	A–427–602	A–313	France	Brass Sheet & Strip.
	5.87	03.06.87	A–428–602	A–317	Germany	Brass Sheet & Strip.
	5.87	03.06.87	A–475–601	A–314	Italy	Brass Sheet & Strip.
	5.87	03.06.87	A–401–601	A–316	Sweden	Brass Sheet & Strip.
	5.87	08.12.88	A–588–704	A–379	Japan	Brass Sheet & Strip.
	5.87	08.12.88	A–421–701	A–380	Netherlands	Brass Sheet & Strip.
Mar. 99	7.87	07.14.87	A–831–801	A–340	Armenia	Solid Urea.
	7.87	07.14.87	A–832–801	A–340	Azerbaijan	Solid Urea.
	7.87	07.14.87	A–822–801	A–340	Belarus	Solid Urea.
	7.87	07.14.87	A–447–801	A–340	Estonia	Solid Urea.
	7.87	07.14.87	A–833–801	A–340	Georgia	Solid Urea.
	7.87	07.14.87	A–428–605	A–338	Germany	Solid Urea.
	7.87	07.14.87	A–843–801	A–340	Kazakstan	Solid Urea.
	7.87	07.14.87	A–835–801	A–340	Kyrgyzstan	Solid Urea.
	7.87	07.14.87	A–449–801	A–340	Latvia	Solid Urea.
	7.87	07.14.87	A–451–801	A–340	Lithuania	Solid Urea.
	7.87	07.14.87	A–841–801	A–340	Moldova	Solid Urea.
	7.87	07.14.87	A–485–601	A–339	Romania	Solid Urea.
	7.87	07.14.87	A–821–801	A–340	Russia	Solid Urea.
	7.87	07.14.87	A–842–801	A–340	Tajikistan	Solid Urea.
	7.87	07.14.87	A–843–801	A–340	Turkmenistan	Solid Urea.
	7.87	07.14.87	A–823–801	A–340	Ukraine	Solid Urea.
	7.87	07.14.87	A–844–801	A–340	Uzbekistan	Solid Urea.
	7.87	01.19.88	A–122–701	A–374	Canada	Potassium Chloride (Potash) (SA).
	8.87	08.19.87	C–508–605	C–286	Israel	Industrial Phosphoric Acid.
	8.87	08.19.87	A–508–604	A–366	Israel	Industrial Phosphoric Acid.
	8.87	08.20.87	A–423–602	A–365	Belgium	Industrial Phosphoric Acid.
	8.87	08.25.87	A–489–602	A–364	Turkey	Aspirin.
Apr. 99	1.88	01.07.88	A–122–605	A–367	Canada	Color Picture Tubes.
	1.88	01.07.88	A–588–609	A–368	Japan	Color Picture Tubes.
	1.88	01.07.88	A–580–605	A–369	Korea (South)	Color Picture Tubes.

PROPOSED SCHEDULE AND GROUPING—Continued

Initiation month/yr	Group avg date month/yr	Effective date (mm.dd.yy)	DOC case No.	ITC case No.[1]	Country	Product
	1.88	01.07.88	A–559–601	A–370	Singapore	Color Picture Tubes.
	6.88	08.08.76	A–588–054	AA–143	Japan	Tapered Roller Bearings, 4 Inches and Under.
	6.88	06.15.87	A–570–601	A–344	China, PR	Tapered Roller Bearings.
	6.88	06.19.87	A–437–601	A–341	Hungary	Tapered Roller Bearings.
	6.88	06.19.87	A–485–602	A–345	Romania	Tapered Roller Bearings.
	6.88	10.06.87	A–588–604	A–343	Japan	Tapered Roller Bearings, Over 4 Inches.
	6.88	05.15.89	A–427–801	A–392	France	Cylindrical Roller Bearings.
	6.88	05.15.89	A–427–801	A–392	France	Ball Bearings.
	6.88	05.15.89	A–427–801	A–392	France	Spherical Plain Bearings.
	6.88	05.15.89	A–428–801	A–391	Germany	Spherical Plain Bearings.
	6.88	05.15.89	A–428–801	A–391	Germany	Cylindrical Roller Bearings.
	6.88	05.15.89	A–428–801	A–391	Germany	Ball Bearings.
	6.88	05.15.89	A–475–801	A–393	Italy	Ball Bearings.
	6.88	05.15.89	A–475–801	A–393	Italy	Cylindrical Roller Bearings.
	6.88	05.15.89	A–588–804	A–394	Japan	Cylindrical Roller Bearings.
	6.88	05.15.89	A–588–804	A–394	Japan	Spherical Plain Bearings.
	6.88	05.15.89	A–588–804	A–394	Japan	Ball Bearings.
	6.88	05.15.89	A–485–801	A–395	Romania	Ball Bearings.
	6.88	05.15.89	A–559–801	A–396	Singapore	Ball Bearings.
	6.88	05.15.89	A–401–801	A–397	Sweden	Ball Bearings.
	6.88	05.15.89	A–401–801	A–397	Sweden	Cylindrical Roller.
	6.88	05.15.89	A–412–801	A–399	United Kingdom	Cylindrical Roller Bearings.
	6.88	05.15.89	A–412–801	A–399	United Kingdom	Ball Bearings.
	6.88	06.07.88	A–588–703	A–377	Japan	Forklift Trucks.
	6.88	06.16.88	A–588–706	A–384	Japan	Nitrile Rubber.
May 99	8.88	05.07.84	A–583–008	A–132	Taiwan	Small Diameter Carbon Steel Pipe and Tube.
	8.88	03.07.86	C–489–502	C–253	Turkey	Welded Carbon Steel Pipes and Tubes.
	8.88	03.07.86	C–489–502	C–253	Turkey	Welded Carbon Steel Line Pipe.
	8.88	03.11.86	A–549–502	A–252	Thailand	Welded Carbon Steel Pipes and Tubes.
	8.88	05.12.86	A–533–502	A–271	India	Welded Carbon Steel Pipes and Tubes.
	8.88	05.15.86	A–489–501	A–273	Turkey	Welded Carbon Steel Pipes and Tubes.
	8.88	06.16.86	A–122–506	A–276	Canada	Oil Country Tubular Goods.
	8.88	06.18.86	A–583–505	A–277	Taiwan	Oil Country Tubular Goods.
	8.88	11.13.86	A–559–502	A–296	Singapore	Small Diameter Standard & Rectangular Pipe & Tube.
	8.88	03.06.87	A–508–602	A–318	Israel	Oil Country Tubular Goods
	8.88	03.06.87	C–508–601	C–271	Israel	Oil Country Tubular Goods
	8.88	03.27.89	A–583–803	A–410	Taiwan	Light Walled Rectangular Tubing.
	8.88	05.26.89	A–357–802	A–409	Argentina	Light Walled Rectangular Tubing.
	8.88	11.02.92	A–351–809	A–532	Brazil	Circular-Welded Non-Alloy Steel Pipe.
	8.88	11.02.92	A–580–809	A–533	Korea (South)	Circular-Welded Non-Alloy Steel Pipe.
	8.88	11.02.92	A–201–805	A–534	Mexico	Circular-Welded Non-Alloy Steel Pipe.
	8.88	11.02.92	A–583–814	A–536	Taiwan	Circular-Welded Non-Alloy Steel Pipe.
	8.88	11.02.92	A–307–805	A–537	Venezuela	Circular-Welded Non-Alloy Steel Pipe.
	8.88	08.24.88	A–588–707	A–386	Japan	Granular Polytetrafluoroetheylene Resin.
	8.88	08.30.88	A–475–703	A–385	Italy	Granular Polytetraflouroetheylene Resin.
	3.89	12.17.86	A–351–602	A–308	Brazil	Carbon Steel Butt-Weld Pipe Fittings.
	3.89	12.17.86	A–583–605	A–310	Taiwan	Carbon Steel Butt-Weld Pipe Fittings.
	3.89	02.10.87	A–588–602	A–309	Japan	Carbon Steel Butt-Weld Pipe Fittings.
	3.89	07.06.92	A–570–814	A–520	China, PR	Carbon Steel Butt-Weld Pipe Fittings.
	3.89	07.06.92	A–549–807	A–521	Thailand	Carbon Steel Butt-Weld Pipe Fittings.
	4.89	04.03.89	A–588–802	A–389	Japan	Micro Disks.
	4.89	04.17.89	A–484–801	A–406	Greece	Electrolytic Manganese Dioxide.
	4.89	04.17.89	A–588–806	A–408	Japan	Electrolytic Manganese Dioxide.
Jun. 99	6.89	06.14.89	A–428–802	A–419	Germany	Industrial Belts Except Synchronous & V Belts.
	6.89	06.14.89	A–475–802	A–413	Italy	Synchronous and V-Belts.
	6.89	06.14.89	A–588–807	A–414	Japan	Industrial Belts.
	6.89	06.14.89	A–559–802	A–415	Singapore	V-Belts.
	9.89	08.10.83	A–427–009	A–96	France	Industrial Nitrocellulose.
	9.89	07.10.90	A–351–804	A–439	Brazil	Industrial Nitrocellulose.
	9.89	07.10.90	A–570–802	A–441	China, PR	Industrial Nitrocellulose.
	9.89	07.10.90	A–428–803	A–444	Germany	Industrial Nitrocellulose.
	9.89	07.10.90	A–588–812	A–440	Japan	Industrial Nitrocellulose.
	9.89	07.10.90	A–580–805	A–442	Korea (South)	Industrial Nitrocellulose.
	9.89	07.10.90	A–412–803	A–443	United Kingdom	Industrial Nitrocellulose.
	9.89	10.16.90	A–479–801	A–445	Yugoslavia	Industrial Nitrocellulose.
	9.89	09.15.89	A–122–804	A–422	Canada	Steel Rail.
	9.89	09.22.89	C–122–805	C–297	Canada	Steel Rail.
	12.89	12.29.89	A–588–811	A–432	Japan	Drafting Machines.
	1.90	12.11.89	A–588–809	A–426	Japan	Small Business Telephone Systems.
	1.90	12.11.89	A–583–806	A–428	Taiwan	Small Business Telephone Systems.

PROPOSED SCHEDULE AND GROUPING—Continued

Initiation month/yr	Group avg date month/yr	Effective date (mm.dd.yy)	DOC case No.	ITC case No.[1]	Country	Product
	1.90	02.07.90	A–580–803	A–427	Korea (South) ...	Small Business Telephone Systems.
	2.90	02.16.90	A–588–810	A–429	Japan	Mechanical Transfer Presses.
	11.90	11.19.90	A–588–813	A–455	Japan	Multiangle Laser Light Scattering Instruments.
	2.91	02.13.91	A–588–816	A–462	Japan	Benzyl Paraben.
July 99	2.91	02.19.91	A–570–803	A–457	China, PR	Bars, Wedges.
	2.91	02.19.91	A–570–803	A–457	China, PR	Axes, Adzes.
	2.91	02.19.91	A–570–803	A–457	China, PR	Picks, Mattocks.
	2.91	02.19.91	A–570–803	A–457	China, PR	Hammers, Sledges.
	2.91	02.19.91	A–570–805	A–466	China, PR	Sulfur Chemicals (Sodium Thiosulfate).
	2.91	02.19.91	A–428–807	A–465	Germany	Sulfur Chemicals (Sodium Thiosulfate).
	2.91	02.19.91	A–412–805	A–468	United Kingdom	Sulfur Chemicals (Sodium Thiosulfate).
	4.91	01.03.83	C–469–004	C–178	Spain	Stainless Steel Wire Rods.
	4.91	12.01.93	A–533–808	A–638	India	Stainless Steel Wire Rods.
	4.91	01.28.94	A–351–819	A–636	Brazil	Stainless Steel Wire Rods.
	4.91	01.28.94	A–427–811	A–637	France	Stainless Steel Wire Rods.
	4.91	12.03.87	A–401–603	A–354	Sweden	Seamless Stainless Steel Hollow Products.
	4.91	12.30.92	A–580–810	A–540	Korea (South) ...	Welded Stainless Steel Pipes.
	4.91	12.30.92	A–583–815	A–541	Taiwan	Welded Stainless Steel Pipes.
	4.91	04.12.91	A–403–801	A–454	Norway	Fresh & Chilled Atlantic Salmon.
	4.91	04.12.91	C–403–802	C–302	Norway	Fresh & Chilled Atlantic Salmon.
	6.91	06.05.91	A–580–807	A–459	Korea (South) ...	Polyethylene Terephthalate Film.
	6.91	06.18.91	A–570–804	A–464	China, PR	Sparklers.
	8.91	03.25.88	A–588–702	A–376	Japan	Stainless Steel Butt-Weld Pipe Fittings.
	8.91	02.23.93	A–580–813	A–563	Korea (South) ...	Stainless Steel Butt-Weld Pipe Fittings.
	8.91	06.16.93	A–583–816	A–564	Taiwan	Stainless Steel Butt-Weld Pipe Fittings.
Aug. 99	9.91	09.04.91	A–588–817	A–469	Japan	Flat Panel Displays (Electroluminescent).
	9.91	09.20.91	A–570–808	A–474	China, PR	Chrome-Plated Lug Nuts.
	9.91	09.20.91	A–583–810	A–475	Taiwan	Chrome-Plated Lug Nuts.
	11.91	11.21.91	A–570–811	A–497	China, PR	Tungsten Ore Concentrates.
	2.92	08.30.90	A–201–802	A–451	Mexico	Grey Portland Cement and Cement Clinker.
	2.92	05.10.91	A–588–815	A–461	Japan	Grey Portland Cement and Cement Clinker.
	2.92	02.27.92	A–307–803	A–519	Venezuela	Grey Portland Cement and Cement Clinker (SA).
	2.92	03.17.92	C–307–804	C3–21	Venezuela	Grey Portland Cement and Cement Clinker (SA).
	2.92	06.13.94	A–427–812	A–645	France	Calcium Aluminate Flux.
	6.92	06.02.92	A–614–801	A–516	New Zealand	Kiwifruit.
	8.92	08.31.92	C–122–815	C–309	Canada	Pure Magnesium.
	8.92	08.31.92	C–122–815	C–309	Canada	Alloy Magnesium.
	8.92	08.31.92	A–122–814	A–528	Canada	Pure Magnesium.
	10.92	10.07.92	A–557–805	A–527	Malaysia	Extruded Rubber Thread.
	12.92	10.16.92	A–843–802	A–539	Kazakhstan	Uranium (SA).
	12.92	10.16.92	A–835–802	A–539	Kyrgyzstan	Uranium (SA).
	12.92	10.16.92	A–821–802	A–539	Russia	Uranium (SA).
	12.92	10.16.92	A–844–802	A–539	Uzbekistan	Uranium (SA).
	12.92	08.30.93	A–823–802	A–539	Ukraine	Uranium.
Sep. 99	1.93	06.13.79	A–583–080	AA–197	Taiwan	Carbon Steel Plate.
	1.93	10.11.85	C–401–401	C–231	Sweden	Carbon Steel Products.
	1.93	08.17.93	C–423–806	C–319	Belgium	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–351–818	C–320	Brazil	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–427–810	C–348	France	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.17.93	C–428–817	C–322	Germany	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–428–817	C–349	Germany	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.17.93	C–428–817	C–340	Germany	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.17.93	C–580–818	C–342	Korea (South) ...	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.17.93	C–580–818	C–350	Korea (South) ...	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.17.93	C–201–810	C–325	Mexico	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–469–804	C–326	Spain	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–401–804	C–327	Sweden	Cut-to-Length Carbon Steel Plate.
	1.93	08.17.93	C–412–815	C–328	United Kingdom	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–602–803	A–612	Australia	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–423–805	A–573	Belgium	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–351–817	A–574	Brazil	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–122–822	A–614	Canada	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–122–823	A–575	Canada	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–405–802	A–576	Finland	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–427–808	A–615	France	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–428–815	A–616	Germany	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–428–814	A–604	Germany	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.19.93	A–428–816	A–578	Germany	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–588–826	A–617	Japan	Corrosion-Resistant Carbon Steel Flat Products.
	1.93	08.19.93	A–580–816	A–618	Korea (South) ...	Corrosion-Resistant Carbon Steel Flat Products.

PROPOSED SCHEDULE AND GROUPING—Continued

Initiation month/yr	Group avg date month/yr	Effective date (mm.dd.yy)	DOC case No.	ITC case No.[1]	Country	Product
	1.93	08.19.93	A–580–815	A–607	Korea (South) ...	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.19.93	A–201–809	A–582	Mexico	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–421–804	A–608	Netherlands	Cold-Rolled Carbon Steel Flat Products.
	1.93	08.19.93	A–455–802	A–583	Poland	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–485–803	A–584	Romania	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–469–803	A–585	Spain	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–401–805	A–586	Sweden	Cut-to-Length Carbon Steel Plate.
	1.93	08.19.93	A–412–814	A–587	United Kingdom	Cut-to-Length Carbon Steel Plate.
Oct. 99	1.93	08.19.92	A–570–815	A–538	China, PR	Sulfanilic Acid.
	1.93	03.02.93	C–533–807	C–318	India	Sulfanilic Acid.
	1.93	03.02.93	A–533–806	A–561	India	Sulfanilic Acid.
	3.93	03.22.93	C–351–812	C–314	Brazil	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3.93	03.22.93	A–351–811	A–552	Brazil	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3.93	03.22.93	A–427–804	A–553	France	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3.93	03.22.93	C–427–805	C–315	France	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3.93	03.22.93	C–428–812	C–316	Germany	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3.93	03.22.93	A–428–811	A–554	Germany	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3.93	03.22.93	C–412–811	C–317	United Kingdom	Hot-Rolled Lead & Bismuth Carbon Steel Products.
	3.93	03.22.93	A–412–810	A–555	United Kingdom	Hot-Rolled Lead & Bismuth Carbon Steel Products.
Nov. 99	5.93	06.10.91	A–570–806	A–472	China, PR	Silicon Metal.
	5.93	07.31.91	A–351–806	A–471	Brazil	Silicon Metal.
	5.93	09.26.91	A–357–804	A–470	Argentina	Silicon Metal.
	5.93	03.11.93	A–570–819	A–567	China, PR	Ferrosilicon.
	5.93	04.07.93	A–843–804	A–566	Kazakstan	Ferrosilicon.
	5.93	04.07.93	A–823–804	A–569	Ukraine	Ferrosilicon.
	5.93	05.10.93	C–307–808	C3–23	Venezuela	Ferrosilicon.
	5.93	06.24.93	A–821–804	A–568	Russia	Ferrosilicon.
	5.93	06.24.93	A–307–807	A–570	Venezuela	Ferrosilicon.
	5.93	03.14.94	A–351–820	A–641	Brazil	Ferrosilicon.
	5.93	10.31.94	A–823–805	A–673	Ukraine	Silicomanganese (SA).
	5.93	12.22.94	A–351–824	A–671	Brazil	Silicomanganese.
	5.93	12.22.94	A–570–828	A–672	China, PR	Silicomanganese.
	5.93	05.10.93	A–580–812	A–556	Korea (South) ...	DRAMS of 1 Megabit and Above.
	7.93	07.12.93	A–588–823	A–571	Japan	Electric Cutting Tools.
	8.93	06.28.93	A–583–820	A–625	Taiwan	Helical Spring Lock Washers.
	8.93	10.19.93	A–570–822	A–624	China, PR	Helical Spring Lock Washers.
	9.93	09.07.93	A–570–820	A–621	China, PR	Compact Ductile Iron Waterworks Fittings and Glands.
Dec. 99	2.94	02.09.94	A–533–809	A–639	India	Forged Stainless Steel Flanges.
	2.94	02.09.94	A–583–821	A–640	Taiwan	Forged Stainless Steel Flanges.
	3.94	03.02.94	A–588–829	A–643	Japan	Defrost Timers.
	6.94	06.24.94	A–421–805	A–652	Netherlands	Aramid Fiber.
	7.94	06.07.94	C–475–812	C–355	Italy	Grain-Oriented Electrical Steel.
	7.94	06.10.94	A–588–831	A–660	Japan	Grain-Oriented Electrical Steel.
	7.94	08.12.94	A–475–811	A–659	Italy	Grain-Oriented Electrical Steel.
	8.94	08.12.94	A–588–832	A–661	Japan	Color Negative Photo Paper & Chemical Components (SA).
	8.94	08.12.94	A–421–806	A–662	Netherlands	Color Negative Photo Paper & Chemical Components (SA).
	11.94	11.16.94	A–570–831	A–683	China, PR	Garlic.
	11.94	11.25.94	A–570–826	A–663	China, PR	Paper Clips.
	12.94	12.28.94	A–570–827	A–669	China, PR	Cased Pencils.

[1] Key to ITC case number:
A = Antidumping:
AA = Antidumping Act of 1921.
A = Section 731 of the Tariff Act of 1930.

C = Countervailing Duty:
C = Section 701 of the Tariff Act of 1930.
C3 = Section 303 of the Tariff Act of 1930.
C4 = Section 104 of the Trade Agreements Act of 1979.
C-None = No Commission investigation; order suspended (i.e., not ''black-hole'').

[FR Doc. 97–26699 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Tag Recapture Card

ACTION: Proposed collection; comment request.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)).

DATES: Written comments must be submitted on or before December 8, 1997.

ADDRESSES: Direct all written comments to Linda Engelmeier, Departmental Forms Clearance Officer, Department of Commerce, Room 5327, 14th and Constitution Avenue, NW, Washington DC 20230.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument(s) and instructions should be directed to David Rosenthal, NOAA, F/SEC4, 75 Virginia Beach Drive, Room 224, Miami, FL 33145–1003 (305–361–4214, ext. 214).

SUPPLEMENTARY INFORMATION:

I. Abstract

The primary objectives of a fish tagging program are to obtain scientific information on fish growth and movement, information that assists in stock assessments and management. This program in the southeast U.S. asks persons randomly capturing tagged fish to voluntarily supply data on the fish—size, weight, location of capture, and similar information.

II. Method of Collection

A form is distributed to various fishing boat captains.

III. Data

OMB Number: 0648–0259.
Form Number: None.
Type of Review: Regular Submission.
Affected Public: Individuals.
Estimated Number of Respondents: 240.
Estimated Time Per Response: 2 minutes.
Estimated Total Annual Burden Hours: 8.
Estimated Total Annual Cost to Public: $0 (no capital expenditures are required).

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: October 2, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–26849 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 093097F]

Highly Migratory Species Advisory Panel; Public Meeting

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

ACTION: Notice of public meeting.

SUMMARY: The Atlantic Highly Migratory Species Advisory Panel (HMS AP) will hold its first meeting to discuss issues in and future management options for the fisheries for Atlantic HMS. The HMS AP will meet from 1:00 p.m. to 5:00 p.m. on October 16 and 8:00 a.m. to 5:00 p.m. October 17, 1997.

DATES: The meetings will be held from 1:00 p.m. to 5:00 p.m. on October 16 and 8:00 a.m. to 5:00 p.m. October 17, 1997.

ADDRESSES: The AP meeting will be held in room 1W611, 1325 East-West Highway, Silver Spring, MD.

FOR FURTHER INFORMATION CONTACT: Jill Stevenson or Liz Lauck, telephone: (301) 713–2347, fax: (301) 713–1917.

SUPPLEMENTARY INFORMATION: The HMS AP is established under the authority of the Magnuson-Stevens Fishery Conservation and Management Act, 16 U.S.C. 1801 *et seq.* The HMS AP will assist the Secretary of Commerce in collecting and evaluating information relevant to development of a fishery management plan (FMP) for Atlantic tunas, swordfish and sharks. All AP meetings are open to the public and will be attended by members of the AP, including appointed members, representatives of the five Fishery Management Councils that work with HMS, and the Chair, or his representative, of the U.S. Advisory Committee to the International Commission for the Conservation of Atlantic Tunas. Agenda items for the HMS AP include:

(1) Discussion of a draft issues and options (scoping) document for HMS management.

(2) Review of the requirements and schedule for developing FMPs.

(3) Discussion of scoping meetings and scoping schedule.

(4) Discussion of operating practices and procedures for the AP.

Special Accommodations

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

Dated: October 3, 1997.

Gary C. Matlock,

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

[FR Doc. 97–26731 Filed 10–3–97; 4:30 pm]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Commission of Fine Arts; Notice of Meeting

The next meeting of the Commission of Fine Arts is scheduled for 16 October 1997 at 10:00 am in the Commission's offices at the Pension Building, Suite 312, Judiciary Square, 441 F Street, N.W., Washington, D.C. 20001. The meeting will focus on a variety of projects affecting the appearance of the city.

Inquiries regarding the agenda and requests to submit written or oral statements should be addressed to

Charles H. Atherton, Secretary, Commission of Fine Arts, at the above address or call 202–504–2000. Individuals requiring sign language interpretation for the hearing impaired should contact the Secretary at least 10 days before the meeting date.

Dated in Washington, DC, 1 October 1997.

Charles H. Atherton,

Secretary.

[FR Doc. 97–26832 Filed 10–8–97; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increase of Guaranteed Access Levels for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Dominican Republic

October 6, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing certain guaranteed access levels.

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Roy Unger, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these levels, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

Upon a request from the Government of the Dominican Republic, the U.S. Government has agreed to increase the current Guaranteed Access Levels (GALs) for certain textile products.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 62 FR 66263, published on December 17, 1996). Also see 61 FR 65375, published on December 12, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

October 6, 1997.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 6, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textile products, produced or manufactured in the Dominican Republic and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 9, 1997, you are directed to increase the Guaranteed Access Levels (GALs) for the following categories:

Category	Guaranteed Access Level
338/638	5,150,000 dozen.
347/348/647/648	9,550,000 dozen.
442	85,000 dozen.
448	70,000 dozen.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–26851 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits and Charges for Certain Cotton, Wool, Man-Made Fiber, Silk Blend and Other Vegetable Fiber Textiles and Textile Products Produced or Manufactured in Korea

October 3, 1997.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 927–5850. For information on embargoes and quota re-openings, call (202) 482–3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854); Uruguay Round Agreements Act.

The current limits for certain categories are being adjusted, variously, for swing, carryover, carryforward, carryforward used, special shift and special swing.

In accordance with the special swing provision contained in the exchange of notes dated April 2 and April 8, 1997 between the Governments of the United States and Korea, 2,837,439 square meters equivalent shall be charged to the current Group II limit.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 61 FR 66263, published on December 17, 1996). Also see 61 FR 59087, published on November 20, 1996.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing, but are designed to assist only in the implementation of certain of their provisions.

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements
October 3, 1997.
Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on November 14, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Korea and exported during the period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 9, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Group I	
200–223, 224–V [2], 224–O [3], 225–229, 300–326, 360–363, 369–O [4], 400–414, 464–469, 600–629, 665–669 and 670–O [5], as a group.	440,195,625 square meters equivalent.
Sublevels in Group I	
200	507,280 kilograms.
201	1,985,720 kilograms.
611	4,040,926 square meters.
619/620	100,521,750 square meters.
624	8,691,687 square meters.
625/626/627/628/629	16,779,463 square meters.
Group II	
237, 239, 330–359, 431–459 and 630–659, as a group	569,921,785 square meters equivalent.
Sublevels in Group II	
239	1,079,351 kilograms.
333/334/335	286,834 dozen of which not more than 146,604 dozen shall be in Category 335.
336	65,306 dozen.
338/339	1,389,068 dozen.
340	784,855 dozen of which not more than 407,521 dozen shall be in Category 340–D [6].
341	216,395 dozen.
342/642	253,382 dozen.
345	127,351 dozen.
347/348	565,127 dozen.
350	19,376 dozen.
351/651	261,613 dozen.
352	193,802 dozen.
433	14,665 dozen.
434	7,451 dozen.
435	38,720 dozen.
436	15,730 dozen.
438	61,885 dozen.
442	53,654 dozen.
444	59,277 numbers.
445/446	56,831 dozen.
448	38,967 dozen.
631	321,228 dozen pairs.
633/634/635	1,413,840 dozen of which not more than 159,534 dozen shall be in Category 633 and not more than 597,400 dozen shall be in Category 635.
636	290,957 dozen.
638/639	5,424,682 dozen.
640–D [7]	3,051,475 dozen.
641	1,028,174 dozen of which not more than 39,851 dozen shall be in Category 641–Y [8].
647/648	1,233,118 dozen.
650	26,043 dozen.
659–H [9]	1,325,005 kilograms.
Sublevel in Group III	
835	30,878 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.
[2] Category 224–V: only HTS numbers 5801.21.0000, 5801.23.0000, 5801.24.0000, 5801.25.0010, 5801.25.0020, 5801.26.0010, 5801.26.0020, 5801.31.0000, 5801.33.0000, 5801.34.0000, 5801.35.0010, 5801.35.0020, 5801.36.0010 and 5801.36.0020.
[3] Category 224–O: all remaining HTS numbers in Category 224.
[4] Category 369–O: all HTS numbers except 4202.12.4000, 4202.12.8020, 4202.12.8060, 4202.92.1500, 4202.92.3015, 4202.92.6090 (Category 369–L), and 5601.21.0090.
[5] Category 670–O: all HTS numbers except 4202.12.8030, 4202.12.8070, 4202.92.3020, 4202.92.3030 and 4202.92.9025 (Category 670–L).
[6] Category 340–D: only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2025 and 6205.20.2030.
[7] Category 640–D: only HTS numbers 6205.30.2010, 6205.30.2020, 6205.30.2030, 6205.30.2040, 6205.90.3030 and 6205.90.4030.
[8] Category 641–Y: only HTS numbers 6204.23.0050, 6204.29.2030, 6206.40.3010 and 6206.40.3025.
[9] Category 659–H: only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5090, 6505.90.6090, 6505.90.7090 and 6505.90.8090.

Also, for goods exported in 1997, you are directed to charge 2,837,439 square meters equivalent to the limit established for Group II for the period January 1, 1997 through December 31, 1997.

The Committee for the Implementation of Textile Agreements has determined that these actions fall

within the foreign affairs exception of the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–26761 Filed 10–8–97; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF DEFENSE

Office of the Secretary

National Defense Panel Meeting

AGENCY: DoD, National Defense Panel.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and summary agenda for the meeting of the National Defense Panel on October 7 and 8, 1997. In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this National Defense Panel meeting concerns matters listed in 5 U.S.C. 552b(c)(1)(1982), and that accordingly this meeting will be closed to the public from 0830–1700, October 7 and 8, 1997 in order for the Panel to discuss classified material.

DATES: October 7 and 8, 1997.

ADDRESSES: Suite 532, 1931 Jefferson Davis Hwy, Arlington, VA.

SUPPLEMENTARY INFORMATION: The National Defense Panel was established on January 14, 1997 in accordance with the Military Force Structure Review Act of 1996, Pub. L. 104–201. The mission of the National Defense Panel is to provide the Secretary of Defense and Congress with an independent, non-partisan assessment of the Secretary's Quadrennial Defense Review and an Alternative Force Structure Analysis. This analysis will explore innovative ways to meet the national security challenges of the twenty-first century.

PROPOSED SCHEDULE AND AGENDA: The National Defense Panel will meet in closed session from 0900–1700 on October 7 and from 0900–1700 on October 8, 1997. During the closed session on October 7 from 0900–1000 during the closed session, the National Defense Panel staff will meet with Donald Latham, Vice President Space Program Strategies & Integration, Lockheed Martin at the Crystal Mall 3 office. On October 8 from 1300–1500 during the closed session the Panel will meet with General Max Baratz, US Army Reserves at the Crystal Mall 3 office. The remainder of the Panel's time will be used to discuss the NDP staff presentations on various future strategies, desired capabilities, and developing force elements.

The determinaiton to close the meeting is based on the consideration that it is expected that discussion will involve classified matters of national security concern throughout.

This Notification also is written verification that the Panel was unable to provide 15 day notification prior to the meeting date due to a newly scheduled meeting.

FOR FURTHER INFORMATION CONTACT: Please contact the National Defense Panel at (703) 602–4175/6.

Dated: October 3, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–26703 Filed 10–8–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

National Defense Panel Meeting

AGENCY: DoD, National Defense Panel.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and summary agenda for the meeting of the National Defense Panel on October 20 and 21, 1997. In accordance with Section 10(d) of the Federal Advisory Committee Act, Pub. L. No. 92–463, as amended [5 U.S.C. App. II, (1982)], it has been determined that this National Defense Panel meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public from 0830–1700, October 20 and 21, 1997 in order for the Panel to discuss classified material.

DATES: October 20 and 21, 1997.

ADDRESSES: Suite 532, 1931 Jefferson Davis Hwy, Arlington, VA.

SUPPLEMENTARY INFORMATION: The National Defense Panel was established on January 14, 1997 in accordance with the Military Force Structure Review Act of 1996, Public Law 104–201. The mission of the National Defense Panel is to provide the Secretary of Defense and Congress with an independent, non-partisan assessment of the Secretary's Quadrennial Defense Review and an Alternative Force Structure Analysis. This analysis will explore innovative ways to meet the national security challenges of the twenty-first century.

PROPOSED SCHEDULE AND AGENDA: The National Defense Panel will meet in closed session from 0900–1700 on October 20 and 21 to discuss the NDP staff presentations on various future strategies, desired capability, and developing force elements at the Crystal Mall 3 office.

The determination to close the meeting is based on the consideration that it is expected that discussion will involve classified matters of national security concern throughout.

FOR FURTHER INFORMATION CONTACT: Please contact the National Defense Panel at (703) 602–4175/6.

Dated: October 3, 1997.

L.M. Bynum,

Alternate OSD Federal Register, Liaison Officer, Department of Defense.

[FR Doc. 97–26704 Filed 10–8–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Department of the Air Force

Privacy Act of 1974; System of Records

AGENCY: Department of the Air Force, DoD.

ACTION: Record system notice amendment.

SUMMARY: The Department of the Air Force proposes to amend a system of records notice in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: The amendment will be effective on November 10, 1997, unless comments are received that would result in a contrary determination.

ADDRESSES: Send comments to the Air Force Access Programs Manager, Headquarters, Air Force Communications and Information Center/ITC, 1250 Air Force Pentagon, Washington, DC 20330–1250.

FOR FURTHER INFORMATION CONTACT: Mrs. Anne Rollins at (703) 697–8674 or DSN 227–8674.

SUPPLEMENTARY INFORMATION: The Department of the Navy's record system notices for records systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address above.

The proposed amendments are not within the purview of subsection (r) of the Privacy Act (5 U.S.C. 552a), as amended, which would require the submission of a new or altered system report for each system. The specific changes to the record system being amended are set forth below followed by the notice as amended, published in its entirety.

Dated: October 3, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F031 AF SP M

SYSTEM NAME:

Personnel Security Access Records *(June 11, 1997, 62 FR 31793).*

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with 'System includes documentation pertaining to requesting, granting, and terminating access to classified information, including various special access programs; dates of briefings, debriefings; restricted area badge numbers; access to specific restricted areas; personnel security information and security clearance.'

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with '10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 164, Commanders of Combatant Commands; and E.O. 9397 (SSN).'

PURPOSE(S):

Add to end of entry 'Records are also used to verify authorization for access to specific restricted areas.'

* * * * *

STORAGE:

Add to end of entry 'Also maintained in computers, computer output products or a combination of all.'

* * * * *

SAFEGUARDS:

Add to end of entry 'Those in computer storage devices are protected by computer system software.'

SYSTEM MANAGER(S) AND ADDRESS:

Add to end of entry 'and Combatant Command Security Manager where individual is assigned.'

* * * * *

RECORD SOURCE CATEGORIES:

Add to end of entry 'and from the individual or individual's supervisor.'

F031 AF SP M

SYSTEM NAME:

Personnel Security Access Records.

SYSTEM LOCATION:

Offices of installation Chiefs of Security Police where individual is assigned or employed or at headquarters of Combatant Commands for which Air Force is Executive Agent. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices. Also at the National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO, 63132–2001, or Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO, 63118–2001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty military and civilian personnel, Air Force Reserve and Air National Guard personnel, Air Force Academy cadets, American Red Cross Personnel, Exchange Officers, and Foreign Nationals. Army, Navy, Air Force and Marine Corps active duty military and civilian personnel assigned to headquarters of Combatant Commands for which Air Force is Executive Agent.

CATEGORIES OF RECORDS IN THE SYSTEM:

System includes documentation pertaining to requesting, granting, and terminating access to classified information, including various special access programs; dates of briefings, debriefings; restricted area badge numbers; access to specific restricted areas; personnel security information and security clearance.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 164, Commanders of Combatant Commands; and E.O. 9397 (SSN).

PURPOSE(S):

Records are used to record level of security clearance and level of access to classified information that has been authorized. Information is used by commanders, supervisors, and security managers to insure that individuals who receive classified information have been properly investigated, cleared, have a definite need-to-know, and have been properly debriefed. Records are also used to verify authorization for access to specific restricted areas.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, these records or information contained therein may specifically be disclosed outside the DoD as a routine use pursuant to 5 U.S.C. 552a(b)(3) as follows:

The 'Blanket Routine Uses' published at the beginning of the Air Force's compilation of systems of records notices apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in file folders, notebooks/binders, visible file binders/cabinets or card files. Also maintained in computers, computer output products or a combination of all.

RETRIEVABILITY:

Retrieved by Name and/or Social Security Number.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Records are stored in security file containers/cabinets, safes or vaults, or in locked cabinets or rooms. Those in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Retained in office files until reassignment or separation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. (Exception: Records on non-immigrant aliens are retained for two years after termination of access or employment, then destroyed, as above). Security Termination Statements are retired one year after termination of service or employment to the Director, National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–2001, or Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO, 63118–2001. Records indicating that access to classified information has been withdrawn for cause are forwarded to installation Chief of Security Police for disposition.

SYSTEM MANAGER(S) AND ADDRESS:

Chief of Security Police, Headquarters United States Air Force. Commanders of organization units and the Director, National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–2001, or Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118–2001, and Combatant Command Security Manager where individual is assigned.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to or visit the Chief of Security Police, Headquarters United

States Air Force; Commanders of organization units; Director, National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–2001, or Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118–2001, and Combatant Command Security Manager where individual is assigned.

Personal visits require positive identification. Provide full name, Social Security Number, and military rank or civilian rating.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Chief of Security Police, Headquarters United States Air Force; Commanders of organization units; Director, National Personnel Records Center, Military Personnel Records, 9700 Page Boulevard, St. Louis, MO 63132–2001, or Civilian Personnel Records, 111 Winnebago Street, St. Louis, MO 63118–2001, and Combatant Command Security Manager where individual is assigned.

Personal visits require positive identification. Provide full name, Social Security Number, and military rank or civilian rating.

CONTESTING RECORD PROCEDURES:

The Air Force rules for accessing records, and for contesting contents and appealing initial agency determinations are published in Air Force Instruction 37–132; 32 CFR part 806b; or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from medical institutions, from police and investigating officers, or from source documents such as reports and from the individual or individual's supervisor.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–26705 Filed 10–8–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF DEFENSE

Department of the Army

Draft Supplemental Environmental Impact Statement (DSEIS) for Final Site Selection and Authorization for Implementation of the Proposed G.V. (Sonny) Montgomery Range, Camp Shelby Training Site, Camp Shelby, Mississippi

AGENCIES: National Guard Bureau, Department of the Army, DoD; Department of Agriculture, Forest Service.

ACTION: Notice of Availability.

SUMMARY: In the July 1994 Military Use of Forest Service Lands Final Environmental Impact Statement (FEIS), the G.V. (Sonny) Montgomery Range is referred to as the Multiple Purpose Range Complex-Heavy (MPRC–H). Any reference to the MPRC–H in this or other documents refers to the G.V. (Sonny) Montgomery Range. The July 1994 FEIS and Record of Decision provided an environmental analysis in support of the issuance of a special use permit for continued military use of Forest Service lands in De Soto National Forest. The FEIS recognized that military use of Forest Service lands included construction of an MPRC–H within the Camp Shelby complex, although it did not specify the location. This draft document contains the site-specific environmental analysis concerning the proposed location and alternatives on Camp Shelby for MPRC–H construction.

The G.V. (Sonny) Montgomery Range is a standard Army gunnery range which has three maneuver avenues with two course roads per avenue. Only non-dud producing (or ''nonexplosive'') ammunition will be fired within the target array. The range has a maximum of 270 targets which can be engaged with either live fire or the Multiple Integrated Laser Engagement System (MILES). The proposed range facility would allow armor and mechanized infantry units to fulfill all their gunnery requirements on an annual basis. The proposed project would consist of the range operation and control area, the downrange area, and the vehicle holding and maintenance area. The range operation and control area is the center of responsibility for overall control and coordination of movement and training exercises within the complex and is also the administrative center for the range complex. Range support facilities in this area may include the control tower, general instruction buildings, personnel and storage buildings, target maintenance building, latrines, covered mess, covered bleachers, and lysterbag holder. Also, an ammunition loading/unloading dock for armor munitions and an ammunition breakdown shelter or infantry should be provided (Huntsville Multiple Purpose Range Complex-Heavy Design Information Guide).

The downrange area consists of three 4,500-meter by 300-meter lanes, each separated by a 50-meter buffer zone, and contains the following target and simulation devices: 4 moving armor targets, 20 stationary armor targets, 51 stationary infantry targets, 15 moving infantry targets, and 30 defilade positions. Access to target mechanisms would be provided by means of service roads to facilitate the installation and maintenance of the target mechanisms. The maneuver trails themselves would be used as much as possible. The vehicle holding and maintenance area requires approximately 5,000 square meters (1 to 2 acres), sufficient area for a maneuvering and parking area for at least 17 tracked vehicles. In addition, this area would contain a 100-square-meter hardstand for maintenance purposes.

The proposed G.V. (Sonny) Montgomery Range supports collective training at the small unit level (platoon level). The ''floor'' level training requirement for maneuver units has been established at the platoon level while progressing to company and battalion task force level training. Units using the proposed range complex will include tanks, infantry/cavalry fighting vehicles and attack helicopters. These armor and mechanized infantry units are required to conduct annual crew qualification. This is accomplished by firing Range Table VIII. Armor units must also maintain a ''floor,'' minimum range facility that accommodates platoon level collective training as well as individual and crew qualification training. The proposed range complex provides the facilities for conducting advanced combat gunnery training and qualification. This advanced training develops collective skills at the small unit level. It requires sections and platoons to employ moving and stationary target engagement techniques with all weapon systems during daylight and periods of limited visibility.

The lack of a MPRC–H at Camp Shelby was noted in the Department of Defense response to a Government Accounting Office report, ''Peacetime Training Did Not Adequately Prepare Combat Brigades for Gulf War,'' dated September 1991. The Mississippi Army National Guard considers construction of this range complex vital to the training and combat readiness of the armor and mechanized infantry units that train at Camp Shelby. The proposed range complex will enhance the training capabilities and efficiencies at Camp Shelby by providing for simultaneous utilization of tank gunnery ranges and tank maneuver areas. It will permit more tanks to complete fire requirements simultaneously, leading to more efficient and effective utilization of training facilities at Camp Shelby.

COMMENT PERIOD: The comment period for this DSEIS ends 45 days after the date of publication of the Environmental Protection Agency's Notice of Availability in the **Federal Register**. Two public meetings have been conducted in Hattiesburg, Mississippi, concerning the proposed action. An additional public hearing will be held during the 45-day comment period. All comments will be addressed and incorporated into the final document. Comments should be forwarded to the address listed below.

FOR FURTHER INFORMATION CONTACT:

Colonel Parker Hills, Public Affairs Office, Mississippi Army National Guard, P.O. Box 5027, Jackson, Mississippi 39296–5027; telephone (601 973–6349, facsimile extension 6176.

Dated: October 2, 1997.

Raymond J. Fatz,

Deputy Assistant Secretary of the Army (Environment, Safety and Occupational Health, OASA (I, L&E).

[FR Doc. 97–26868 Filed 10–8–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Board of Visitors, United States Military Academy

AGENCY: U.S. Military Academy, DoD.

ACTION: Notice of open meeting.

SUMMARY: In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), announcement is made of the following meeting:

Name of Committee: Board of Visitors, United States Military Academy (USMA).

Date of Meeting: October 31, 1997.

Place of Meeting: Superintendent's Conference Room, Taylor Hall, United States Military Academy, West Point, New York.

Start Time of Meeting: Approximately 8 a.m.

Proposed Agenda: Preparation of the Annual Report to the President, Annual Reviews of the Athletic and Admissions programs at USMA and a program review of the United States Military Academy Preparatory School. All proceedings are open.

FOR FURTHER INFORMATION CONTACT: Lieutenant Colonel Joseph A. Dubyel, United States Military Academy, West Point, NY 10996–5000, (914) 938–4200.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–26799 Filed 10–8–97; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Public Notice of Availability of the Draft Supplemental Environmental Impact Statement for the Limited Reevaluation Study for Deepening of the Arthur Kill-Howland Hook Marine Terminal Navigation Channels

AGENCY: Corps of Engineers, DoD.

ACTION: Notice of availability.

SUMMARY: A Draft Supplemental Environmental Impact Statement (DSEIS) for the Arthur Kill-Howland Hook Marine Terminal Navigation Channel Deepening Project was prepared and the project was authorized for construction in section 202(b) of the WRDA 1986, Pub. L. 99–662. The limited reevaluation effort recommends deepening and realigning the previously authorized 35 ft below mlw project in the Arthur Kill Channel, to the 41/40-ft plan. This plan entails the realignment and deepening to a depth of 41 ft below mlw from its confluence with the Newark Bay and Kill Van Kull Channels to the Howland Hook Marine Terminal; realigning and deepening to a depth of 40 ft mlw from the Howland Hook Marine Terminal to the Tosco Oil and GATX facilities.

The 41/40-ft plan would meet the current navigational needs of the project area by improving navigational efficiency and safety. Proposed improvements would allow deep draft vessels (current vessel designs) to safely navigate the channel, while remaining fully loaded, thus avoiding the need for lightering or steaming under partial loads.

The proposed project plans were analyzed in the 1986 Feasibility Report, which included the Final Environmental Impact Statement (FEIS) (USACE 1986 a,b). These documents are available in the District office for review. This document is a Draft Supplemental Environmental Impact Statement (DSEIS) for the deepening and realignment of the Arthur Kill Channel—Howland Hook Marine Terminal, and part of the Limited Reevaluation Report (LRR). The DSEIS examines improvements to navigation and the shipment of cargo to petroleum refineries/storage facilities and marine container terminals located along the project navigation channel, and addresses the economic, social, and environmental issues related to the proposed project. The purpose of this DSEIS is to update the 1986 FEIS and evaluate the changes in conditions in the project area to determine if there are significant new issues or information relevant to environmental concerns and bearing on the proposed action or its impacts.

Potential impacts, including indirect and cumulative impacts, were evaluated for the proposed action and the other action alternatives. The analysis indicates that short-term adverse environmental impacts, such as benthic habitat disruption, would be balanced by beneficial impacts, such as revitalization of the maritime industry and permanent removal of contaminated material from the aquatic ecosystem.

The DSEIS has been prepared under the direction of the USACE, as Lead Agency in accordance with the National Environmental Policy Act (NEPA) of 1969 and is submitted in compliance with NEPA and USACE regulations. The USACE is lead Federal agency responsible for preparation of the DSEIS because the project involves improvements and/or modifications to Federal navigation channels. Comments will be accepted for forty-five (45) days after publishing of this notice.

FOR FURTHER INFORMATION CONTACT: ATTN: Ms. Jenine Gallo-EIS Coordinator, CENAN–PL–EA, Corps of Engineers, New York District, 26 Federal Plaza, NY, NY 10278–0090, Tel. 212–264–4549.

SUPPLEMENTARY INFORMATION:

Project Site Description

The Arthur Kill is an estuarine tidal strait that connects Raritan Bay to the south with Newark Bay to the north. The Arthur Kill separates Richmond County, Staten Island, New York from Union County and Middlesex County, New Jersey. The Arthur Kill is approximately 13 miles long and varies in width from approximately 800 to 2800 ft. The total surface water area is approximately 4.4 square miles.

The system receives freshwater flow from the Hackensack and Passaic rivers, which discharge into Newark Bay, and the Elizabeth and Rahway rivers and numerous smaller streams and tributaries, which drain adjacent upland areas. Tributaries located within the study area include Old Place Creek and Bridge Creek in Staten Island, and Morses Creek and the Elizabeth River in New Jersey.

The project area extends from the confluence of the Kill Van Kull, Arthur Kill, and Lower Newark Bay, west and south toward Piles Creek. This includes the Elizabethport Reach, Gulfport Reach, and the North of Shooters Island Reach.

The project area shoreline (and vicinity) has undergone extensive industrial and residential development. The New Jersey shoreline has been almost completely developed with riprap and ship-berthing areas. The Staten Island shoreline has also been developed, although to a much lesser extent. Industrial development is heaviest along the North of Shooters Island and Elizabethport reaches.

The waterways are intensively used navigation channels, and with the recent dredging and reoccupation of the Howland Hook Marine Terminal (located within the project area), previously one of New York Harbor's most active marine terminals, activity will increase above present levels. Although much of the project area shoreline has been developed and the Arthur Kill is heavily used for commercial navigation, the project area still contains a variety of biological and natural resources. These resources include migratory and resident fish and shellfish populations as well as the heron rookeries. While fish and wildlife resources use the area year round, recreational opportunities are generally limited.

A deepened and realigned channel in the Arthur Kill will permit existing facilities to efficiently accommodate the larger ocean-going vessels calling on the Port.

Simeon Hook,

Acting Chief, Planning Division.

[FR Doc. 97–26800 Filed 10–8–97; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Public Notice of Availability for the Final Supplemental Environmental Impact Statement and General Reevaluation Report of the Green Brook Flood Control Project in the Green Brook Sub-Basin of the Raritan River Basin, Middlesex, Union and Somerset Counties in the State of New Jersey

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

ACTION: Notice of availability.

SUMMARY: The Army Corps of Engineers, New York District (NYDCOE), in coordination with the project sponsor, the New Jersey Department of Environmental Protection (NJDEP), has conducted a General Reevaluation Study and prepared a Supplemental Impact Statement for an authorized flood protection project in the Green Brook Sub-Basin of the Raritan River in New Jersey. A Final Environmental Impact Statement and a Record of Decision were prepared for the project in 1980. This report has been prepared in association with the Reevaluation Study and is a supplement to the 1980 Final Environmental Impact Statement.

The project proposes to provide flood protection to residents in Somerset, Middlesex and Union Counties through the use of levees, flood-proofing, flood walls, detention basins and stream channelization. The plan also provides for a mitigation plan for environmental impacts. The project is divided into three separate portions of the Sub-basin: the upper portion, the lower portion and the Stony Brook portion. The proposed flood protection measures which were described in the DSEIS for the upper portion of the Sub-basin have been deferred at the request of the local sponsor, pending further study.

The Draft Supplement Environmental Impact Statement (DSEIS) was filed on January 6, 1997. The DSEIS was released for public review from January 6, 1997 through March 7, 1997. This review period included four formal public meetings and numerous informal information sessions with various groups. The public coordination process confirmed the need for the project. However, the coordination process identified concerns with the proposed construction of the detentions basins in the upper portion of the basin in the Boroughs of Berkeley Heights, Watchung, and Scotch Plains. The local sponsor, NJDEP, has asked the NYDCOE to defer construction of the upper portion of the project at this time but to continue work on the lower and Stony Brook portions of the project. Accordingly, this final document is considered a decision document for construction implementation of the lower and Stony Brook portions of the basin only.

FOR FURTHER INFORMATION CONTACT:

Mr. Bill Richardson, ATTN: CENAN–PL–ES, Army Corps of Engineers, New York District, 26 Federal Plaza, New York, NY 10278–0090, Tel. (212) 264–2199.

SUPPLEMENTARY INFORMATION:

Background

The Green Brook Sub-basin is a component of the Raritan River drainage basin in north central New Jersey. The Green Brook Sub-Basin has a 65 square mile watershed. The Sub-Basin is located between the Watchung Mountains and the Raritan River in Middlesex, Somerset, and Union Counties.

In response to resolutions of the United States Senate Public Works Committee adopted 15 September 1955 and 10 July 1972 to adopt recommendations for flood control, the U.S. Army Corps of Engineers, New York District prepared a feasibility report and a final environmental impact statement in August 1980. A project similar to ''Plan A'' as described in the 1980 feasibility study was authorized for construction under the Water Resources Development Act of 1986.

The flood problems of the Green Brook Sub-Basin result from a combination of natural hydrologic and hydraulic features coupled with dense development within the floodplains. The Green Brook flows southwest from the slopes of the Watchung Mountains. The path of the streams within the sub-basin flow from relatively undeveloped mountains through a broad flat floodplain which is largely suburban and industrialized. Streams included in the study are: Ambrose Brook, Bound Brook, Bonygutt Brook, Municipal Brook, Stony Brook, Blue Brook, Cedar Brook, and Middle Brook. Flood damages in the tri-county basin are quite severe due to the level of development within the sub-basin. Notable storms which have caused flood conditions in the sub-basin occurred in May 1968, August 1971, August 1973, July 1975, September 1979, July 1984, and October 1996.

The Final Supplemental Environmental Impact Statement (FSEIS) describes in the impacts of the proposed project on environmental and cultural resources in the study area. The FSEIS also applies guidelines issued by the Environmental Protection Agency, under the authority of the Clean Water Act of 1977 (Pub. L. 96–217). An evaluation for the purposed actions on the waters of the United States was performed pursuant to the guidelines of the Administrator, U.S. Environmental Protection Agency, under authority of Section 404 of the Clean Water Act. The results of the evaluation are presented in the SEIS.

This Notice of Availability is being sent to organizations and individuals known to have an interest in the project.

Please bring this notice to the attention of any other individuals with an interest in this matter. Copies of the FSEIS and General Reevaluation Report are available upon request for review at the following locations:

Berkeley Heights Public Library, 290 Plainfield Avenue, Berkley Heights, New Jersey.

Bound Brook Public Library, 402 Ease High Street, Bound Brook, New Jersey.

Bridgewater Public Library, Box 6700, Bridgewater, New Jersey.

Dunellen Public Library, New Market Road, Dunellen, New Jersey.

Fanwood Public Library, North Avenue and Tillotson Road, Fanwood, New Jersey.

Middlesex Public Library, 1300 Mountain Avenue, Middlesex, New Jersey.

North Plainfield Public Library, 6 Rockview Avenue, North Plainfield, New Jersey.

Piscataway Public Library, 500 Hoes Lane, Piscataway, New Jersey.

Plainfield Public Library, 8th and Park Avenue, Plainfield, New Jersey.

Scotch Plains Public Library, 1927 Bartle Avenue, Scotch Plains, New Jersey.

South Plainfield Public Library, 2840 Plainfield Avenue, South Plainfield, New Jersey.

Summit Public Library, 75 Maple Street, Summit, New Jersey.

Watchung Public Library, 12 Stirling Road, Watchung, New Jersey.

John Sassi, P.E.,

Chief, Planning Division.

[FR Doc. 97–26798 Filed 10–8–97; 8:45 am]

BILLING CODE 3710–06–M

DEPARTMENT OF DEFENSE

Department of the Army

Corps of Engineers

Inland Waterways Users Board

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

ACTION: Notice of open meeting.

SUMMARY: In accordance with Section 10(a)(2) of the Federal Advisory Committee Act, Pub. L. 92–463, announcement is made of the next meeting of the Inland Waterways Users Board. The meeting will be held on November 20, 1997, in Charleston, West Virginia, at the Holiday Inn Charleston House, 600 Kanawha Boulevard East, Charleston, West Virginia, (Tel. 304–344–4092). Registration will begin at 12:30 PM and the meeting is scheduled to adjourn at 4:00 PM. The meeting is open to the public. Any interested person may attend, appear before, or file statements with the committee at the time and in the manner permitted by the Committee.

FOR FURTHER INFORMATION CONTACT: Mr. Norma T. Edwards, Headquarters, U.S. Army Corps of Engineers, CECW–PD, Washington, DC 20314–1000.

SUPPLEMENTARY INFORMATION: None.

Gregory D. Showalter,

Army Federal Register Liaison Officer.

[FR Doc. 97–26796 Filed 10–8–97; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF EDUCATION

Notice of Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Proposed collection; comment request.

SUMMARY: The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, invites comments on the proposed information collection requests as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before December 8, 1997.

ADDRESSES: Written comments and requests for copies of the proposed information collection requests should be addressed to Patrick J. Sherrill, Department of Education, 600 Independence Avenue, S.W., Room 5624, Regional Office Building 3, Washington, DC 20202–4651.

FOR FURTHER INFORMATION CONTACT: Patrick J. Sherrill (202) 708–8196. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The Acting Deputy Chief Information Officer, Office of the Chief Information Officer, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment at the address specified above. Copies of the requests are available from Patrick J. Sherrill at the address specified above.

The Department of Education is especially interested in public comment addressing the following issues: (1) is this collection necessary to the proper functions of the Department, (2) will this information be processed and used in a timely manner, (3) is the estimate of burden accurate, (4) how might the Department enhance the quality, utility, and clarity of the information to be collected, and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology.

Dated: October 3, 1997.

Linda Tague,

Acting Deputy Chief Information Officer, Office of the Chief Information Officer.

Office of Educational Research and Improvement

Type of Review: Reinstatement.

Title: 1998 Field Test for Schools and Staffing Survey (SASS): LEA, Administrator, School, Teacher and Finance.

Frequency: One Time.

Affected Public: Individuals or households; Not-for-profit institutions; State, local or Tribal Gov't, SEAs or LEAs.

Reporting Burden and Recordkeeping:

Responses: 2,800.

Burden Hours: 3,834.

Abstract: The National Center for Education Statistics (NCES) will use the field test to assess data collection procedures and new questions that are planned for the next full-scale SASS in 1999–2000. Policy makers, researchers, and practitioners at the national, state, and local levels use SASS data. Respondents include public and private school principals, teachers, and school and LEA staff persons.

[FR Doc. 97–26726 Filed 10–8–97; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Paducah

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Paducah Gaseous Diffusion Plant

DATES: Thursday, October 16, 1997: 6 p.m.–9 p.m.

ADDRESSES: Heath High School (cafeteria), 4330 Metropolis Lake Road, West Paducah, Kentucky.

FOR FURTHER INFORMATION CONTACT: Carlos Alvarado, Site-Specific Advisory Board Coordinator, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, (502) 441–6804.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The meeting will include updates on the Environmental Management and Enrichment Facilities Project report and new members, and reviews of the Water Policy, the SSAB Draft Work Plan, and administrative plans for the board.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Carlos Alvarado at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments as the first topic on the agenda. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday-Friday, except Federal holidays. Minutes will also be available at the Department of Energy's Environmental Information and Reading Room at 175 Freedom Boulevard, Highway 60, Kevil, Kentucky between 8 a.m. and 5 p.m. on Monday through Friday, or by writing to Carlos Alvarado, Department of Energy Paducah Site Office, Post Office Box 1410, MS–103, Paducah, Kentucky 42001, or by calling him at (502) 441–6804.

Issued at Washington, DC on October 3, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–26839 Filed 10–8–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Rocky Flats

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Rocky Flats.

DATES: Thursday, October 9, 1997, 6 p.m.–9:30 p.m.

ADDRESSES: Arvada Center for the Arts and Humanities, 6901 Wadsworth Boulevard, Arvada, CO

FOR FURTHER INFORMATION CONTACT: Ken Korkia, Board/Staff Coordinator, EM SSAB-Rocky Flats, 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021, phone: (303) 420–7855, fax: (303) 420–7579.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

1. The Board will hear from an independent contractor it hired to review Rocky Flats environmental monitoring systems. The contractor, Parker-Hall, Inc., will present the results of its study, as well as recommendations for change.

2. The Board will discuss and approve its 1998 work plan and budget.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Ken Korkia at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments at the beginning of the meeting. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available at the Public Reading Room located at the Board's office at 9035 North Wadsworth Parkway, Suite 2250, Westminster, CO 80021; telephone (303) 420–7855. Hours of operation for the Public Reading Room are 9 am and 4 pm on Monday through Friday. Minutes will also be made available by writing or calling Deb Thompson at the Board's office address or telephone number listed above.

Issued at Washington, DC on October 3, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–26840 Filed 10–8–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board, Kirtland Area Office (Sandia)

DATES: Wednesday, October 15, 1997: 6 p.m.–9 p.m. (Mountain Daylight Time).

ADDRESSES: John Marshall Community Center, 1500 Walter SE, Albuquerque, New Mexico.

FOR FURTHER INFORMATION CONTACT: Mike Zamorski, Acting Manager, Department of Energy Kirtland Area Office, PO Box 5400, Albuquerque, NM 87185 (505) 845–4094.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE and its regulators in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda

6:00 p.m.—Call to Order/Roll Call—Jamie Wells, Chair
6:02 p.m.—Public Comments
6:12 p.m.—Approval of Agenda; Approval of 8/20/97 Minutes
6:22 p.m.— Chair's Report—Jamie Wells
6:32 p.m.—Staff Report
6:37 p.m.—1. Basic Radiological Principles Presentation
6:52 p.m.—Questions on Basic Radiological Principles Presentation
7:00 p.m.—2. Site Wide Environmental Impact Statement Presentation
7:10 p.m.—Questions on Site Wide Environmental Impact Statement Presentation
7:15 p.m.—Northern New Mexico Citizens' Advisory Board Discussion
7:25 p.m.—4. Vote on Bylaw Amendments
7:40 p.m.—5. Regional National Dialogue Presentation
7:55 p.m.—Questions on National Dialogue Presentation
8:06 p.m.—Break
8:10 p.m.—7. Accelerating Cleanup: Focus on 2006 Recommendations
8:25 p.m.—8. Self Evaluation—Report
8:40 p.m.—9. Budget & Planning—Report
8:45 p.m.—New/Other Business
8:50 p.m.—Public Comment Period
8:55 p.m.—Agenda Items for Next Meeting on 11/19/97
8:58 p.m.—Announcement of Next Meeting

A final agenda will be available at the meeting Wednesday, October 15, 1997.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Individuals who wish to make oral statements pertaining to agenda items should contact Mike Zamorski's office at the address or telephone number listed above. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Designated Federal Official is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Each individual wishing to make public comment will be provided a maximum of 5 minutes to present their comments. This notice is being published less than 15 days in advance of the meeting due to programmatic issues that needed to be resolved.

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9 a.m. and 4 p.m., Monday–Friday, except Federal holidays. Minutes will also be available by writing to Mike Zamorski, Department of Energy Kirtland Area Office, P.O. Box 5400, Albuquerque, NM 87185, or by calling (505) 845–4094.

Issued at Washington, DC on October 3, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–26841 Filed 10–8–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–774–000]

CNG Transmission Corporation and Texas Eastern Transmission Corporation; Notice of Application

October 3, 1997.

Take notice that on September 26, 1997, CNG Transmission Corporation (CNG), 445 West Main Street, Clarksburg, West Virginia 26301, and Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, filed in Docket No. CP97–774–000 an application pursuant to Section 7 of the Natural Gas Act and Part 157 of the Commission's Regulations.

The Applicants seek a Certificate of Public Convenience and Necessity granting authorization:

1. To construct, install, own, operate, and maintain certain additional compression facilities at the Oakford Compression Station, and certain new or replacement pipeline facilities to increase the storage capacity of the Oakford Storage Complex (Oakford), located in Westmoreland County, Pennsylvania, by 10 Bcf, at an estimated cost of $44,032,000 to be shared equally by the Applicants;

2. To convert to working capacity 2.75 Bcf of Murrysville storage reservoir's capacity that was held to support deliverability requirements gas in CNG's Order 636 restructuring;

3. To increase deliverability from CNG's Greenlick Storage Complex located in Potter County, Pennsylvania, by 150 MMcf/d, by modifying the existing dehydration system and other auxiliary installations, at an estimated cost of $875,000;

4. To convert 2.56 Bcf of existing base gas capacity at CNG's Fink-Kennedy/Lost Creek Complex to working gas capacity;

5. For CNG to utilize its share of the expansion capacity as part of its Market Area Storage Project;

6. For Texas Eastern to utilize its share of the expanded storage capacity and injection/withdrawal capability as system storage;

7. For Texas Eastern to recover its cost of service associated with these facilities through its storage cost credit/surcharge mechanism, including the true-up for actual gas costs; and

8. Of certain revised pro-forma Texas Eastern tariff sheets, all as more fully set forth in the application on file with the Commission and open to public inspection.

The Applicants state that they each own an undivided one-half interest in Oakford, and that CNG is the operator of that facility. CNG states that it has begun a well stimulation program designed to improve deliverability lost due to deterioration within the two storage reservoirs in Oakford. This program would maximize efficient use of existing and proposed compression, allow Applicants to maintain the current certificated deliverability, and minimize the need for future additional compression horsepower. CNG feels no certificate is necessary for these well stimulations, as the program will maximize efficient use of the existing and proposed compression, minimize the need for future additional compression, and allow maintenance of current certificated deliverability.

The Applicants further state that they will replace the existing dehydration system at the Oakford Compression Station which will increase its efficiency. They will also replace the existing 325 feet of suction line at the Lincoln Heights Compressor Station. The Applicants feel that both of these replacements are within the definition of an auxiliary installation pursuant to § 2.55 of the Commission's regulations, and therefore require no certificate authorization.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C., 20426, a motion to intervene or a protest in

accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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 motion to intervene is filed within the time required herein, if the Commission on its on review of the matter finds that permission and approval for the proposed abandonment is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the Applicants to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26739 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. TM98–2–22–000 and RP97–212–002]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, CNG Transmission Corporation (CNG), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the tariff sheets listed on the filing.

CNG requests an effective date of December 31, 1996 for Sheet No. 388. For all other sheets, CNG requests an effective date of November 1, 1997.

CNG states that the purpose of this filing is to update CNG's effective Transportation Cost Rate Adjustment (TCRA), through the annual adjustment mechanism provided in Section 15 of the General Terms and Conditions of CNG's Tariff. The effect of the proposed TCRA on each element of CNG's rates is summarized in workpapers that are attached to the filing.

Also, CNG states that it is correcting an inadvertent error made in its Order No. 582 compliance filing on Sheet No. 388, regarding interest calculations.

CNG states that copies of its letter of transmittal and enclosures are being mailed to its customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC, 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protects 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. 97–26751 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory commission

[Docket No. RP98–10–000]

CNG Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, CNG Transmission Corporation (CNG) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following tariff sheets, with an effective date of November 1, 1997:

Thirty-First Revised Sheet No. 32
Thirty-First Revised Sheet No. 33

CNG states that the purpose of this filing is to submit CNG's quarterly revision of the Section 18.2.B. Surcharge, effective for the three-month period commencing November 1, 1997. The charge for the quarter ending October 31, 1997 has been $0.0094 per Dt, as authorized by Commission order dated July 22, 1997, in Docket No. RP97–412. CNG's proposed Section 18.2.B. surcharge for the next quarterly period is $0.0269 per Dt. The revised surcharge is designed to recover $218,125 in Stranded Account No. 858 Costs, which CNG incurred for the period of June 1997, through August 1997.

CNG states that copies of this letter of transmittal and enclosures are being mailed to CNG's customers and interested state commissions.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, DC, 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26781 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–542–000]

Columbia Gas Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on September 30, 1997 Columbia Gas Transmission Corporation (Columbia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective October 1, 1997:

Twenty-first Revised Sheet No. 25
Twenty-first Revised Sheet No. 26
Twenty-first Revised Sheet No. 27
Twenty-second Revised Sheet No. 28
Twelfth Revised Sheet No. 29
Thirteenth Revised Sheet No. 30

Columbia states that this filing is being submitted pursuant to Article III, Section C, Collections under Section 46 of the General Terms and Conditions of Columbia's Tariff SFC Provision of the Stipulation and Agreement in Docket No. RP95–408, et al., approved by the Commission on April 17, 1997 (79 FERC ¶ 61,044 (1997)). In accordance with this provision, Columbia was permitted to collect $22.4 million via the SFC rate. As of September 30, 1997, Columbia has collected $22.9 million of SFC revenues. By this filing, Columbia states that it is proposing to terminate the SFC rate effective October 1, 1997. In addition, Columbia will refund to customers via a billing credit approximately $0.5 million of collections in the month of September 1997 over the $22.4 million cap. The total excess collections will be allocated to customers based on total collections during the month of September 1997.

Columbia requests a waiver of Section 154.207 of the Commission's regulations in order to permit Columbia to remove the SFC Rate effective October 1, 1997. Granting this waiver allows Columbia's customers to avoid any additional over-recoveries of SFC revenues.

Columbia states further that copies of this filing have been mailed to all of its customers, affected state regulatory commissions, and all parties on the official service in this proceeding.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed 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. 97–26759 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TQ98–1–23–000]

Eastern Shore Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on September 30, 1997, Eastern Shore Natural Gas Company (ESNG) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, certain revised tariff sheets in the above captioned docket, with a proposed effective date of October 1, 1997.

ESNG states the revised tariff sheets are being filed pursuant to Section 21 of the General Terms and Conditions of ESNG's Gas Tariff to reflect changes in ESNG's jurisdictional sales rates. The sales rates set forth on the revised tariff sheets reflect an increase of $0.9928 per dt in the Commodity Charge, as measured against ESNG's corresponding sales rates in Docket No. TQ97–6–23–000 as filed on June 27, 1997, to be effective August 1, 1997.

The commodity current purchased gas cost adjustment reflects ESNG's projected cost of gas for the month of October, 1997, and has been calculated using its best estimate of available gas supplies to meet ESNG's anticipated purchase requirements. The increased gas costs in this filing are a result of higher prices being paid to producers-marketers under ESNG's market-responsive gas supply contracts.

ESNG states that copies of the filing have been served upon its jurisdictional customers and interested State 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 Section 385.211 and Section 385.214 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 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. 97–26750 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–16–001]

Idaho Power Company; Notice of Filing

October 3, 1997.

Take notice that on August 15, 1997, Idaho Power Company (IPC) tendered for filing with the Federal Energy Regulatory Commission an Index of Purchasers listing all customers who have executed Service Agreements under Idaho Power Company FERC Electric Tariff No. 5.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All motions or protests should be filed on or before October 15, 1997. Protests will be considered by the Commission 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. 97–26743 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–110–000]

Iroquois Gas Transmission System, L.P.; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on September 30, 1997, Iroquois Gas Transmission System, L.P. (Iroquois) tendered for filing Eighteenth Revised Sheet No. 4 to its FERC Gas Tariff, First Revised Volume No. 1. The proposed effective

date of this revised tariff sheet is November 1, 1997.

Iroquois states that pursuant to Part 154 of the Commission's Regulations and Section 12.3 of the General Terms and Conditions of its tariff, Iroquois is filing the referenced tariff sheet and supporting workpapers as part of its annual update of its Deferred Asset Surcharge to reflect the annual revenue requirement associated with its Deferred Asset for the amortization period commencing November 1, 1997. The revised tariff sheet reflects a decrease of $.0001 per Dth in Iroquois effective Deferred Asset Surcharge for Zone 1 (from $.0008 to $.0007 per Dth) and an increase in the Zone 2 surcharge of $.0001 per Dth (from $.0006 to $.0007 per Dth). The Inter-Zone surcharge of $.0015 per Dth remains unchanged.

Iroquois states that copies of its filing were served on all jurisdictional customers and interested state 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, N.E., Washington, DC 20426, in accordance with 18 CFR 385.214 and 385.211 of the Commission's Rules of Practice and Procedures. 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. 97–26749 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–122–004]

Maine Public Service Company; Notice of Filing

October 3, 1997.

Take notice that on August 15, 1997, Maine Public Service Company (MPS) tendered for filing pursuant to the Commission's July 31, 1997, Order on Compliance Tariff Rates and Generic Clarification of Implementation Procedures, Allegheny Power System, Inc., et al., 80 FERC ¶ 61,143, MPS's Open Access Transmission Tariff compliance filing. This filing contains the changes required by the Commission's July 31, Order.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 14, 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 petition to intervene. Copies of this application are on file with the Commission and available for inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26742 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–152–004]

Michigan Gas Storage Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on September 29, 1997, Michigan Gas Storage Company (MGS) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, a number of revised tariff sheets (Sheet Nos. 1, 41, 41A, 54A, 67 and 67A) with effective dates of November 1, 1997. The sheets were filed in compliance with a letter order of June 18, 1997 in this docket. The sheets and order deal with Gas Industry Standards Board standards.

MGS states that copies of this filing are being served on all customers and applicable state regulatory agencies, as well as on all those who are either on the official service list in this docket or on the official service list in Docket RP96–290–000.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with 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. 97–26758 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–71–000]

Midcoast Interstate Transmission, Inc.; Notice of Tariff Filing To Reflect Change In Corporate Name

October 3, 1997.

Take notice that on September 30, 1997, Midcoast Interstate Transmission, Inc. (MIT), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, certain tariff sheets, to be effective October 1, 1997 to reflect the change in its corporate name from Alabama-Tennessee Natural Gas Company to Midcoast Interstate Transmission, Inc.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's rules and regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26755 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–9–000]

Mississippi River Transmission Corporation; Notice of Termination of Gathering Services

October 3, 1997.

Take notice that on October 1, 1997, Mississippi River Transmission Corporation (MRT) filed to terminate the gathering services it performs over the following discrete gathering facilities: (1) The Corney Bayou System in Union Parish, Louisiana, (2) The Hico-Knowles System in Lincoln Parish, Louisiana, (3) The Leatherman Creek System in Claiborne Parish, Louisiana, (4) The Waskom System in Harrison County, Texas, and (5) the Holly Field System in DeSoto Parish, Louisiana. MRT performs services for shippers over these gathering systems pursuant to its FERC Gas Tariff, Third Revised Volume No. 1:

Twenty-Fourth Revised Sheet No. 5
Twenty-Fourth Revised Sheet No. 6
Twenty-First Revised Sheet No. 7
Second Revised Sheet No. 21
Second Revised Sheet No. 28
Second Revised Sheet No. 33
First Revised Sheet No. 61
Third Revised Sheet No. 72
Second Revised Sheet No. 111
Third revised Sheet No. 150

MRT filed to abandon these systems by sale to NorAm Field Services Corp. (NFS) in Docket No. CP96–268–000. The facilities are no longer integral to MRT's operations in the post-restructuring environment. On September 15, 1997 the Federal Energy Regulatory Commission granted the requested abandonment authorization and ordered MRT to make a Section 4 Natural Gas Act filing for authorization to terminate its gathering services.[1] MRT requests that its filing become effective November 1, 1997.

Any person desiring to be heard or protest the subject filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such motions and 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 available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26748 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

[1] *See* Mississippi River Transmission Corp., 80 FERC ¶ 61,294 (1997).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–25–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Mississippi River Transmission Corporation (MRT) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the tariff sheets listed below to be effective November 1, 1997.

Twenty-Fifth Revised Sheet No. 5
Twenty-Fifth Revised Sheet No. 6
Twenty-Second Revised Sheet No. 7
Eighth Revised Sheet No. 8

MRT states that the purpose of this filing is to adjust the Fuel Use and Loss Percentages under its Rate Schedules FTS, SCT, ITS, FSS and ISS pursuant to Section 24 of the General Terms and Conditions of its FERC Gas Tariff, Third Revised Volume No. 1.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with 18 CFR 385.214 or 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. 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. 97–26752 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–8–000]

Mississippi River Transmission Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Mississippi River Transmission Corporation (MRT), tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, the following tariff sheets, with a proposed effective date of November 1, 1997:

Twenty-Sixth Revised Sheet No. 5
Twenty-Sixth Revised Sheet No. 6
Twenty-Third Revised Sheet No. 7

MRT states that the purpose of the instant filing is to adjust its rates to reflect additional Gas Supply Realignment Costs (GSRC) of $4,643,564, plus applicable interest, pursuant to Section 16.3 of the General Terms and Conditions of MRT's Tariff. MRT states that its filing includes litigation settlement costs, buyout costs, and A Price Differential GSRC.

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, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions and protests should 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 available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26780 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–781–000]

National Fuel Gas Supply Corporation; Notice of Application For Abandonment

October 3, 1997.

Take notice that on September 29, 1997, National Fuel Gas Supply Corporation (National Fuel), 10 Lafayette Square, Buffalo, New York 14203, filed in Docket No. CP97–781–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon its Deerlick Storage Field and adjacent facilities located in Warren County, Pennsylvania, all as more fully set forth in the application on file with the Commission and open to public inspection.

National Fuel proposes to abandon by sale to Tenneco Gas Processing Company and Five Oaks, Inc., all of its facilities comprising its Deerlick Storage Field plus adjacent gathering lines and appurtenant facilities, all located in the Townships of Sheffield and Cherry Grove, Warren County, Pennsylvania. National states that its Deerlick Storage Field consists of 20 storage wells and 32,803 feet of various size well pipelines. National Fuel asserts that it has concluded that Deerlick Storage Field is no longer necessary to provide storage services, and has removed all top gas and base gas.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 24, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulation 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for National Fuel to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26741 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–16–000]

National Fuel Gas Supply Corporation; Notice of Tariff Filing

October 3, 1997.

Take notice that on September 30, 1997, National Fuel Gas Supply Corporation (National) tendered for filing as part of its FERC Gas Tariff, Fourth Revised Volume No. 1, Third Revised Sheet No. 9, with a proposed effective date of October 1, 1997.

National states that pursuant to Article I, Section 4, of the approved settlement at Docket Nos. RP94–367–000, et al., National is required to redetermine quarterly the Amortization Surcharge to reflect revisions in the Plant to be Amortized, interest and associated taxes, and a change in the determinants. The recalculation produced an Amortization Surcharge of 12.47 cents per dth.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.211 or 385.214 of the Commission's Rules of Practice and Procedure. All such motions or protests must be filed in accordance 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. 97–26782 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ97–10–000]

New York Power Authority; Notice of Filing

October 3, 1997.

Take notice that on March 26, 1997, New York Power Authority tendered for filing copies of its Standards of Conduct 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 18 CFR 385.214). All such motions or protests should be filed on or before October 15, 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. 97–26744 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–2–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets proposed to become effective on November 1, 1997:

38 Revised Sheet No. 50

38 Revised Sheet No. 51
15 Revised Sheet No. 52
16 Revised Sheet No. 60
Fifth Revised Sheet No. 263
Fourth Revised Sheet No. 263A
First Revised Sheet No. 263B
First Revised Sheet No. 263C
Second Revised Sheet No. 263D
Second Revised Sheet No. 263E
First Revised Sheet No. 263H
Original Sheet No. 263H.1

Northern states that the above-referenced tariff sheets contain proposed changes to the Carlton Resolution tariff provision.

Northern states that copies of the filing were served upon Northern's customers and interested State 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, N.E., Washington, D.C., 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26774 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–4–000]

Northern Natural Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Northern Natural Gas Company (Northern), tendered for filing to become part of Northern's FERC Gas Tariff, Fifth Revised Volume No. 1, Seventh Revised Sheet No. 68, with an effective date of November 1, 1997.

Northern states that the filing, pursuant to Northern's commitment in Docket Nos. RP94–3, RP94–415 and RP95–137, and RP96–130 reconciles over and underrecovery of Reverse Auction expenses solely attributable to changes in FERC interest rates and adjusts accordingly the direct bill amounts by shipper. Northern has filed Seventh Revised Sheet No. 68 to reflect these amounts in its Tariff and will commence billing such amounts effective November 1, 1997.

Northern states that copies of the filing were served upon the company's customers and interested State 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, N.E., Washington, D.C., 20426, in accordance with Sections 385.211 and 385.214 of the Commission's Rules and Regulations. All such petitions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26776 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–28–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Panhandle Eastern Pipe Line Company (Panhandle) 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 become effective November 1, 1997.

Panhandle states that this filing is made in accordance with Section 24 (Fuel Reimbursement Adjustment) of the General Terms and conditions in Panhandle's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets filed herewith reflect the following changes to the Fuel Reimbursement Percentages:

(1) A 0.15% increase in the Gathering Fuel Reimbursement Percentage;

(2) A 0.15% increase in the Field Zone Fuel Reimbursement Percentage;

(3) A 0.02% increase in the Market Zone Fuel Reimbursement Percentage;

(4) A 0.21% increase in the Injection and no change in the Withdrawal Field Area Storage Reimbursement Percentages; and

(5) A 0.21% increase in the Injection and a 0.21% increase in the Withdrawal Market Area Storage Reimbursement Percentages.

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protect this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26753 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–7–000]

Panhandle Eastern Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Panhandle Eastern Pipe Line Company (Panhandle) 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 become effective November 1, 1997.

Panhandle states that this filing removes from its currently effective rates the TOP Settlement Cost Surcharge of 1.00¢ per Dt. established in a July 10, 1991 Stipulation and Agreement (July 10, 1991 Settlement) in Docket No. RP91–53–000. The current volumetric surcharge in Section 18.3 of the General

Terms and Conditions (GT&C) was approved by the Commission order issued August 2, 1991, 56 FERC ¶ 61,210 (1991).

Panhandle further states that this filing removes from Panhandle's currently effective rates the Settlement Reservation Surcharge of $0.15 per Dt. and Settlement Volumetric Surcharge of 0.60¢ per Dt. established in a July 15, 1992 Stipulation and Agreement (July 15, 1992 Settlement) in Docket No. RP91–229–000, et al. The current Settlement Surcharges in Section 18.5 of the GT&C were approved by the Commission order issued August 28, 1992, 60 FERC ¶ 61,212 (1992).

Panhandle states that copies of this filing are being served on all affected customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26779 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–773–000]

Questar Pipeline Company; Notice of Request Under Blanket Authorization

October 3, 1997.

Take notice that on September 26, 1997, Questar Pipeline Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP97–773–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct and operate new delivery point facilities in Rio Blanco County, Colorado, to deliver natural gas from Questar's Main Line No. 68 to Conoco, Inc. (Conoco), under Questar's blanket certificate issued in Docket No. CP82–491–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Questar states that natural gas volumes would be delivered by Questar to Conoco at the proposed new Conoco Dragon Trail Delivery Point. Conoco would process the natural gas and then redeliver thermally equivalent volumes of processed natural gas to Questar. Questar states that the processed natural gas would then flow downstream on Questar's interstate transmission system.

The Conoco Dragon Trail delivery point facilities proposed to be installed include: (1) One 33 MMcf per day separator, (2) one 6-inch diameter Daniel Senior meter run, (3) four 6-inch diameter Rockwell plug valves, (4) two 6-inch diameter Judco check valves, (5) approximately 150 feet of 6-inch diameter surface lateral and miscellaneous fittings, (6) one 14-inch diameter Plidco hot-tapping saddle, and (7) one 6-inch diameter Orbit ball valve. Questar states that the total estimated cost of the Conoco Dragon Trail Delivery Point is $120,000. Construction of the proposed delivery point will be performed entirely within the confines of Questar's existing M.L. No. 68 right of way. The ground disturbance associated with facility installations will be limited solely to the tap on Questar's existing M.L. No. 68. All other construction related to the proposed facilities will consist of above-ground installations.

Questar states that it proposed to deliver, via the Conoco Dragon Trail Delivery Point, natural gas volumes of up to 20,000 Dth per day. The maximum capacity of the delivery point facilities is 30,000 Dth per day. Questar states that this proposal is not prohibited by its existing tariff, that there is sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers, that its peak day and annual deliveries will not be effected and that the total volumes delivered will not exceed the total volumes authorized prior to this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to 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 therefore, 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. 97–26738 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. NJ96–1–002]

South Carolina Public Service Authority; Notice of Filing

October 3, 1997.

Take notice that on July 14, 1997, the South Carolina Public Service Authority (Authority) tendered for filing its compliance filing in the above reference docket. The Authority requests that the Commission issue an order finding that its revised open access transmission tariff continues to be an acceptable reciprocity tariff. The Authority states that it has revised its open access tariff primarily to address changes the Commission made in its pro forma open access tariff in Order No. 888–A

The Authority also states that a paper copy of its filing is available for inspection at its principal place of business at One Riverwood Drive, Moncks Corner, SC, 29461.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rule 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 14, 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. 97–26745 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–544–000]

Southern Natural Gas Company; Notice of GSR Revised Tariff Sheets

October 3, 1997.

Take notice that on September 30, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following tariff sheets with the proposed effective date of October 1, 1997:

Tariff Sheets Applicable to Contesting Parties:
Thirty Third Revised Sheet No. 14
Fifty Fourth Revised Sheet No. 15
Thirty Third Revised Sheet No. 16
Fifty Fourth Revised Sheet No. 17
Thirtieth Revised Sheet No. 18
Thirty Sixth Revised Sheet No. 29
Tariff Sheets Applicable to Settling Parties:
Eighteenth Revised Sheet No. 14a
Twenty Fourth Revised Sheet No. 15a
Eighteenth Revised Sheet No. 16a
Twenty Fourth Revised Sheet No. 17a

Southern submits the revised tariff sheets to its FERC Gas Tariff, Seventh Revised Volume No. 1, to reflect a change in its FT/FT–NN GSR Surcharge, due to an increase in the FERC interest rate, and a decrease in the GSR billing units effective October 1, 1997.

Southern states that copies of the filing were served upon all parties listed on the official service list compiled by the Secretary in these proceedings.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules of Practice and Procedure. All such motions or protests should 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 Southern's filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26772 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–736–000]

Tennessee Gas Pipeline Company; Notice of Application

October 3, 1997.

Take notice that on September 8, 1997, as supplemented on September 10, 1997, and October 2, 1997, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP97–736–000, an application pursuant to Section 7(b) of the Natural Gas Act for permission and approval to abandon a 1500 feet of ruptured pipeline, all as more fully set forth in the application on file with the Commission and open to public inspection.

Tennessee seeks approval to abandon and remove a 1500 foot portion of its ruptured Burrwood Line located in Plaquemines Parish, Louisiana. Specifically Tennessee proposes to remove the ruptured segment of the line and cut and flange its north and south ends.

Any person desiring to be heard or to make protest with reference to said application should on or before October 24, 1997, file with the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory 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 motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure provided for, unless otherwise advised, it will be unnecessary for Tennessee to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26737 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–543–000]

Transcontinental Gas Pipe Line Corporation; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on September 30, 1997, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No.1, certain revised tariff sheets which tariff sheets are enumerated in Appendix A attached to the filing. The proposed tariff sheets are proposed to be effective November 1, 1997.

Transco states that the instant filing is submitted pursuant to Section 44 of the General Terms and Conditions of Transco's Volume No. 1 Tariff which provides that Transco will reflect in its rates the costs incurred for the transportation and compression of gas by others (TBO). Section 44 provides that Transco will file to reflect net changes in its TBO rates at least 30 days prior to the November 1 effective date of each annual TBO filing.

Transco states that Appendix B attached to the filing sets forth Transco's estimated TBO demand costs for the period November 1, 1997 through October 31, 1998, and the derivation of the TBO unit rate reflected on the tariff sheets included in Appendix A.

Transco states that copies of the filing are being mailed to its customers and interested State 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, Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must 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. 97–26771 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–1–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, Second Revised Sheet No. 5B.03, to become effective on November 1, 1997.

Section 25, Transition Cost Recovery Surcharge, of Transwestern's FERC Gas Tariff provides for the recovery of eligible transition costs under Order Nos. 528 et al., as defined in Section 25 (TCR II Costs). TCR II Costs are recoverable from Current Firm Shippers through a reservation surcharge (TCR II Reservation Surcharge) and are allocated annually based on the allocation factor underlying the TCR II recovery mechanism (TCR II Allocation Factor). Pursuant to Section 25 (D), for purposes of calculating the TCR II Reservation Surcharge, Transwestern is required to recalculate the TCR II Allocation Factor for each Current Firm Shipper to be effective on each subsequent November 1 during the TCR II amortization period.

Transwestern states that the purpose of this filing is to revise the new TCR II No. 1 and No. 2 Reservation Surcharges based on the updated TCR II Allocation Factors effective November 1, 1997.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C., 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions 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 in this proceeding, but will not serve to make Protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26773 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–5–000]

Transwestern Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Transwestern Pipeline Company (Transwestern), tendered for filing to become part of Transwestern's FERC Gas Tariff, Second Revised Volume No. 1, Fifth Revised Sheet No. 5B.02, with an effective of November 1, 1997.

Transwestern states that the purpose of this filing is to revise the Shared Cost Surcharge (SCS) rate for certain Current Customers to be effective November 1, 1997 (Year No. 2) in accordance with the settlement filed in the referenced dockets.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such petitions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. All protests will be considered by the Commission in determining the appropriate action to be taken in this proceeding, but will not serve to make Protestant a party 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 inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26777 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–2–30–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Trunkline Gas Company (Trunkline) 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 become effective November 1, 1997.

Trunkline states that this filing is being made in accordance with Section 22 (Fuel Reimbursement Adjustment) of Trunkline's FERC Gas Tariff, First Revised Volume No. 1. The revised tariff sheets listed on Appendix A reflect: a 0.17% increase (Field Zone to Zone 2), a 0.10% increase (Zone 1A to Zone 2), a (0.04)% decrease (Zone 1B to Zone 2), a (0.15)% decrease (Zone 2 only), a 0.26% increase (Field Zone to Zone 1B), a 0.19% increase (Zone 1A to Zone 1B), a 0.05% increase (Zone 1B only), a 0.15% increase (Field Zone to Zone 1A), a 0.08% increase (Zone 1A only and) a 0.01% increase (Field Zone only) to the currently effective fuel reimbursement percentages.

Trunkline states that copies of this filing are being served on all affected shippers and interested state regulatory agencies.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, DC 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are

available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26754 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–6–000]

Trunkline Gas Company; Notice of Proposed Changes in FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Trunkline Gas Company (Trunkline) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the Tariff sheets identified on Appendix A attached to the filing, proposed to be effective November 1, 1997.

Trunkline states that this filing removes from Trunkline's currently effective rates the Take-or-Pay Volumetric Surcharge applicable to Rate Schedules FT, SST, EFT, QNT, LFT, IT and QNIT provided under Section 25.6 of the General Terms and Conditions. The current TOP Volumetric Surcharge is 0.68 cents per Dt. for gas delivered in the Field Zone and 1.31 cents per Dt. for gas delivered in the market zone.

Trunkline states that copies of this filing are being served on all jurisdictional customers and applicable state regulatory agencies.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26778 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC97–49–000]

Notice of Filing

October 3, 1997.

In the matter of: Vastar Resources, Inc.; Vastar Gas Marketing Inc.; Vastar Power Marketing, Inc.; Vastar Energy; SEI Holdings, Inc.; Southern Energy North America, Inc.; Southern Energy Trading and Marketing, Inc.; Ashwood Holdings, Inc.; Energy Ventures, Inc.; Southern Company Energy Marketing L.P.; Southern Company Energy Marketing G.P., L.L.C.

Take notice that on September 29, 1997, the above-captioned parties (Applicants) filed an amendment to their application under Section 203 of the Federal Power Act.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and, 18 CFR 385.214). All such motions or protests should be filed on or before October 14, 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 proceedings. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26746 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–279–001]

Warren Transportation, Inc.; Notice of Tariff Filing

October 3, 1997.

Take notice that on September 30, 1997, Warren Transportation, Inc. (WTI), 1000 Louisiana, Suite 5800, Houston, Texas 77002, filed its FERC Gas Tariff, Original Volume No. 1, to be effective on November 1, 1997. WTI states that the filing is in compliance with the Commission's September 15, 1997, ''Order Issuing Certificates'' in Docket Nos. CP97–279–00, *et al.*, 80 FERC ¶ 61,292.

The September 15th Order required that WTI revise the proposed billing determinants in its rate calculation, resulting in a Maximum FTS rate of $0.9503 and Maximum ITS rate of $0.0312. WTI states it has revised Original Sheet No. 5 of its FERC Gas Tariff from the pro forma filing version to reflect these Commission approved rates. WTI also states it filed a revised version of Original Sheet No. 11 to reflect that WTI will comply with the Commission's policy providing shippers the opportunity to review negotiated rates by filing all negotiated rate agreements at the Commission. WTI also filed a revised version of Original Sheet Nos. 1 and 190 to reflect an update in the tariff contact and in its shared officers. Finally, the September 15th Order required that WTI update its tariff to conform to the existing GISB Standards that have been approved by the Commission in Order Nos. 587, *et al.* Accordingly, WTI states it has filed, to comply with the existing GISB Standards, a revised version of Original Sheet Nos. 34, 64, 109, 148, 165 and 166.

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 the Federal Energy Regulatory Commission, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 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 in any proceeding herein must file a motion to intervene in accordance with the Commission's rules. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26747 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–782–000]

Williston Basin Interstate Pipeline Company; Notice of Request Under Blanket Authorization

October 3, 1997.

Take notice that on September 29, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), 200 North Third Street, Suite 300, Bismarck, North Dakota 58501, filed in Docket No. CP97–782–000 a request pursuant to §§ 157.205, 157.211 and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211 and 157.216) for authorization to upgrade four existing meter stations in Montana and South Dakota by abandoning certain existing facilities and constructing and operating upgraded facilities resulting from Electronic Custody Transfer (ECT) measurement conversion, under Williston Basin's blanket certificate issued in Docket No. CP82–487–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request that is on file with the Commission and open to public inspection.

Williston Basin states that the existing meter stations involved are the Wolf Point in Roosevelt county and the Glasgow in Valley county, Montana, and the Lead in Lawrence county and the Sturgis in Meade county, South Dakota. Williston Basin states that the existing orifice meters at these stations will not facilitate ECT measurement and must be replaced and will result in reducing operation and maintenance costs. Williston Basin will also replace a regulator at the Glasgow station since the existing regulator doesn't provide control over intermediate pressure and is inappropriately sized. The capacity of all four meter stations will decrease as a result of these replacements.

Williston Basin states that it provides natural gas transportation deliveries through these meter stations to Montana-Dakota Utilities Co., a local distribution company. The total project cost is approximately $45,000. Williston Basin states that the facilities to be upgraded are located entirely on existing right-of-way and that all of the proposed work will be done within an existing building at the meter station sites.

Williston Basin states that this proposal is not prohibited by its existing tariff, that there is sufficient capacity to accomplish deliveries without detriment or disadvantage to other customers, that its peak day and annual deliveries will not be effected and that the total volumes delivered will not exceed the total volumes authorized prior to this request.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26740 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT98–1–000]

Williston Basin Interstate Pipeline Company; Notice of Proposed Changes In FERC Gas Tariff

October 3, 1997.

Take notice that on October 1, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheets to become effective October 1, 1997:

Seventh Revised Sheet No. 776
Ninth Revised Sheet No. 777
Ninth Revised Sheet No. 825
Fifteenth Revised Sheet No. 827
Sixteenth Revised Sheet No. 829
Seventeenth Revised Sheet No. 831
Nineteenth Revised Sheet No. 832
Nineteenth Revised Sheet No. 833

Williston Basin states that the revised tariff sheets are being filed simply to update its Master Receipt/Delivery Point List.

Any person desiring to be heard or to protest this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26756 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–3–000]

Williston Basin Interstate Pipeline Company; Notice of Tariff Filing

October 3, 1997.

Take notice that on October 1, 1997, Williston Basin Interstate Pipeline Company (Williston Basin), tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the revised tariff sheets listed on Appendix A to the filing, to become effective November 1, 1997:

Williston Basin states that the revised tariff sheets reflect modifications to its imbalance cash-out procedure to change the cash-out index price calculation and to eliminate the tiered Index Price Multiplier. Williston Basin also states that the revised tariff sheets reflect revisions to its monthly balancing procedures to no longer delineate between transactions that are electronically monitored by telemetering and those that are not. In addition, the revised tariff sheets reflect a change in the date by which shippers must arrange for an Imbalance Trade and/or Imbalance Transfer transaction, all as more fully detailed in the filing.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Sections 385.214 and 385.211 of the Commission's Rules and Regulations. All such motions or protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the

appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26775 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–1509–001, et al.]

Consumers Energy Company, et al., Electric Rate and Corporate Regulation Filings

October 3, 1997.

Take notice that the following filings have been made with the Commission:

1. Consumers Energy Company

[Docket No. ER97–1509–001]

Take notice that on September 8, 1997, Consumers Energy Company (Consumers) tendered for filing amendment to its prior July 1, 1997, filing involving for Non firm Point-To-Point Transmission Service and an amendment of its Coordinated Operating Agreement with the City of Holland.

A copy of the filing was served on the Michigan Public Service Commission and the City of Holland.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Moon Lake Electric Association, Inc.

[Docket No. ER97–4286–000]

Take notice that on September 30, 1997, Moon Lake Electric Association, Inc. (Moon Lake), submitted a Supplemental Filing to its Application for Disclaimer of Jurisdiction or, In the Alternative, Commission Acceptance of certain long-standing agreements under which it provides distribution-type delivery service to end-use customers of four purchasers. Moon Lake's Application was submitted in this docket on August 20, 1997.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Central Maine Power Company

[Docket No. ER97–4323–000]

Take notice that on September 23, 1997, Central Maine Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Central Maine Power Company

[Docket No. ER97–4324–000]

Take notice that on September 23, 1997, Central Maine Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Central Maine Power Company

[Docket No. ER97–4325–000]

Take notice that on September 23, 1997, Central Maine Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Central Maine Power Company

[Docket No. ER97–4326–000]

Take notice that on September 23, 1997, Central Maine Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Central Maine Power Company

[Docket No. ER97–4328–000]

Take notice that on September 23, 1997, Central Maine Power Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. UtiliCorp United Inc.

[Docket No. ER97–4610–000]

Take notice that on September 15, 1997, UtiliCorp United Inc. (UtiliCorp), filed a service agreement with Western Resources Generation Services for service under its Firm point-to-point open access service tariff for its operating division WestPlains Energy—Kansas.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER97–4611–000]

Take notice that on September 15, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Service Agreement with Cinergy Services, Inc., and Cook Inlet Energy Supply L.P., under PacifiCorp's FERC Electric Tariff, Original Revised Volume No. 12.

Copies of this filing were supplied to the Washington Utilities and Transportation Commission and the Public Utility Commission of Oregon.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. PacifiCorp

[Docket No. ER97–4612–000]

Take notice that on September 15, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, a Service Agreement with Public Utility District No. 1 of Okanogan County under PacifiCorp's FERC Electric Tariff, Original Volume No. 12.

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Cleveland Electric Illuminating Company and The Toledo Edison Company

[Docket No. ER97–4613–000]

Take notice that on September 15, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed Service Agreements to provide Firm Point-to-Point Transmission Service for Vitol Gas & Electric and Enron Power Marketing, the Transmission Customers. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreement are July 26, 1997 and July 28, 1997 respectively.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Energy Trading and Marketing, L.L.C., as successor-in interest) to Inland Pacific Energy Services Corporation, and Inland Pacific Resources Inc.

[Docket No. ER97–4614–000]

Take notice that on September 15, 1997, Duke Energy Trading and Marketing, L.L.C. (Duke), as successor-in-interest to Inland Pacific Energy Services Corporation (IPES), and Inland Pacific Resources Inc. (IPRI), tendered for filing a Notification of Change in Status of IPES and Submission of Revised Electric Rate Schedule No. 1 for IPRI.

In their filing, Duke and IPRI request approval of IPES' notice of change in status to transfer the authority under which IPES engages in wholesale electric power and energy transactions as a marketer pursuant to the Letter Order of the Commission, dated September 16, 1996 in Docket No. ER96–2144–000, to IPES' former parent company, IPRI. Duke and IPRI request approval of a revised Electric Service Rate Schedule No. 1, for IPES to reflect the transfer of authority from IPES to IPRI, and that the Commission grant such other approvals and waivers as are necessary for IPRI's Electric Service Rate Schedule No. 1, to become effective 60 days after the date of this filing.

In support of this filing, IPRI states that other than a transfer of authority to IPRI from IPES, there are no other changes or departures from any of the characteristics the Commission relied upon in approving IPES' market-based pricing in the Letter Order issued in Docket No. ER96–2144. IPRI also states that this transfer does not create any market power concerns and that it does not own any electric transmission facilities or have any franchised retail service areas.

In the alternative to approving the transfer of IPES authority as a marketer to IPRI as requested under the Letter Order issued in Docket No. ER96–2144, Duke and IPRI otherwise request that the Commission cancel IPES' Electric Rate Schedule No. 1 and IPES' authority under the Letter Order issued in Docket No. ER96–2144, simultaneous with the issuance of a new letter order authorizing IPRI to engage in wholesale electric power and energy transactions as a marketer and approving IPRI's Electric Service Rate Schedule No. 1.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Central Louisiana Electric Co, Inc.

[Docket No. ER97–4615–000]

Take notice that on September 15, 1997, Central Louisiana Electric Company, Inc. (CLECO), tendered for filing a service agreement under which CLECO will provide short term firm point-to-point transmission service to Southern Energy Trading and Marketing, Inc., under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on Southern Energy Trading and Marketing, Inc.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. New York State Electric & Gas Corporation

[Docket No. ER97–4616–000]

Take notice that on September 15, 1997, New York State Electric & Gas Corporation (NYSEG), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, service agreements under which NYSEG may provide capacity and/or energy to The Toledo Edison Company (TE) and Cleveland Electric Illuminating Company (CEI) (collectively Centerior Energy Corporation), MidCon Power Services Corp. (Midcon), and New Energy Ventures, Inc. (New Energy), (collectively, the Purchasers) in accordance with NYSEG's FERC Electric Tariff, Original Volume No. 1.

NYSEG has requested waiver of the notice requirements so that the service agreements with TE, CEI, Midcon, and New Energy become effective as of September 16, 1997.

The Service Agreements are subject to NYSEG's Application for Approval of Corporate Reorganization which was filed with the Commission on September 1, 1997 and was assigned Docket

No. EC97–52–000.

NYSEG has served copies of the filing upon the New York State Public Service Commission, Centerior Energy Corporation, Midcon and New Energy.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Northeast Utilities Service Company

[Docket No. ER97–4617–000]

Take notice that on September 15, 1997, Northeast Utilities Service Company (NUSCO), tendered for filing, a Service Agreement with the Ohio Edison Company under the NU System Companies' Sale for Resale, Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to the Ohio Edison Company.

NUSCO requests that the Service Agreement become effective September 9, 1997.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Northeast Utilities Service Company

[Docket No. ER97–4618–000]

Take notice that on September 15, 1997, Northeast Utilities Service Company (NUSCO), tendered for filing, a First Amendment to Transmission Service Agreement between the Northeast Utilities (NU) System Companies and the Westfield Gas and Electric Light Department (Westfield).

NUSCO states that the First Amendment modifies a long-term comprehensive transmission service agreement between the NU System Companies and Westfield to reflect the effectiveness of the Restated New England Power Pool (NEPOOL) Agreement and the NEPOOL Transmission Tariff.

NUSCO requests that the First Amendment become effective on the effective date of the NEPOOL Tariff—March 1, 1997.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Pacific Gas and Electric Company

[Docket No. ER97–4619–000]

Take notice that on September 15, 1997, Pacific Gas and Electric Company (PG&E), tendered for filing two service agreements by and between PG&E and; (1) Southern California Edison Company (SCE); and (2) Kansas City Power & Light Company (Kansas); each entitled, ''Service Agreement for Non-Firm Point-to-Point Transmission Service'' (Service Agreements).

PG&E proposes that the Service Agreements become effective on August 15, 1997, for SCE and August 21, 1997, for Kansas. PG&E is requesting any necessary waivers.

Copies of this filing have been served upon the California Public Utilities Commission, SCE and Kansas.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Central Hudson Gas & Electric Corporation

[Docket No. ER97–4620–000]

Take notice that on September 15, 1997, Central Hudson Gas & Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's

(Commission) Regulations in 18 CFR a Service Agreement between CHG&E and Sonat Power Marketing LP. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Open Access Schedule, Original Volume No. 1 (Transmission Tariff) filed in compliance with the Commission's Order No. 888 in Docket No. RM95–8–000 and RM94–7–001 and amended in compliance with Commission Order dated May 28, 1997. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. PECO Energy Company

[Docket No. ES97–52–000]

Take notice that on September 30, 1997, PECO Energy Company (PECO) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue and reissue from time to time through September 30, 1999 up to $1.0 billion of promissory notes and other evidences of secured and unsecured indebtedness maturing in less than one year from the date of issuance.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Lyon Rural Electric Cooperative

[Docket No. ES97–53–000]

Take notice that on September 30, 1997, Lyon Rural Electric Cooperative (Lyon) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue securities in the amount of $1,325,000 in the form of a loan from National Rural Utilities Finance Corporation (CFC) under an existing revolving line of credit agreement. Lyon also requested an exemption from the Commission's competitive bidding or negotiated placement requirements.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell.

Secretary.

[FR Doc. 97–26833 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–2434–000, et al.]

Idaho Power Company, et al.; Electric Rate and Corporate Regulation Filings

October 2, 1997.

Take notice that the following filings have been made with the Commission:

1. Idaho Power Company

[Docket No. ER97–2434–000]

Take notice that on September 10, 1997, Idaho Power Company tendered for filing a Notice of Withdrawal of its April 7, 1997, filing in the above-referenced docket.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Detroit Edison Company

[Docket No. ER97–4215–000]

Take notice that on September 8, 1997, Detroit Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. MidAmerican Energy Company

[Docket No. ER97–4466–000]

Take notice that on September 19, 1997, MidAmerican Energy Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Maine Electric Power Company, Inc.

[Docket No. ER97–4517–000]

Take notice that on September 17, 1997, Maine Electric Power Company, Inc. (MEPCO), submitted for filing an executed First Amendment to Supplemental Participation Agreement among MEPCO, Bangor Hydro-Electric Company and Central Maine Power Company.

Copies of this filing have been served upon each of the parties to the agreements.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. New York State Electric & Gas Corporation

[Docket No. ER97–4562–000]

Take notice that on September 10, 1997, New York State Electric & Gas Corporation (NYSEG), filed Service Agreements between NYSEG and Minnesota Power & Light Company, Strategic Energy Limited, Constellation Power Source, Inc., and Sonat Power Marketing L.P. (Customers). These Service Agreements specify that the Customers have agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on June 11, 1997, in Docket No. OA97–571–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of September 6, 1997, for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: October 15, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Cleveland Electric Illuminating Company and The Toledo Edison Company

[Docket No. ER97–4591–000]

Take notice that on September 12, 1997, the Centerior Service Company as Agent for The Cleveland Electric Illuminating Company and The Toledo Edison Company filed Service Agreement to provide Firm Point-to-Point Transmission Service for Southern Energy Marketing, the Transmission Customer. Services are being provided under the Centerior Open Access Transmission Tariff submitted for filing by the Federal Energy Regulatory Commission in Docket No. OA96–204–000. The proposed effective date under the Service Agreement is August 1, 1997.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. South Carolina Electric & Gas Company

[Docket No. ER97–4592–000]

Take notice that on September 12, 1997, South Carolina Electric & Gas Company (SCE&G) submitted a service

agreement establishing Duke Power (DP) as a customer under the terms of SCE&G's Open Access Transmission Tariff.

SCE&G requests an effective date of one day subsequent to the filing of the service agreement. Accordingly, SCE&G requests waiver of the Commission's notice requirements. Copies of this filing were served upon DP and the South Carolina Public Service Commission.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Rochester Gas and Electric Corporation

[Docket No. ER97–4593–000]

Take notice that on September 12, 1997, Rochester Gas and Electric Corporation (RG&E) filed a Service Agreement between RG&E and the Sonat Power Marketing L.P. (Customer). This Service Agreement specifies that the Customer has agreed to the rates, terms and conditions of the RG&E open access transmission tariff filed on July 9, 1996 in Docket No. OA96–141–000.

RG&E requests waiver of the Commission's sixty (60) day notice requirements and an effective date of September 5, 1997, for the Sonat Power Marketing L.P., Service Agreement. RG&E has served copies of the filing on the New York State Public Service Commission and on the Customer.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. PacifiCorp

[Docket No. ER97–4594–000]

Take notice that on September 12, 1997, PacifiCorp, tendered for filing in accordance with 18 CFR Part 35 of the Commission's Rules and Regulations, Amendment No. 1 the Transmission Service and Operating Agreement between PacifiCorp and Utah Municipal Power Agency (PacifiCorp's Rate Schedule FERC Nos. 279, 288, 290 and 292).

Copies of this filing were supplied to the Public Utility Commission of Oregon and the Washington Utilities and Transportation Commission.

A copy of this filing may be obtained from PacifiCorp's Regulatory Administration Department's Bulletin Board System through a personal computer by calling (503) 464–6122 (9600 baud, 8 bits, no parity, 1 stop bit).

PacifiCorp requests, that a waiver of prior notice be granted and that the Commission accept for filing the Amendment No. 1 and assign an effective date of April 1, 1997.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Public Service Company of New Mexico

[Docket No. ER97–4595–000]

Take notice that on September 12, 1997, Public Service Company of New Mexico (PNM) submitted for filing executed service agreements for point-to-point transmission service under the terms of PNM's Open Access Transmission Service Tariff with the following transmission service customers: Cook Inlet Energy Supply (dated September 2, 1997 for Non-Firm Service) and NP Energy Inc. (dated September 2, 1997 for Non-Firm Service).

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Northeast Utilities Service Company

[Docket No. ER97–4596–000]

Take notice that on September 12, 1997, Northeast Utilities Service Company (NUSCO), tendered for filing, an unexecuted Service Agreement with Southern Energy Trading and Marketing, Inc. (SETM), under the NU System Companies' Sale for Resale, Tariff No. 7.

NUSCO states that a copy of this filing has been mailed to SETM.

NUSCO requests that the Service Agreement become effective September 15, 1997.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Cinergy Services, Inc.

[Docket No. ER97–4597–000]

Take notice that on September 12, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and Union Electric Company (Union).

Cinergy and Union are requesting an effective date of August 13, 1997.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Orange and Rockland Utilities, Inc.

[Docket No. ER97–4598–000]

Take notice that on September 12, 1997, Orange and Rockland Utilities, Inc. (O&R), tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, a service agreement under which O&R will provide capacity and/or energy to Central Maine Power Company (Central Maine).

O&R requests waiver of the notice requirement so that the service agreement with Central Maine becomes effective as of September 15, 1997.

O&R has served copies of the filing on The New York State Public Service Commission and Central Maine.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Potomac Electric Power Company

[Docket No. ER97–4599–000]

Take notice that on September 12, 1997, Potomac Electric Power Company (Pepco), tendered for filing service agreements pursuant to Pepco FERC Electric Tariff, Original Volume No. 1, entered into between Pepco and: Illinois Power Company, NP Energy, Inc., and Entergy Power Marketing Corporation. An effective date of September 11, 1997, for these service agreements, with waiver of notice, is requested.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Delmarva Power & Light Company

[Docket No. ER97–4600–000]

Take notice that on September 12, 1997, Delmarva Power & Light Company, doing business as Conectiv Energy, filed a Transaction Agreement between itself and Jersey Central Power & Light Company, doing business as GPU Energy, under which Conectiv Energy and GPU Energy will supply energy to each other pursuant to tariff service agreements.

Delmarva requests that the Transaction Agreement be allowed to become effective on September 15, 1997 as agreed by the parties.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Duquesne Light Company

[Docket No. ER97–4601–000]

Take notice that on September 15, 1997, Duquesne Light Company (DLC) filed a Service Agreement dated September 11, 1997 with Vitol Gas & Electric, LLC under DLC's Open Access Transmission Tariff (Tariff). The Service Agreement adds Vitol Gas & Electric, LLC as a customer under the Tariff. DLC requests an effective date of September 11, 1997, for the Service Agreement.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Louisville Gas and Electric Company

[Docket No. ER97–4602–000]

Take notice that on September 15, 1997, Louisville Gas and Electric Company tendered for filing copies of a service agreement between Louisville Gas and Electric Company and Hamilton Dept. of Public Utilities under Rate GSS.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Boston Edison Company

[Docket No. ER97–4603–000]

Take notice that on September 15, 1997, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for Williams Energy Services Company (Williams). Boston Edison requests that the Service Agreement become effective as of September 1, 1997.

Edison states that it has served a copy of this filing on Williams and the Massachusetts Department of Public Utilities.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Illinois Power Company

[Docket No. ER97–4604–000]

Take notice that on September 15, 1997, Illinois Power Company (Illinois Power), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Archer Daniels Midland Company will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 10, 1997.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. Louisville Gas and Electric Company

[Docket No. ER97–4605–000]

Take notice that on September 15, 1997, Louisville Gas and Electric Company tendered for filing copies of a service agreement between Louisville Gas and Electric Company and AES Power, Inc., under Rate GSS.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Boston Edison Company

[Docket No. ER97–4606–000]

Take notice that on September 15, 1997, Boston Edison Company (Boston Edison), tendered for filing a Service Agreement and Appendix A under Original Volume No. 6, Power Sales and Exchange Tariff (Tariff) for New Energy Ventures (New Energy). Boston Edison requests that the Service Agreement become effective as of September 1, 1997.

Edison states that it has served a copy of this filing on New Energy and the Massachusetts Department of Public Utilities.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Central Louisiana Electric Company, Inc.

[Docket No. ER97–4607–000]

Take notice that on September 15, 1997, Central Louisiana Electric Company, Inc. (CLECO), tendered for filing a service agreement under which CLECO will provide non-firm point-to-point transmission service to Avista Energy, Inc., under its point-to-point transmission tariff.

CLECO states that a copy of the filing has been served on Avista Energy, Inc.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Niagara Mohawk Power Corporation

[Docket No. ER97–4608–000]

Take notice that on September 15, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and City of Watertown. This Transmission Service Agreement specifies that City of Watertown has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and City of Watertown to enter into separately scheduled transactions under which NMPC will provide transmission service for City of Watertown as the parties may mutually agree.

NMPC requests an effective date of September 1, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and City of Watertown.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Niagara Mohawk Power Corporation

[Docket No. ER97–4609–000]

Take notice that on September 15, 1997, Niagara Mohawk Power Corporation (NMPC), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Constellation Power Source, Inc. This Transmission Service Agreement specifies that Constellation Power Source, Inc., has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Constellation Power Source, Inc., to enter into separately scheduled transactions under which NMPC will provide transmission service for Constellation Power Source, Inc., as the parties may mutually agree.

NMPC requests an effective date of September 8, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Constellation Power Source, Inc.

Comment date: October 17, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Public Service Company of New Mexico

[Docket No. ER97–4663–000]

Take notice that on September 18, 1997, Public Service Company of New Mexico (PNM) submitted for filing pursuant to Section 35.15 of the Regulations to the Federal Energy Regulatory Commission, 18 CFR 35.15, its Notice of Cancellation of Service Schedule E (Reserve Sharing) to the Interconnection Agreement between PNM and Tucson Electric Power Company (TEP) dated January 25, 1979.

Pursuant to PNM's filing, Service Schedule E to the Interconnection Agreement between PNM and TEP dated January 25, 1979, is to be canceled 60 days from PNM's filing. PNM's filing is available for public inspection at its offices in Albuquerque, New Mexico.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Tucson Electric Power Company

[Docket No. OA96–140–000]

Take notice that on September 29, 1997, Tucson Electric Power Company

tendered for filing its refund report in the above-referenced docket.

Comment date: October 16, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–26834 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Surrender of License

October 3, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of Application:* Surrender of License.

b. *Project No.:* 1473–013.

c. *Date Filed:* August 28, 1997.

d. *Applicant:* Granite County.

e. *Name of Project:* Flint Creek.

f. *Location:* On Flint Creek, in Deer Lodge and Granite Counties, Montana.

g. *Filed Pursuant to:* Federal Power Act, 16 USC Section 791(a)–825(r).

h. *Applicant Contact:* Allen A. Morrison, Chairman, Board of County Commissioners, Granite County, P.O. Box B, Philipsburg, MT 59858, (406) 859–3771.

i. *FERC Contact:* Regina Saizan, (202) 219–2673.

j. *Comment Date:* November 17, 1997.

k. *Description of Application:* The licensee seeks to surrender its license because rehabilitation of the project is uneconomical.

l. *This notice also consists of the following standard paragraphs:* B, C1, and D.

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 Responsive Documents—Any filings must bear in all capital letters the title ''COMMENTS'', ''RECOMMENDATIONS FOR TERMS AND CONDITIONS'', ''PROTEST'', 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 not 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. 97–26757 Filed 10–8–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5907–1]

Federal Register Notice of Stakeholders Meeting on Drinking Water Regulation Action

AGENCY: Environmental Protection Agency (EPA).

ACTION: Announcement of stakeholders meeting on October 29, 1997 to advise EPA on the scope of the revision to the public notification rule under the 1996 Safe Drinking Water Act (SDWA) Amendments.

SUMMARY: The Environmental Protection Agency (EPA) will hold a public meeting on October 29, 1997 in Seattle, Washington. EPA, in collaboration with the State Division of Drinking Water in the Washington Department of Health, is sponsoring this meeting. The purpose of the meeting will be to gather information and collect opinions from parties who will be affected by provisions of the Public Notification Rule of the new Safe Drinking Water Act (SDWA), amended in 1996. Comments and views expressed will be used to help develop the new Federal and State program requirements. EPA is seeking input from State drinking water 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 drinking water regulation. EPA encourages the full participation of all stakeholders throughout this process.

DATES: The stakeholder meeting on the drinking water regulation for public notification will be held on October 29, 1997, from 1 p.m. to 5 p.m. Pacific Daylight Savings Time. Registration will start at 12:30 p.m.

ADDRESSES: The meeting is to be held at the Physics/Astronomy Building, University of Washington Campus, Room PABA102, Corner of 15th Ave. NE and NE Pacific Street, Seattle, Washington. For information on meeting logistics or if you want to register for the meeting, please contact the EPA Safe Drinking Water Hotline at 1–800–426–4791, or Diana Horan of the Washington State Division of Drinking Water at (360) 664–4345. Participants registering in advance will be mailed a packet of materials before the meeting.

FOR FURTHER INFORMATION CONTACT: Carl Reeverts, U.S. EPA, at (202) 260–7273.

SUPPLEMENTARY INFORMATION: The Environmental Protection Agency is developing revised public notification regulations (under existing 40 CFR 141.32) to incorporate the new provisions enacted under the 1996 Safe Drinking Water Amendments (SDWA), specifically the amended sections 1414 (c)(1) and (c)(2) of the SDWA. The 1996 SDWA amendments completely replaced the language in the statute under 1414(c). There is no statutory deadline for implementing the amended sections 1414 (c)(1) and (c)(2).

The Administrator is required by statute to prescribe by regulation the

manner, frequency, form, and content that public water systems must follow for giving public notice. The 1996 SDWA amendments amended this EPA obligation, to require consultation with the States prior to rulemaking. Public water systems are currently required to notify their customers whenever: (1) A violation of any drinking water regulation occurs (including MCL, treatment technique, and monitoring/reporting requirements); (2) a variance or exemption (V&E) to those regulations is in place or the conditions of the V&E are violated; or (3) results from unregulated contaminant monitoring required under section 1445 of the SDWA are received. This coverage was not changed by the 1996 SDWA Amendments.

The current rule sets different requirements based on the type of violation and type of system. The 1996 SDWA amendments substantially alter what is currently in place: (1) SDWA section 1414(c)(2)(C) requires notice within 24 hours and sets other new, more prescriptive notice requirements for violations with ''potential to have serious adverse health risks to human health as a result of short-term exposure''; (2) SDWA section 1414(c)(2)(D) gives EPA more discretion to set less prescriptive notice requirements for all other violations, such as requiring the notice in an annual report; and (3) SDWA section 1414(c)(2)(B)) allows the states to prescribe alternative notification requirements by rule to the form and content of the notice, consistent with the current primacy requirements.

To meet the letter and spirit of the new statutory provisions, EPA is holding three or more public stakeholder meetings prior to drafting a new regulation. This is the third of the scheduled stakeholder meetings to be held since August, to exchange information on our mutual experience with the current regulation and the elements needed in the new regulation to meet the intent of Congress. The legislative changes provide an excellent opportunity to streamline the existing regulations by focusing the notices on situations that have potential to have serious adverse effects on human health. EPA will also solicit from the stakeholders existing public notification programs that work, and seek to share these experiences through our rulemaking communication. The reports from these meetings will be presented to the public notification workgroup to define the issues and to develop options for their resolution.

Dated: October 3, 1997.

Elizabeth Fellows,

Acting Director, Office of Ground Water and Drinking Water.

[FR Doc. 97–26860 Filed 10–8–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5907–5]

Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) or Superfund, Section 104; Announcement of Proposal Deadline for the Competition for the 1998 National Brownfields Assessment Demonstration Pilots

AGENCY: Environmental Protection Agency.

ACTION: Notice of proposal deadlines, revised guidelines.

SUMMARY: The United States Environmental Protection Agency (EPA) will begin to accept proposals for the National Brownfields Assessment Pilots on October 9, 1997. The brownfields assessment pilots (each funded up to $200,000 over two years) test cleanup and redevelopment planning models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated environmental cleanup and redevelopment efforts at the federal, state, and local levels. EPA expects to select approximately 100 additional National brownfields assessment pilots by May 1998. Applications will be accepted on a ''rolling submissions'' schedule. The deadlines for new applications for the 1998 assessment pilots are *December 15, 1997, and March 23, 1998.* Applications postmarked after December 15, 1997, will be considered in the second round of competition. Previously unsuccessful applicants are advised that they must revise and resubmit their applications.

The National brownfields assessment pilots are administered on a competitive basis. To ensure a fair selection process, evaluation panels consisting of EPA Regional and Headquarters staff and other federal agency representatives will assess how well the proposals meet the selection criteria outlined in the newly revised application booklet The Brownfields Economic Redevelopment Initiative: Proposal Guidelines for Brownfields Assessment Demonstration Pilots (October 1997).

DATES: This action is effective as of October 9, 1997, and expires on March 23, 1998. All proposals must be postmarked or sent to EPA via registered or tracked mail by the expiration dates cited above. Applications postmarked after December 15, 1997, will be considered in the second round of competition.

ADDRESSES: Application booklets can be obtained by calling the Superfund Hotline at the following numbers: Washington, DC Metro Area at 703–412–9810, Outside Washington, DC Metro at 1–800–424–9346, TDD for the Hearing Impaired at 1–800–553–7672.

Copies of the Booklet are available via the Internet: http://www.epa.gov/brownfields/

FOR FURTHER INFORMATION CONTACT: The Superfund Hotline, 800–424–9346.

SUPPLEMENTARY INFORMATION: As a part of the Environmental Protection Agency's (EPA) Brownfields Economic Redevelopment Initiative, the Brownfields Assessment Demonstration Pilots are designed to empower States, communities, and other stakeholders in economic redevelopment to work together in a timely manner to prevent, assess, safely clean up and sustainably reuse brownfields. EPA has awarded cooperative agreements to States, cities, towns, counties and Tribes for demonstration pilots that test brownfields assessment models, direct special efforts toward removing regulatory barriers without sacrificing protectiveness, and facilitate coordinated public and private efforts at the Federal, State and local levels. To date, the Agency has funded 121 Brownfields Assessment Pilots. Of those pilots, 64 are National Pilots selected under criteria developed by EPA Headquarters and 57 are Regional Pilots selected by EPA Regions under criteria developed by their offices.

EPA's goal is to select a broad array of assessment pilots that will serve as models for other communities across the nation. EPA seeks to identify applications that demonstrate the integration or linking of brownfields assessment pilots with other federal, state, tribal, and local sustainable development, community revitalization, and pollution prevention programs. Special consideration will be given to Empowerment Zones and Enterprise Communities (EZ/ECs) and communities with populations of under 100,000. (EPA will conduct a special outreach effort to address the unique needs of Indian Tribes.) These pilots focus on EPA's primary mission—protecting human health and the environment. However, it is an essential piece of the nation's overall community revitalization efforts. EPA works closely with other federal agencies through the Interagency Working Group on

Brownfields, and builds relationships with other stakeholders on the national and local levels to develop coordinated approaches for community revitalization.

Funding for the brownfields assessment pilots is authorized under Section 104(d)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, (CERCLA or Superfund), 42 U.S.C. 9604(d)(1). States, cities, towns, counties, U.S. Territories, and Indian Tribes are eligible to apply. EPA welcomes and encourages applications from coalitions of such entities, but a single eligible entity must be identified as the legal recipient. Cooperative agreement funds will be awarded only to a state, to an officially recognized political subdivision of a state, or to a Federally recognized tribe. For non-state applicants, please include a statement verifying that your entity has been authorized by the state to exercise governmental powers.

Through a brownfields cooperative agreement, EPA authorizes an eligible state, political subdivision, Territory, or Indian Tribe to undertake activities that EPA itself has the authority to pursue under CERCLA sections 104(a) or 104(b). All restrictions on EPA's use of funding cited in CERCLA section 104 also apply to brownfields assessment pilot cooperative agreement recipients.

The proposal evaluation panels will review the proposals carefully and assess each response based on how well it addresses the selection criteria, briefly outlined below:

1. Problem Statement and Needs Assessment (4 Points Out of 20)

—Effect of Brownfields on your Community or Communities
—Value Added by Federal Support

2. Community-Based Planning and Involvement (6 Points Out of 20)

—Existing Local Commitment
—Community Involvement Plan
—Environmental Justice Plan

3. Implementation Planning (6 Points Out of 20)

—Appropriate Authority and Government Support
—Environmental Site Assessment Plan
—Proposed Cleanup Funding Mechanisms
—Flow of Ownership Plan

4. Long-Term Benefits and Sustainability (4 Points Out of 20)

—National Replicability
—Measures of Success

Dated: October 2, 1997.

Linda Garczynski,

Director, Outreach and Special Projects Staff, Office of Solid Waste and Emergency Response.

[FR Doc. 97–26863 Filed 10–8–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2231]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

October 6, 1997.

Petitions for reconsideration and clarification 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 24, 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: International Settlement Rates (IB Docket No. 96–261).

Number of Petitions Filed: 3.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–26785 Filed 10–8–97; 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 23, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. James Bennett, Billings, Montana; First PREMIER Bank as Custodian/FBO Emil Erhardt IRA, Stevensville, Montana; Donald Bennett, Columbia Falls, Montana; Steven Tostenrud, Billings, Montana; Alex Zier, Lewistown, Montana; William Thorndal, Laurel, Montana; Robert Sizemore, Chinook, Montana; William Curley, Poynette, Wisconsin; Jon Sustarich, Cambridge, Wisconsin; Kenneth Baker, Osceola, Iowa; Gregory Bormann, Stickney, South Dakota; Duncan Flann, Iroquois, South Dakota; Ronald Hornischer, Merrill, Wisconsin; Reid Erickson, Osseo, Wisconsin; and Eide & Eide CPA's Keogh Plan, Karen Eide trustee, Billings, Montana; to acquire voting shares of Citizens Development Co., Billings, Montana, and thereby indirectly acquire First Security Bank of Laurel, Laurel, Montana; First Citizens Bank of Billings, Billings, Montana; Citizens State Bank, Hamilton, Montana; First Citizens Bank, N.A., Columbia Falls, Montana; First National Bank of Lewistown, Lewistown, Montana; and Western Bank of Chinook, N.A., Chinook, Montana.

In connection with this application, Notificants along with D.A. Davidson & Co., as Custodian/FBO William Thorndal IRA, Laurel, Montana, have applied to acquire voting shares of United Bancorporation, Billings, Montana, and thereby indirectly acquire Bank of Poynette, Poynette, Wisconsin; Cambridge State Bank, Cambridge, Wisconsin; Clarke County State Bank, Osceola, Iowa; Farmers State Bank, Stickney, South Dakota; Farmers & Merchants State Bank, Iroquois, South Dakota; Lincoln County Bank, Merrill, Wisconsin; and United Bank, Osseo, Wisconsin.

In addition, the holding companies have two classes of voting common stock. Notificants propose to acquire control of the Class A common stock.

Board of Governors of the Federal Reserve System, October 6, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26853 Filed 10–8–97; 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 November 1, 1997.

A. Federal Reserve Bank of Philadelphia (Michael E. Collins, Senior Vice President) 100 North 6th Street, Philadelphia, Pennsylvania 19105-1521:

1. MBNA Corporation, Wilmington, Delaware; to acquire 100 percent of the voting shares of MBNA Amercia Bank (Delaware), Wilmington, Delaware.

Board of Governors of the Federal Reserve System, October 3, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26736 Filed 10–8–97; 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 November 3, 1997.

A. Federal Reserve Bank of Atlanta (Lois Berthaume, Vice President) 104 Marietta Street, N.W., Atlanta, Georgia 30303-2713:

1. Trust No. 3 Under Will of Charles Henderson, Troy, Alabama; to acquire at least 79 percent of the voting shares of Pea River Capital Corporation, Elba, Alabama, and thereby indirectly acquire The Peoples Bank of Coffee County, Elba, Alabama.

B. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Sparta Union Bancshares, Inc., Sparta, Wisconsin; to become a bank holding company by acquiring 100 percent of the voting shares of Union National Bnk & Trust Company, Sparta, Wisconsin.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63102-2034:

1. First National Bancorp, Inc., Green Forest, Arkansas; to become a bank holding company by acquiring 100 percent of the voting shares of First National Bank in Green Forest, Green Forest, Arkansas.

D. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Midland First Financial Corporation, Lee's Summit, Missouri; to become a bank holding company by acquiring 100 percent of the voting shares of Midland Bank, Lee's Summit, Missouri.

Board of Governors of the Federal Reserve System, October 6, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26854 Filed 10–8–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Notice of Proposals to Engage in Permissible Nonbanking Activities or to Acquire Companies that are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y, (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than October 23, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Citizens Development Co., Billings, Montana; to engage *de novo* through its subsidiary, Citizens Development Co., Billings, Montana, and thereby engage in making and servicing loans, pursuant to § 225.28(b)(1) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 3, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–26735 Filed 10–8–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Notice of Meetings

Notice of two meetings of the National Bioethics Advisory Commission (NBAC), one each of its genetics and human subjects subcommittees, and a brief joint session of the full Commission.

SUMMARY: Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is given of two meetings of the National Bioethics Advisory Commission and a brief joint session of the full Commission. Commission members will discuss the protection of the rights and welfare of human subjects in research including decisionally and/or cognitively impaired populations and will address the use of genetic information involved in tissue storage. The meetings are open to the public and opportunities for statements by the public will be provided.

Dates/times	Locations
Human Subjects Subcommittee, October 19, 1997, 7:30 am–4:30 pm.	National Institutes of Health, 9000 Rockville Pike, Building 31, 6th Floor, Conference Room 10, Bethesda, Maryland 20892.
11:30 am–1:30 pm	Full Commission Meeting, Conference Room 10.
Genetics Subcommittee, October 19, 1997, 7:30 am–4:30 pm.	National Institutes of Health, 9000 Rockville Pike, Building 31, 6th Floor, Conference Room 9, Bethesda, Maryland 20892.

SUPPLEMENTARY INFORMATION: The President established the National Bioethics Advisory Commission (NBAC) by Executive Order 12975 on October 3, 1995 for an initial two years. An amendment to Executive Order 12975, dated May 16, 1997, extended the term of the Commission for an additional two years. The mission of the NBAC is to advise and make recommendations to the National Science and Technology Council and other entities on bioethical issues arising from the research on human biology and behavior, and in the applications of that research including clinical applications.

Public Participation

All meetings are open to the public with attendance limited by the availability of space. Members of the public who wish to present oral statements should contact Ms. Patricia Norris by telephone, fax machine, or mail as shown below prior to the meeting as soon as possible. Individuals unable to make oral presentations are encouraged to mail or fax their comments to the NBAC staff office for distribution to the subcommittee or Commission members and inclusion in the public record. Persons needing special assistance, such as sign language interpretation or other special accommodations, should contact NBAC staff at the address or telephone number listed below as soon as possible.

FOR FURTHER INFORMATION CONTACT: Ms. Patricia Norris, National Bioethics Advisory Commission, MSC–7508, 6100 Executive Boulevard, Suite 5B01, Rockville, Maryland 20892–7508, telephone 301–402–4242, fax number 301–480–6900.

Henrietta D. Hyatt-Knorr,

Deputy Executive Director, Acting, National Bioethics Advisory Commission.

[FR Doc. 97–26866 Filed 10–8–97; 8:45 am]

BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Minimizing Medical Product Errors—A Systems Approach; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing a public workshop entitled ''Minimizing Medical Product Errors—A Systems Approach.'' The purpose of this workshop is to provide a forum for an open exchange with industry, health professionals, consumers, and others on issues relating to minimizing the potential for medical product errors due to similarities in drug names, similar labeling, design and packaging of human drugs, biologics, blood/blood products, vaccines, and medical devices.

DATES: The public workshop will be held on Thursday, January 8, 1998, 7:30 a.m. to 6 p.m. An open public hearing to present comments, 4:15 p.m. to 5:45 p.m. Submit written abstracts by November 7, 1997. Submit written notices of participation by December 5, 1997. There is no registration fee for this workshop, however, because seating is limited interested persons are encouraged to register by December 15, 1997.

ADDRESSES: The public workshop will be held at Natcher Auditorium, National Institutes of Health, 45 Center Dr., Bethesda, MD. Submit written abstracts and notices of participation to Mary C. Gross (address below).

FOR FURTHER INFORMATION CONTACT:

For general information: Mary C. Gross, Office of External Affairs (HF–60), Food and Drug Administration, 5600 Fishers Lane, rm. 14C–03, Rockville, MD 20857, 301–827–3440, FAX 301–594–0113, e-mail MGROSS@BANGATE.FDA.GOV.

For information regarding the scientific paper selection process: Jerry Phillips, Center for Drug Evaluation and Research, 7500 Standish Pl., rm. N271, Rockville, MD 20852, 301–827–5840, FAX 301–594–0183, e-mail PHILLIPSJ@A1@FDACD.

SUPPLEMENTARY INFORMATION:

I. Background

FDA will explore the extent of user error occurring with FDA-regulated products; collect data to help FDA determine what methods, if any, already exist to assess the potential for medical product errors; hear discussion from outside groups about the appropriate role for FDA in minimizing medical product errors; and discuss how the agency can effectively collaborate in minimizing user errors.

II. Submission of the Abstracts

For purposes of discussion at the workshop, FDA is requesting abstracts that discuss how best to minimize the incidence of user error with FDA-regulated products. FDA will select a limited number of abstracts that contain information on what methods, if any, already exist to assess the potential for user error in relation to labeling, packaging, and design of FDA-regulated products for formal presentation at the workshop.

The abstracts should be printed (typewritten or computer) within the confines of an 8 1/2 x 11-inch page of white paper. All lines should be single spaced with a three-letter indent for each paragraph. The title should be brief and capitalized. The authors name(s) should then be listed, underlining each, then list agency, institution, or facility involved.

The body of the abstract must be organized in the following manner:

(1) A brief statement of purpose,

(2) A statement of methods used,

(3) A statement of results obtained, and

(4) A statement of conclusions reached.

Each presenter should submit a current curriculum vitae with the abstract.

Interested persons who wish to speak should submit a written notice of participation including a name, affiliation, address, phone number, and summary of remarks. FDA will allocate the time available for the hearing among the persons who properly file notices of their intent to make a presentation at the meeting. If time permits, FDA may allow additional presentations from interested persons attending the meeting who did not submit a written notice of participation to make a presentation.

Dated: October 2, 1997.

William K. Hubbard,

Associate Commissioner for Policy Coordination.

[FR Doc. 97–26707 Filed 10–8–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Vaccine Injury Compensation Program: Excise Tax Revision and Coverage of New Vaccines

AGENCY: Health Resources and Services Administration, HHS.

ACTION: Notice.

SUMMARY: On August 5, 1997, the President signed Pub. L. 105–32, the ''Taxpayer Relief Act of 1997,'' containing amendments to revise the excise tax structure to a flat rate of 75 cents per dose for each vaccine covered under the National Vaccine Injury Compensation Program (VICP). The amendments also make effective the coverage of three new vaccines under the VICP.

The VICP, established by Subtitle 2 of Title XXI of the Public Health Service Act (the Act), provides a system of no-fault compensation for certain individuals who have been injured by specific childhood vaccines. The Vaccine Injury Table (the Table), included in the Act, establishes presumptions about causation of certain illnesses and conditions which are used by the U.S. Court of Federal Claims to adjudicate petitions. The Act provides that a revision to the Table, based on the addition of new vaccines under section 2114(e) of the Act, shall take effect upon the effective date of a tax enacted to provide funds for compensation for injuries from vaccines that are added to the Table. *See* section 13632(a)(3) of the Omnibus Budget Reconciliation Act of 1993, Pub. L. 103–66 enacted August 10, 1993.

EFFECTIVE DATE: August 6, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas E. Balbier, Jr., Director, Division of Vaccine Injury Compensation, Bureau of Health Professions, (301) 443–6593.

SUPPLEMENTARY INFORMATION: Section 904(a) of the Taxpayer Relief Act of 1997 provides that the excise tax on all covered vaccines is 75 cents per dose and that combinations of vaccines are subject to an excise tax which is the sum of the amounts for each vaccine included in the combination.

On February 20, 1997, a Final rule was published in the **Federal Register** (62 FR 7685) announcing the addition of hepatitis B, Hib, and varicella vaccines to the Table. The Final rule states in § 100.3(c)(2) that the inclusion of hepatitis B, Hib, and varicella vaccines and other new vaccines (Items VIII, IX, X, XI and XII of the Table) will be effective on the effective date of a tax enacted to provide funds for compensation paid with respect to such vaccines.

Section 904(b) of the Taxpayer Relief Act of 1997 provides for an excise tax for these three new vaccines, effective August 6, 1997, and this notice serves as an announcement of such a tax. Accordingly, petitions for compensation for injuries or deaths related to hepatitis B, Hib, and varicella vaccines may now be filed under the VICP. In accordance with section 2116(b) of the Act, for injuries or deaths that occurred before August 6, 1997, for these three vaccines, petitions may be filed no later than August 6, 1999, provided that the injury or death occurred no earlier than August 6, 1989.

A document will be published in the **Federal Register** to amend the CFR to include a date certain (August 6, 1997) in § 100.3(c), so that there will be no uncertainty as to the coverage of these three vaccines.

Dated: October 2, 1997.

Claude Earl Fox,

Acting Administrator.

[FR Doc. 97–26706 Filed 10–8–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Alternate Method of Acquisition for Health Care Services; Authorized by the Federal Acquisition Regulations

AGENCY: Indian Health Service, HHS.

ACTION: General notice.

SUMMARY: The Indian Health Service (IHS) issues this General Notice to inform the public that IHS has adopted the Rate Quotation as an alternate acquisition method to establish reimbursement rates for health care services purchased by its Contract Health Services Program.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Ronald Freeman, Acting Director, Division of Managed Care, Room 6A–55, 5600 Fishers Lane, Rockville, MD 20857, (301) 443–3024 or Carol Silverman, Acting Director, Division of Acquisition and Grants Management, Suite 450A, 12300 Twinbrook Parkway, Rockville, MD 20857, (301) 443–5774. (These are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The IHS Contract Health Services program is administered under regulations at 42 CFR 36.21 et seq. and services purchased are governed by the Federal Acquisition Regulations (FAR). Under this program IHS purchases health care services from hospitals, physicians, and other health care facilities and providers to supplement the IHS direct care delivery system. The IHS last issued a payment policy in 51 FR 23540 on June 30, 1986. This policy requires the IHS Area Offices to enter into formal agreements with providers that they expect to use for health care services. With certain specified exceptions in the IHS Payment Policy, the formal agreement must provide for reimbursement of services at rates which do not exceed prevailing Medicare reimbursement rates (including deductibles and co-insurance), and the IHS service units will make patient referrals and procure all its routine health care services from providers with formal agreements.

The IHS issued a general notice in 56 FR 10566 on March 13, 1991 to inform the public that the IHS was conducting a pilot project in the IHS Portland Area. The project was designed to determine whether an alternative method of acquisition for contract health services would result in greater participation by health care providers and lower costs to IHS. The project was originally scheduled to end on March 31, 1992,

however, the provider response to the project was far greater than the expectation of the IHS. As a result of the response, preferred provider lists needed to be developed as well as the need to develop complex analyses of reimbursement methodologies for facilities, outpatient and professional providers. Therefore, the pilot termination date was extended to March 31, 1993 (57 FR 10671 on March 27, 1992).

The IHS published notification on June 18, 1992 (57 FR 27262) that additional IHS Areas (Alaska, Nashville and Billings) were added to the pilot project to provide more information from a wide geographic area.

The IHS extended the termination dates for this project on March 1, 1993, 58 FR 11864, and again on October 1, 1996, 61 FR 51298, because additional time was required to complete an evaluation of the pilot and provide IHS the necessary time to assess the results. The last termination date was September 30, 1997.

The IHS review and analyses of the pilot project utilizing the rate quotation methodology has been completed. The overall result show that the rate quotation is a streamlined approach for communicating and establishing favorable rates with providers. Therefore, the IHS has adopted the rate quotation as an alternate approach to contracting for health care services to increase the number of formal agreements IHS has with health care providers.

This policy will apply only to contract health services programs administered by the IHS, and will not apply to services rendered by traditional Indian medicine men and women under Pub. L. 95–341, Joint Resolution on American Indian Religious Freedom.

Dated: October 1, 1997.

Michael H. Trujillo,

Assistant Surgeon General, Director.

[FR Doc. 97–26711 Filed 10–8–97; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Request for Public Comment: 60-day; Proposed Collection: Application for Participation in the IHS Scholarship Program

SUMMARY: In compliance with Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, to provide a 60-day advance opportunity for public comment on proposed data collection projects, the Indian Health Service (IHS) is publishing for comment a summary of a proposed information collection project to be submitted to the Office of Management and Budget (OMB) for review.

PROPOSED COLLECTION: *Title*: 09–17–0006, ''Application for Participation in the IHS Scholarship Program''. *Type of Information Collection Request*: 3-year reinstatement, with change, of previously approved information collection, 09–17–0006, ''Application for Participation in the IHS Scholarship Program'' which expires 12/31/97. *Form Numbers(s)*: IHS–856, 856–2, through 856–8, IHS–815, IHS–816, IHS–818, D–02, F–02, F–04, G–02, G–04, H–07, H–08, J–06, J–07, K–03, K–04, and L–03. *Need and Use of Information Collection:* The IHS Scholarship Branch needs this information for program administration and uses the information to solicit, process and award IHS Pregraduate, Preparatory and/or Health Professions Scholarship grantees and monitor the academic performance of awardees, to place awardees at payback sites, and for awardees to request additional program. *Affected Public*: Individuals, not-for-profit institutions and State, local or Tribal Government. *Type of Respondents*: Students pursuing health care professions.

Table 1 below provides: Type(s) of Data Collection Instruments, Estimated Number of Respondents, Number of Responses per Respondent, Average Burden Hour per Response, and Total Annual Burden Hour.

TABLE 1

Data collection instrument	Estimated number of respondents	Responses per respondent	Annual number of responses	Average burden Hour per response *	Total annual burden hours
Scholarship Application	875	1	875	1.50	1,312
Checklist	875	1	875	0.13	114
Course Verification	875	1	875	0.70	613
Faculty/Employer Application	1,750	1	1,1750	0.83	1,453
Justification	875	1	875	0.75	656
Federal Debt	875	1	875	0.13	114
MPH only	50	1	50	0.83	42
Accept/Decline	875	1	875	0.13	114
Stipend Checks	100	1	100	0.13	13
Enrollment	1,400	1	1,400	0.13	182
Academic Problem/Change	100	1	100	0.13	13
Request Assistance	217	1	217	0.13	28
Summer School	193	1	193	0.10	19
Contract	1,400	1	1,400	0.27	378
Placement	250	1	250	0.18	45
Graduation	250	1	250	0.17	43
Site Preference	150	1	150	0.13	20
Travel Reimb	150	1	150	0.10	15
Status Report	250	1	250	0.25	63
Preferred Assignment	200	1	200	0.75	150
Deferment	20	1	20	0.13	3
Total	11,730	.....	.....	.....	5,395

* For ease of understanding, burden hours are also provided in actual minutes.

There are no Capital Costs, Operating Costs and/or Maintenance Costs to report.

Request for Comments: Your written comments and/or suggestions are invited on one or more of the following points: (a) whether the information collection activity is necessary to carry out an agency function; (b) whether the agency processes the information collected in a useful and timely fashion; (c) the accuracy of public burden estimate (the estimated amount of time needed for individual respondents to provide the requested information); (d) whether the methodology and assumptions used to determine the estimate are logical; (e) ways to enhance the quality, utility, and clarity of the information being collected; and (f) ways to minimize the public burden through the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Send Comments and Requests For Further Information: Send your written comments, requests for more information on the proposed project, or requests to obtain a copy of the data collection instrument and instructions to: Mr. Lance Hodahkwen, Sr., M.P.H., IHS Reports Clearance Officer, 12300 Twinbrook Parkway, Suite 450, Rockville, MD 20852–1601, or call non-toll free (301) 443–0461, fax (301) 443–1522, or send your E-mail requests, comments, and return address to: 1hodahkw@smtp.ihs.gov.

Comment Due Date: Your comments regarding this information collection are best assured of having their full effect if received on or before December 8, 1997.

Dated: October 19, 1997.

Michael H. Trujillo,

Assistant Surgeon General, Director.

[FR Doc. 97–26710 Filed 10–8–97; 8:45 am]

BILLING CODE 4160–16–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Meeting of the Board of Scientific Counselors

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases (NIDDK), November 19–21, 1997, National Institutes of Health, Building 5, Room 127, Bethesda, Maryland 20892.

In accordance with the provisions set forth in sections 552b(c)(6), Title 5 U.S.C. and section 10(d) of Public Law 92–463, the meeting will be closed to the public on November 19 from 6:30 p.m. to adjournment on November 21 for the review, discussion and evaluation of individual intramural programs and projects conducted by the NIDDK, including consideration of personnel qualifications and performance, the competence of individual investigators, and similar items, disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

A summary of the meeting and roster of members will be provided, upon request by the Committee Management Office, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Natcher Building, Room 6AS–37J, Bethesda, Maryland 20892, (301) 594–8892. For any further information, please contact Dr. Allen Spiegel, Scientific Review Administrator, Board of Scientific Counselors, National Institute of Diabetes and Digestive and Kidney Diseases, National Institutes of Health, Building 10, Room 9N–222, Bethesda, Maryland 20892, (301) 496–4128, at least two weeks prior to the meeting date.

(Catalog of Federal Domestic Assistance Program No. 93.847–849, Diabetes, Endocrine and Metabolic Diseases; Digestive Diseases and Nutrition; and Kidney Diseases, Urology and Hematology Research, National Institutes of Health)

Dated: October 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26729 Filed 10–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Meeting: Acquired Immunodeficiency Syndrome Research Review Committee

Pursuant to Public Law 92–463, notice is hereby given of the meeting of the Acquired Immunodeficiency Syndrome Research Review Committee, National Institute of Allergy and Infectious Diseases, in November 6–7, 1997 at the Crowne Plaza Hotel, 14th and K Streets, NW, Washington, D.C.

The meeting will be open to the public from 8:30 a.m. to 9:30 a.m. on November 6 to discuss administrative details relating to committee business and program review, and for a report from the Director, Division of Extramural Activities, which will include a discussion of budgetary matters. Attendance by the public will be limited to space available.

In accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. and sec. 10(d) of Public Law 92–463, the meeting will be closed to the public for the review, discussion, and evaluation of individual grant applications and contract proposals from 9:30 a.m. until recess on November 6, and from 8:30 a.m. until adjournment on November 7. These applications, proposals, and discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Ms. Claudia Goad, Committee Management Officer, National Institute of Allergy and Infectious Diseases, Solar Building, Room 3C26, National Institutes of Health, Bethesda, Maryland, 301–496–7601, will provide a summary of the meeting and a roster of committee members upon request. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contract Ms. Goad in advance of the meeting.

Dr. Paula Strickland, Scientific Review Administrator, Acquired Immunnodieficency Syndrome Research Review Committee, NIAID, NIH, Solar Building, Room 4C02, Rockville, Maryland 20892, telephone 301–402–0643, will provide substantive program information.

(Catalog of Federal Domestic Assistance Program Nos. 93.855, Immunology, Allergy and Immunologic Diseases Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health.)

Dated: October 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26730 Filed 10–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental Research; Notice of Closed Meeting

Pursuant to Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Dental Research Special Emphasis Panel (SEP) meetings:

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of R44 grant (98–07).
Dates: October 29, 1997.
Time: 1:00 p.m.
Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (Teleconference).
Contact Person: Dr. Philip Washko, Scientific Review Administrator, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.
Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

Name of SEP: National Institute of Dental Research Special Emphasis Panel-Review of R44 & R42 grants (98–09).
Dates: November 14, 1997.
Time: 10:00 a.m.
Place: Natcher Building, Rm. 4AN–44F, National Institutes of Health, Bethesda, MD 20892 (teleconference).
Contact Person: Dr. George Hausch, Chief, Grants Review Section, 4500 Center Drive, Natcher Building, Room 4AN–44F, Bethesda, MD 20892, (301) 594–2372.
Purpose/Agenda: To evaluate and review grant applications and/or contract proposals.

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. 93.121, Oral Diseases and Disorders Research)

Dated: October 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26733 Filed 10–8–97; 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 (DEP) meetings:

Purpose/Agenda: To review individual grant applications.
Name of SEP: Biological and Physiological Sciences.
Date: November 10, 1997.
Time: 2:30 p.m.
Place: NIH, Rockledge 2, Room 6170, Telephone Conference.
Contact Person: Dr. Dennis Leszczynski, Scientific Review Administrator, 6701 Rockledge Drive, Room 6170, Bethesda, Maryland 20892, (301) 435–1044.

Name of SEP: Multidisciplinary Sciences.
Date: November 10–11, 1997.
Time: 8:00 a.m.
Place: Woodfine Suites, Rockville, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Clinical Sciences.
Date: November 24, 1997.
Time: 1:00 p.m.
Place: NIH, Rockledge 2, Room 4196, Telephone Conference.
Contact Person: Dr. Larry Pinkus, Scientific Review Administrator, 6701 Rockledge Drive, Room 4196, Bethesda, Maryland 20892, (301) 435–1214.
Purpose/Agenda: To review Small Business Innovation Research.

Name of SEP: Biological and Physiological Sciences.
Date: October 20, 1997.
Time: 3:00 p.m.
Place: NIH, Rockledge 2, Room 4132, Telephone Conference.
Contact Person: Dr. Syed Quadri, Scientific Review Administrator, 6701 Rockledge Drive, Room 4132, Bethesda, Maryland 20892, (303) 435–1211.

This notice is being published less than 15 days prior to the above meeting due to the urgent need to meet timing limitations imposed by the grant review and funding cycle.

Name of SEP: Multidisciplinary Sciences.
Date: October 27–28, 1997.
Time: 8:00 a.m.
Place: Woodfin Suites, Rockville, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

Name of SEP: Microbiological and Immunological Sciences.
Date: November 13, 1997.
Time: 8:30 a.m.
Place: Ramada Inn, Rockville, MD.
Contact Person: Dr. Garrett Keefer, Scientific Review Administrator, 6701 Rockledge Drive, Room 4190, Bethesda, Maryland 20892, (301) 435–1152.

Name of SEP: Multidisciplinary Sciences.
Date: November 17–18, 1997.
Time: 8:00 a.m.
Place: Woodfin Suites, Rockville, MD.
Contact Person: Dr. Houston Baker, Scientific Review Administrator, 6701 Rockledge Drive, Room 5208, Bethesda, Maryland 20892, (301) 435–1175.

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 Programs 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: October 2, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–26734 Filed 10–8–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Notice of Listing of Members of the Substance Abuse and Mental Health Services Administration's Senior Executive Service Performance Review Board (PRB)

The Substance Abuse and Mental Health Services Administration (SAMHSA) announces the persons who will serve on the Substance Abuse and Mental Health Services Administration's 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 SAMHSA Performance Review Board, which oversees the evaluation of performance appraisals of SAMHSA's Senior Executive Service (SES) members:

Paul M. Schwab, Chairperson

Bernard S. Arons, M.D.

William A. Robinson, M.D.

Ruth D. Sanchez-Way, Ph.D.

For further information about the SAMSHA Performance Review Board, contact the Division of Human Resources Management, Substance Abuse and Mental Health Services Administration, 5600 Fishers Lane, Room 14 C–24, Rockville, Maryland 20857, telephone (301) 443–5030 (not a toll-free number).

Dated: September 29, 1997.

Nelba Chavez,

Administrator, SAMHSA.

[FR Doc. 97–26813 Filed 10–8–97; 8:45 am]

BILLING CODE 4160–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–35]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 8, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Mildred M. Hamman, Reports Liaison Officer, Public and Indian Housing, Department of Housing and Urban Development, 451 7th Street, S.W., Room 4238, Washington, DC 20410–5000.

FOR FURTHER INFORMATION CONTACT: Mildred M. Hamman, (202) 708–3642, extension 4128, for copies of the proposed forms and other available documents. (This is not a toll-free number).

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) enhance the quality, utility, and clarity of the information to be collected; and (4) minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology; e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Performance Funding System: Data Collection, Calculation of Formula and Delta, Range Test, Direct Disbursement Payment Schedule Data, Calculation of Allowable Utilities Expense Level (Elimination of Heating Degree Day Adjustment.

OMB Control Number: 2577–0029.

Description of the need for the information and proposed use: Housing Agencies (HAs) submit information to HUD according to standards and policies established under the Performance Funding System (PFS). The PFS for calculation of operating subsidy is designed to provide the amount of operating subsidy which would be needed for well-managed projects. That amount is determined by the difference between the projected expenses and projected operating income of the HA. HUD determines the operating subsidy eligibility in accordance with Section 9(a) of the U.S. Housing Act of 1937, 42 U.S.C. 1437g. to make annual contributions for the operation of HA-owned rental housing. Agency form numbers, if applicable, HUD–52720A, HUD–52720B, HUD–52720C, HUD–52721, HUD–52722A, HUD–52722B, HUD–52733.

Members of affected public: State, Local, or Tribal Government Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 3400 respondents (12,442 responses), annual, .50 hour average per response (seven forms prepared), 20,218 total reporting burden hours.

Status of the proposed information collection: Extension, no change.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 2, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

BILLING CODE 4210–33–M

Data Collection PFS Formula

PHA/IHA-Owned Rental Housing
Performance Funding System

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0029 (exp. 9/30/97)

1. Name and Address of Public Housing Agency / Indian Housing Authority	2. AC Contract No.	Page of
	3. Submission ☐ Original ☐ Revision No:( )	

Part I. Bedroom Composition and Unit Months Available

1. Ending Dates of PHA/IHA's Fiscal Year	2. O BR	3. 1 BR	4. 2 BR	5. 3 BR	6. 4 BR	7. 5 BR	8. 6+ BR	9. Total Dwelling Units	10. Total Unit Months Available
	Number of Dwelling Units by Bedroom Size								

Part II. Calculation of PHA/IHA characteristics for formula

A1	Number of two or more bedroom units (Total of columns 4 - 8, Part I)	
A2	Lesser of A1 or 15,000	
B1	Number of three or more bedroom units (Total of columns 5 - 8, Part I)	
B2	Total dwelling units (Column 9, Part I)	
B3	Ratio of three or more bedroom units to total dwelling units (line B1 divided by line B2)	

Part III. To be completed only if PHA/IHA has a high-rise family project

1. ACC Project Number List only High-Rise Family Projects (Col. 5 ≥ 35; Col. 7 ≥ 1.5; and Col. 8 ≥ 5)	2. Number of Two or More Bedroom Units in Project	3. Total Number of Dwelling Units in Project	4. Number of Buildings in the Project	5. Average Number of Units in a Building (Must be ≥ 35 to be included in this Table) (Col. 3 ÷ Col. 4)	6. Total Number of Bedrooms in Project	7. Average Bedroom Size (Must be ≥ 1.5 to be included in this Table) (Col. 6 ÷ Col. 3)	8. Height in Stories of Tallest Building (Must be ≥ 5 to be included in this Table)

Total (this page only)	
C1. Grand Total (all pages)	
C2. Ratio of two or more bedroom units in high-rise family projects to total dwelling units (C1 ÷ Col.9, Part I)	

Previous editions are obsolete

form **HUD-52720-A** (8/92)
ref. Handbook 7475.13

Public Reporting Burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is required by Section 9(a) of the U.S. Housing Act of 1937, as amended, and by 24 CFR Part 990 HUD regulations. HUD makes payments for operation of low-income housing projects to PHAs. The Performance Funding System (PFS) determines the amount of operating subsidy to be paid to PHAs. PHAs provide information on the Allowable Utilities Expense (AEL), Allowable Utilities Expense Level and Other Costs for the major PFS components. HUD reviews the information (Operating Budget) to determine each PHA's share of the total operating subsidy funds appropriated by Congress each fiscal year. HUD also uses the information as a means of estimating the annual aggregage operating subsidy eligibility of PHAs which serves as the basis for requesting annual approprations from Congress. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions for Form HUD-52720-A

This form is only applicable to PHA/IHA-owned rental housing projects, under an Annual Contributions Contract (ACC) that will be available for occupancy within the requested budget year. This form is not applicable to the Section 23 Leased Housing Program, the Section 23 Housing Assistance Payments Program, the Section 8 Housing Assistance Payments Program, the Mutual-Help Program, or the Turnkey III or Turnkey IV Homeownership Opportunity Programs. PFS is not applicable to the Housing Agencies of Alaska, Puerto Rico, the Virgin Islands or Guam. This form does not need to be completed if the PHA/IHA has not experienced a change in the number of its units in excess of 5 percent or 1000 units, whichever is less, since the last adjustment to the Allowable Expense Level using form HUD-52720-B. This form is also not applicable for the first budget year under PFS for a new project of an existing PHA/IHA that the PHA/IHA decides to place under a separate ACC, unless the new project has been in management for at least one full fiscal year before the Requested Budget Year.

Prepare a separate copy of this form for each ACC. Send this form with form HUD-52564, Operating Budget, for each ACC for the Requested budget year, to the HUD Field Office. Carry numbers on this form to five decimal places.

Part I. Bedroom Composition and Unit Months Available

Column 1. Ending Dates of PHA/IHA's Fiscal Year. Enter the applicable date for the fiscal year to which the numbers on this form apply. If using this form for the one-time AEL adjustment in accordance with the revision to the PFS regulation published on February 4, 1992, complete for the PHA/IHA fiscal year ending in calendar year 1992. In the first year that you use this version of the form for the long calculation of the delta, you must prepare two copies of this form - one using the PHA/IHA characteristics for the requested budget year and one for the last year in which an adjustment was made based on the long calculation. After the first year that you use this version of the form for the long calculation of the delta, you will only need to prepare one copy using the PHA/IHA characteristics for the requested budget year.

Columns 2-8. Enter the total number of dwelling units available for occupancy at the end of the fiscal year by bedroom size for all projects. The classification of the bedroom size of a dwelling unit shall be the same as it was classified in the Development Program or subsequently reclassified as approved by HUD. A unit is considered available for occupancy from the date on which the End of the Initial Operating Period (EIOP) for the project is established until the time it is approved by HUD for deprogramming and is vacated or is approved for nondwelling use. On or after July 1, 1991, a unit is not considered available for occupancy in any PHA/IHA Requested Budget Year if the unit is located in a vacant building in a project that HUD has determined is nonviable. List efficiency apartments with no separate bedroom under "0" Bedroom Size. If there are no units of a certain size, insert 0 (zero) in the block(s) for the designated bedroom size category.

Column 9. Total Dwelling Units. Enter the total of columns 2-8.

Column 10. Total Unit Months Available. Calculate the total Unit Months Available. For those projects that have been or are expected to be available for occupancy during the fiscal year for which the data is given, multiply the total number of these dwelling units, as defined above, by 12. For those projects that will be or are expected to be in occupancy for less than 12 months during the fiscal year for which the data is given, multiply the total number of dwelling units as defined above by the actual number of months the projects will be in occupancy. (i.e., 3, 6, or 9 months.) Enter the sum of the products in column 10.

Part III. To be completed only if a PHA/IHA has a high-rise family project. For the purposes of this form, a high-rise family project is defined as one that has a building that is at least 5 stories tall, has an average bedroom size of at least 1.5, and has an average number of units per building of at least 35. If you have no projects with these characteristics, skip to C2. of this section and enter a 0 (zero).

Column 1. ACC Project Number. Use one line for each project. If you have too many high-rise family projects to fit on this page, list the other projects on separate lines on additional copies of this form, leaving Parts I and II blank.

Column 3. Total number of Dwelling Units. For each project listed, indicate the number of dwelling units expected to be available for occupancy at the end of the fiscal year.

Column 4. Number of buildings in the Project. Include only buildings that contain dwelling units.

Column 8. Height in stories of tallest building. For each project enter the number of stories of the tallest occupied building. Include only stories containing dwelling units or any space used by the PHA/IHA for project use that are not in a basement.

Calculation of PFS Formula and Delta

PHA / IHA -Owned Rental Housing
Performance Funding System

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0029 (exp. 9/30/97)

Public Reporting Burden for this collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is required by Section 9(a) of the U.S. Housing Act of 1937, as amended, and by 24 CFR Part 990 HUD regulations. HUD makes payments for operation of low-income housing projects to PHAs. The Performance Funding System (PFS) determines the amount of operating subsidy to be paid to PHAs. PHAs provide information on the Allowable Utilities Expense (AEL), Allowable Utilities Expense Level and Other Costs for the major PFS components. HUD reviews the information (Operating Budget) to determine each PHA's share of the total operating subsidy funds appropriated by Congress each fiscal year. HUD also uses the information as a means of estimating the annual aggregage operating subsidy eligibility of PHAs which serves as the basis for requesting annual appropriations from Congress. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

Public Housing Agency / Indian Housing Authority	AC Contract No.	Submission ☐ Original ☐ Revision No. (
Requested Fiscal Year Ending Date:		

Part I. Number of pre-1940 rental units occupied by poor households as a percentage of the population of the community.

1	2 Percentage	3 Multiplier	4 Current Year	5 Requested Year
Current and Requested		X		

Part II. Local Government Wage Rate Index.

	Wage Rate Index	Multiplier	Current Year	Requested Year
Current and Requested		X		

Part III. Number of two or more bedroom units or 15,000 whichever is less. (Transfer from form HUD-52720-A, Part II, A2)

	2 or more bedroom units	Multiplier	Current Year	Requested Year
Current		X		
Requested		X		

Part IV. Ratio of three or more bedroom units to total dwelling units. (Transfer from form HUD-52720-A, Part II, B3)

	Ratio	Multiplier	Current Year	Requested Year
Current		X		
Requested		X		

Part V. Ratio of two or more bedroom units in high rise family projects to total dwelling units. Enter 0 if there are no high rise family projects.

	(Transfer from form HUD-52720-A, Part III, C2)	Multiplier	Current Year	Requested Year
Current		X		
Requested		X		

Part VI. Calculation of Formula Expense Level and Delta.

		Current Year	Requested Year
1	Sum of the five products in columns 4 and 5		
2	Enter Equation Calibration Constant		
3	Combine line 1 and line 2		
4	Formula Expense Level (use FEL Increase Worksheet)		
5	Delta (Subtract line 4, column 4, from line 4, column 5)		

form **HUD-52720-B** (8/92)
ref. Handbook 7475.13

Instructions for Form HUD-52720-B

This form constitutes the second part of the calculations which begin on form HUD-52720-A. See the instructions to the HUD-52720-A for applicability.

Carry numbers on this form to five decimal places to correspond with the number of decimal places given for the weights and constant of the PFS equation.

Calculate and insert data separately for the current and requested years, except for Parts I and II where the data for both years are identical. Depending on why you are completing the form, you may not have to complete all elements on this form:

(1) One-time AEL adjustment in accordance with the revision to the PFS regulation published on February 4, 1992, complete current year columns and rows.

(2) In the first year that you use this version of the form for the long calculation of the delta, you must complete all columns and rows. Use the PHA/IHA characteristics for the last year in which an adjustment was made based on the long calculation in the current year rows.

(3) After the first year that you use this version of the form for the long calculation of the delta, you will follow these special instructions for column 2 of the current year rows. Take form HUD-52720-B last used in calculating the AEL and transfer requested year values from Parts III, IV and V to the current year rows on this form (boxes are highlighted).

(4) If the PHA/IHA has been in management for 12 months and is first requesting subsidy. All columns and rows are completed by PHAs/IHAs first requesting subsidy for an ACC that has projects that were in management for the 12 months of the current year.

Column 2

Part I. Number of pre-1940 rental units occupied by poor households as a percentage of the population of the community. Enter the applicable value from the "Number of pre-1940 rental units occupied by poor households as a percentage of the population of the community" table. This table is available from the Financial Analyst in the HUD Field Office. If the city the PHA/IHA serves is listed and at least 80% of the PHA/IHA units are in that city, use the value for the city. If the PHA/IHA has at least 80% of its units in two or more listed cities, it can choose to use the value of the city in which it has the most units or choose to calculate the value of the weighted average based on the number of units in each city listed. If fewer than 80% of a PHA/IHA's units are in a listed city, use the value for the county. If the PHA/IHA has units in more than one county, the PHA/IHA may either choose to use the value for the county in which it has the most units or choose to calculate a weighted average factor based on the number of units in each county.

Part II. Local Government Wage Rate Index. Enter the applicable value from the "Local Government Wage Rate Index" table. This table is available from the Financial Analyst in the HUD Field Office. If the area served by the PHA/IHA covers more than one county, the PHA/IHA may either choose to use the value for the county in which it has the most units or choose to calculate a weighted average factor based on the number of units in each county.

Column 3 Multipliers. Enter the appropriate multiplier from the "PFS Equation for Requested Budget Year" table which will be provided annually in a HUD Notice of updated PFS equation and inflation factors.

Columns 4 and 5 for Parts I through V. Multiply column 2 by column 3 and enter in column 4 or 5, as appropriate.

Part VI. Calculation of Formula Expense Level and Delta.

Line 1. Enter the sum of the amounts shown in column 4 and 5.

Line 2. Enter the Equation Calibration Constant from "PFS Equation for Requested Budget Year" table in column 4 and 5. This table will be provided in the annual PFS Update Notice. The constant is the same for both the current year and the requested year.

Line 3. Combine the amounts on line 1 and line 2 and enter on line 3. If line 2 is a negative figure, subtract line 2 from line 1 and enter the result.

Line 4. Use the FEL Increase Worksheet to calculate the Formula Expense Level. This worksheet will be provided in the annual PFS Update Notice.

Line 5. This amount is the adjustment for the change in characteristics since the last long calculation of the Delta.

Range Test and Determination of Base Year Expense Level

PHA / IHA-Owned Rental Housing
Performance Funding System

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0029 (exp. 9/30/97)

Public reporting burden for this collection of information is estimated to average 12 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is required by Section 9(a) of the U.S. Housing Act of 1937, as amended, and by 24 CFR Part 990 HUD regulations. HUD makes payments for operation of low-income housing projects to PHAs. The Performance Funding System (PFS) determines the amount of operating subsidy to be paid to PHAs. PHAs provide information on the Allowable Utilities Expense (AEL), Allowable Utilities Expense Level and Other Costs for the major PFS components. HUD reviews the information (Operating Budget) to determine each PHA's share of the total operating subsidy funds appropriated by Congress each fiscal year. HUD also uses the information as a means of estimating the annual aggregage operating subsidy eligibility of PHAs which serves as the basis for requesting annual approprations from Congress. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

Note: This form is used by a PHA / IHA to perform the Range Test and determine its Base Year Expense Level the first time operating s ubsidy is requested for an Annual Contributions Contract (ACC) when one or more projects under the ACC have been in management for at least one full fiscal year prior to the Requested Budget Year.

Public Housing Agency / Indian Housing Authority	ACC Number	Requested Budget Year Ending	Submission ☐ Original ☐ Revision No.

Line No.	Description	Requested by PHA/IHA (PUM)	Approved by HUD (PUM)
01	Formula Expense Level calculated on form HUD-52720-B, Calculation of PFS Formula and Delta, part VI, line 4, column 4 for the current year		
02	Formula Expense Level Range Factor. (Multiply Line 01 by .15)		
03	Upper limit of the Formula Expense Level Range: (line 01 plus line 02)		
04	Base year Total Operating Expenditures, (line 890 of form HUD-52564 approved for PHA/IHA's fiscal year immediately preceding the Requested Budget Year.		
05	Adjustments to Base Year Total Operating Expenditures (see PFS Handbook 7475.13 REV, 2-7e) (explain adjustments)		
06	Base Year Expense Level (line 04 plus/minus line 05)		
07	☐ If line 06 is greater than line 03, enter the amount of line 03 on line 01 of form HUD-52723 ☐ If line 06 is less than line 03, complete lines 08 and 09 and enter the amount of line 09 on line 01 of form HUD-52723		
08	Increase of Base Year (see PFS Handbook 7475.13 REV, 2-7e)		
09	Base Year Expense Level plus Approved Increase (line 06 plus line 08)		

Direct Disbursement Payment Schedule Data–Operating Subsidies Public Housing Program (See Instructions for Public Reporting Statement)

U.S. Department of Housing and Urban Development
Office o f Housing
Federal Housing Commissioner

OMB Approval No. 2577-0029 (Exp. 9/30/97)

Line			
01	Project No.	Public Housing Agency (PHA)/Indian Housing Authority (IHA)	☐ Original
02	Fiscal Year End (FYE) (MM/DD/YY)	PHA/IHA Address	☐ Revision No.

Part 1–Eligibility Values

		(a) PHA/IHA Request	(b) HUD Modifications
03	Subject Year Eligibility		
04	Other Eligibility		
05	Prior Year Adjustment		
06	Total Elibibility		

		(a) PGM Code	(b) Obligated Amount	(c) Retained Amount	(d) Scheduled Amount	(e) Funds Available But Not Scheduled
07a	PHA/IHA Req.					
07b	HUD Modif.					
08a	PHA/IHA Req.					
08b	HUD Modif.					
09a	PHA/IHA Req.					
09b	HUD Modif.					
10a	PHA/IHA Req.	Totals				
10b	HUD Modif.	Totals				

Project No. ____ Fiscal Year End (FYE) ____

Line	Part II–Payment Entry Selection	PHA/IHA Request	HUD Modif.	
11	Program (PGM) Code	☐☐☐	☐☐☐	
12	Type of Payment Entry (Check one):	☐	☐	Manual Entry (Go to Part VI)
		☐	☐	System Calculation with Equal Monthly Payments
		☐	☐	System Calculation with Unequal Monthly Payments

Part III–System Calculation of Payment Schedule

Payments Within Month

			Y	N
13	Payments Equal Within Month? (Check Y or N)	PHA/IHA Req.	☐	☐
		HUD Modif.	☐	☐

			1	2	3	4
14	Pay Dates Within Month:	PHA/IHA Req.	☐☐	☐☐	☐☐	☐☐
		HUD Modif.	☐☐	☐☐	☐☐	☐☐
15	Payment Percentages Within Month:	PHA/IHA Req.	☐☐ %	☐☐ %	☐☐ %	☐☐ %
		HUD Modif.	☐☐ %	☐☐ %	☐☐ %	☐☐ %

Monthly Payment Allocation

16 Percentage Payment for Each Month:

		1	2	3	4	5	6	7	8	9	10	11	12
16a	Month	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐	☐☐☐
16b	PHA/IHA Req.	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐
	HUD Modif.	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐	☐☐

Project No. ☐☐☐☐☐☐☐☐☐☐ | Fiscal Year End (FYE) ☐☐☐☐

Line	Part IV–Selection of Payment Schedule Revision Method
17	**Check One:**
	☐ Manual Revision (Use Part VI)
	☐ System Assisted Revision (Use Part V)
	☐ Percent Distribution of Remaining Balance (Use Parts II and III)

Part V–System Assisted Payment Schedule Revision

18 **Type of Payment Revision (Check one):** ☐ Add/Change (Use lines 19-20c)

☐ Delete (Use lines 21-22)

Add/Change Revisions:

19 ☐ Source of Funds: **Existing Payments** PGM Code ☐☐☐

19a Transfer ☐☐☐☐☐☐☐☐☐☐☐☐ from (choose one): Payment # ☐☐☐ to Payment # ☐☐☐

19b Pay Date ☐☐☐☐☐☐ to Pay Date ☐☐☐☐☐☐

20 ☐ Source of Funds: **Unscheduled Funds** PGM Code ☐☐☐

20a Transfer ☐☐☐☐☐☐☐☐☐☐☐☐ to (choose one): Payment # ☐☐☐

20b Pay Date ☐☐☐☐☐☐

20c Payment #'s ☐☐☐ thru (Equal Spread) ☐☐☐

Delete Revisions:

21 Delete (choose one): Payment # ☐☐☐ PGM Codes ☐☐☐ ☐☐☐ ☐☐☐

22 Pay Date ☐☐☐☐☐☐ PGM Codes ☐☐☐ ☐☐☐ ☐☐☐

Project No.

Fiscal Year End (FYE)

Part VI–Manual Payment Entry

	(a) PMT No.	(b) Scheduled Pay Date	(c) Total Scheduled Payment	(d) Scheduled Payment PGM Code	(e) Scheduled Payment PGM Code	(f) Scheduled Payment PGM Code
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.						
HUD Modif.						
PHA/IHA Req.		**Total/Subtotal**				
HUD Modif.		**Total/Subtotal**				

Project No.	Fiscal Year End (FYE)

Part VII–Certification of Public Housing Agency/Indian Housing Authority

I certify that all applicable provisions of the Annual Contributions Contract covering the above numbered project(s) have been complied with by this PHA/IHA and that this form HUD-52721 and all supporting forms and documentation have been examined by me and to the best of my knowledge and belief are true, correct and complete and in accordance with all applicable HUD regulations and requirements including those relating to cash management.

False Claims statement: Warning: U.S. Code, Title 31, Section 3729, False Claims, provides a civil penalty of not less than $5,000 and not more than $ 10,000, plus 3 times the amount of damages for any person who knowingly presents, or causes to be presented, a false or fraudulent claim; or who knowingly makes, uses or causes to be used, a false record or statement; or conspires to defraud the Government by getting a false or fraudulent claim allowed or paid.

Name of PHA/IHA

Signature and Title of Official Authorized to Certify	Date

PHA/IHA Comments

HUD Use Only

Field Office Approval

Field Office Name	Signature and Title of Field Office Official	Date

Field Office Comments

Entered Into LOCCS	By	Date	Time

Instructions

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1. General

a. Purpose. Form HUD-52721, Direct Disbursement Payment Schedule Data, is used as follows:

(1) By a public housing agency (PHA) or Indian housing authority (IHA) to indicate to HUD how operating subsidies requested or obligated in an Operating Budget, form HUD-52564, for a fiscal year are to be scheduled for payment during the fiscal year pursuant to HUD cash management requirements.

(2) By a PHA/IHA to request revisions of a current Payment Schedule based upon changes in cash requirements or changes in the amount of operating subsidy requested or obligated for a fiscal year;

(3) By HUD Field Offices to review, modify and/or approve a PHA/IHA request;

(4) By the HUD Regional Accounting Division (RAD) as the source document for entry of the approved Payment Schedule data into LOCCS, which is the HUD automated system that controls program payments made through Direct Disbursement and Letters of Credit.

b. Applicability. Form HUD-52721 is used for all PHA/IHA-owned public housing rental and homeownership projects when operating subsidy is approved by HUD for a project under Section 9 of the United States Housing Act of 1937, as amended. It is not used for Section 23 or 10(c) leased projects or for the Section 8 Housing Assistant Payments (HAP) program.

c. Submission.

(1) Form HUD-52721 is prepared and submitted with form HUD-52564, Operating Budget, when operating subsidy is requested on Line 960 of the form HUD-52564. It also may be submitted separately to request a revision of a current Payment Schedule and to schedule payment of approved funds which were not scheduled for payment previously.

(2) A separate form HUD-52721 must be submitted for each project or group of projects covered under a separate form HUD-52564, Operating Budget.

(3) Payments must be transmitted by HUD to the Treasury Department five working days in advance of the payment due date. Accordingly, allow sufficient time between submission of form HUD-52721 and the first Pay Date for HUD to review the data and enter it into LOCCS.

d. Completion.

(1) In completing form HUD-52721, PHAs/IHAs must adhere to the applicable HUD cash management requirements and procedures covering the payment of public housing operating subsidies. The PHA/IHA Executive Director or other designated official must certify to this effect on Page 5 of the form.

(2) The form HUD-52721 is designed to both resemble as closely as possible the processing screens used by the RAD to enter the Payment Schedule data into LOCCS (HUD's automated payment system) and facilitate selection by PHAs/IHAs of various options for calculating Payment Schedules.

(3) Certain blocks and areas of the form HUD-52721 are shaded. This identifies for RAD data entry personnel those items which are not entered on the LOCCS processing screens either because the information is calculated by LOCCS (e.g., column totals) or picked up by LOCCS from other HUD automated systems (e.g., information on obligations is picked up from the Program Accounting System). Completion of these items by PHAs/IHAs is optional, but they should normally be filled in to facilitate preparation of the form and subsequent review by the HUD Field Office.

(4) Enter only **one** character per space provided. Where numbers or amounts are shorter than the number of spaces allocated, justify them to the right. Do **not** enter commas, dollar signs or other punctuation, but **do** enter decimal points and minus signs, if needed, in a separate block. Do not enter leading zeroes except where instructed specifically to do so. A maximum of twelve digits plus a decimal point may be entered for any dollar item (For example, $1,000,000.00 may be entered as:

|1|0|0|0|0|0|0|.|0|0| or |1|0|0|0|0|0|0| |0|0|

(5) Enter all dates numerically as follows, using leading zeroes where necessary: MM/DD/YY

For example, for March 31, enter: |0 3|3 1|8 6|

(6) All percentages must be **whole** numbers (no decimal points).

(7) Payments cannot be scheduled for a date which is prior to the beginning of a PHA/IHA fiscal year or the effective date of the Payment Schedule, whichever is later. Lump-sum payments should be scheduled to make up any payments missed when a Payment Schedule becomes effective after the beginning of a PHA/IHA's fiscal year.

e. Distribution of Payment Schedule

(1) After the RAD enters the data from the form HUD-52721 into LOCCS and verifies it, a computer printed Payment Schedule will be produced which will represent the official basis upon which payments will be made to the PHA/IHA until such time as the Payment Schedule is revised or expires.

(2) Two copies of the Payment Schedule will print out on a high speed printer located at each Field Office. The Chief, Assisted Housing Management Branch, or Director, Indian Housing Management Division, will sign and date one copy and forward it to the PHA/IHA and retain the other copy for the Field Office files.

2. Heading

Line 01.

Project No.: Enter the number which identifies the project(s) covered by the form according to the following format:

XX 999 999 YYM, where:

XX = Standard alphabetic abbreviation for the State in which the PHA/IHA is located.

999 = Number of the specific project covered by the form or the first (lowest numbered) project if more than one project is covered by the form. (Precede numbers of less than three digits with zeroes.)

YY = Last two digits of the calendar year in which the subject PHA/IHA fiscal year ends.

M = First letter of the last month of the PHA/IHA fiscal year

For example, for PHA/IHA number NY50 with projects numbered 1, 2, 3, 4, 7, and 8 under one Operating Budget and fiscal year ending March 31, 1986, enter:

|N|Y|0|5|0|0|0|1|8|6|M|

PHA/IHA Name: Self-explanatory

Original: Check this box if the data being submitted is for a new Payment Schedule for a PHA/IHA fiscal year.

Line 02.

Fiscal Year End (FYE): Enter the month, day and year on which the subject PHA/IHA fiscal year will end.

PHA/IHA Address: Self-explanatory

Revision No.: Check this box if the data being submitted is for a revision of a current Payment Schedule and enter the number of the revision for the fiscal year. Number all revisions sequentially.

3. Part I. Eligibility Values

(Note: Lines 03,04, 05, and 06 are **not** edited by LOCCS and will not affect the calculation of the Payment Schedule. If operating subsidy eligibility has not been determined for the subject PHA/IHA fiscal year, do not make entries on these lines.

Line 03. Enter the amount of regular operating subsidy eligibility (e.g., as determined under the Performance Funding System) for the subject project(s) for the subject PHA/IHA fiscal year.

Line 04. Enter the amount of any additional operating subsidy eligibility (e.g., additional funds for DIAP planning costs) for the subject project(s) for the subject PHA/IHA fiscal year.

Line 05. Enter the net amount of adjustments of prior years' operating subsidy eligibility which will be included in the amount of funds requested/obligated for the subject PHA/IHA fiscal year. Precede the amount by a minus sign ("-") if it negative (For example, for a net adjustment due HUD of $10,000, enter:

|-|1|0|0|0|0|

Line 06. Enter sum of lines 03, 04, and 05.

Lines 07, 08 and 09. Entries are made for each type of operating subsidy requested/obligated for the subject fiscal year on the applicable Operating Budget, form HUD-52564. (Note: Lines 08 and 09 are used only in cases where more than one type of operating subsidy is requested/obligated in an Operating Budget.) Types of funds and the corresponding Program Codes are as follows:

Performance Funding System (PFS)	PFS
Non-PFS (rental projects only)	NPF
Turnkey III Homeownership Projects	HTK
Mutual Help Homeownership Projects	MHP

(PHA/IHAs will be notified of other Program Codes to be used for special distributions of funds, as required.)

Column (a) PGM Code: Enter the Program Code corresponding to each type of operating subsidy requested/obligated.

Column (b) Obligated Amount: Enter the amount of operating subsidy requested/obligated. A corresponding amount, identified by the Program Code, must be shown on the applicable Operating Budget, form HUD-52564. (Note: LOCCS will automatically pick up this amount from PAS.)

Column (c) Retained Amount: Enter the amount of the operating subsidy requested/obligated that is to be retained and applied by the RAD to an amount owed HUD.

Column (d) Scheduled Amount: Enter the amount of operating subsidy requested/obligated to be scheduled for payment at this time.

Column (e) Funds Available But Not Scheduled: Normally, column (e) will equal column (b) minus the sum of columns (c) and (d), but it will also include any unpaid funds (i.e., Funds Available But Not Scheduled) carried over from the previous fiscal year's Payment Schedule. Such funds will not show up on the computer printed Payment Schedule produced by LOCCS for the new (subject) PHA/IHA fiscal year, and cannot be scheduled for payment during the new fiscal year, until after the end of the previous fiscal year. (It will automatically show up on any Payment Schedule printed after the beginning of the new fiscal year.)

Line 10. Enter the sums of lines 07, 08, and 09, columns (b), (c), (d) and (e), respectively.

4. Part II. Payment Entry Selection

This Part is used by the PHA/IHA to indicate how a Payment Schedule is to be established for each Scheduled Amount shown under column (d) of lines 07, 08 and 09. A **separate** Page 2 of the form must be used for each Program Code shown under column (a), lines 07, 08 and 09.

Line 11. Enter the Program Code corresponding to the Scheduled Amount for which a Payment Schedule is to be established.

Line 12.

a. Check the box corresponding to "Manual Entry" if each Pay Date and payment amount is to be entered manually, then go directly to Part VI and enter the dates and amounts.

b. Check the box corresponding to "System Calculation with Equal Monthly Payments" if you want LOCCS to calculate the Payment Schedule for you **and** the **total** amount to be paid during each month of the subject fiscal year will be the same.

c. Check the box corresponding to "System Calculation with Unequal Monthly Payments" if you want LOCCS to calculate the Payment Schedule for you **and** the **total** payments to be made during each month of the subject fiscal year will not be the same.

5. Part III. System Calculation of Payment Schedule

This Part is used, when "System Calculation' has been selected in Part II, to indicate how payments are to be made within each month of the subject fiscal year and how the Scheduled Amount shown under column (d), lines 07, 08, and 09, is to be distributed among the months of the subject fiscal year.

Payments Within Month.

Line 13. If all payments within any given month are to be equal, check "Y." Otherwise, check "N."

Line 14. Enter the dates, up to a maximum of four, on which payments are to be made during each month. (Note: Pay dates will be the same for **all** months of the subject fiscal year.) For example, if the following entry is made:

|1|5| |2|3| |2|9|

payments will be made on the 15th, 23rd, and 29th of each month.

Line 15. If "N" was checked on line 13, enter a percentage for each date entered on line 14. The percentages indicate how much of the total amount to be paid during each month is to be allocated among the specified Pay Dates. In determining these percentages, please make note of the following:

a. The percentages must total 100%.

b. If a Pay Date(s) for a month has already passed when the Payment Schedule becomes effective, the amount of the payment will be spread evenly over the remaining payments, if any, during that month.

Monthly Payment Allocation.

a. If "System Calculation with **Equal** Monthly Payments' was selected on line 12, LOCCS will allocate the Scheduled Amount equally among the months (or remaining months) of the subject fiscal year. Do **not** use lines 16-16b.

b. If "System Calculation with **Unequal** Monthly Payments' was selected on line 12, use lines 16-16b to indicate how you want LOCCS to allocate the Scheduled Amount among the months of the subject fiscal year.

Line 16. Use lines 16a-16b to specify the percentage of the Scheduled Amount to be paid during each individual month.

Line 16a. Enter abbreviations for all twelve months of the year beginning with the **first** month of the PHA/IHA's fiscal year. Abbreviations to be used are as follows:

January	JAN
February	FEB
March	MAR
April	APR
May	MAY
June	JUN
July	JUL
August	AUG
September	SEP
October	OCT
November	NOV
December	DEC

Line 16b. Enter the percentage of the Scheduled Amount you want to be paid during each month of the subject fiscal year. In determining these percentages, please make note of the following:

a. If a percentage is entered for **every** month, the percentages must total 100%.

b. If a percentage is **not** specified for **every** month and the percentages entered do **not** total 100%, the remainder of the Scheduled Amount will be distributed equally among the months for which no percentage has been specified. In this case, if you do not want operating subsidy to be paid in a particular month, a zero ("0") must be entered for that month.

For example, if you want 42% of the amount of operating subsidy requested to be allocated equally during the months of December, January, and February, when utility bills are highest, and the balance to be allocated equally over the remaining months of the fiscal year, enter 14% under DEC, JAN and FEB and leave the remaining months blank.

c. If the first Pay Date of a month has already passed when the Payment Schedule becomes effective, a percentage cannot be entered for this month; however, if the percentages entered for the remaining months total less than 100%, the month will be included in the allocation of the remainder of the Scheduled Amount.

6. Revision of Payment Schedules
Page 3, Parts IV and V, of form HUD-52721 are used only when submitting data for revision of a current or pending Payment Schedule. When revising Payment Schedules, only payments not yet transmitted to the Treasury Department (generally five working days before the Pay Date) may be changed. Also, sufficient time must be allowed for HUD review and entry of the changes into LOCCS. Revisions involving only minor changes (e.g., revising the Pay Dates or payment amounts for only a few payments) may be made by telephoning the appropriate HUD Field Office and providing the Financial Analyst or other designated staff person with the information.

7. Part IV. Selection of Payment Schedule Revision Method
Part IV is used to select the method to be used to revise a Payment Schedule.
Line 17.
a. Check the box corresponding to "Manual Revision" if you wish to manually indicate new or revised Pay Dates and/or amounts. If you select this option, go to Part VI and indicate the revisions to be made.
b. Check the box corresponding to "System Assisted Revision" if you want LOCCS to transfer amounts between Payment Numbers, Pay Dates and/or Funds Available But Not Scheduled, or to delete Pay Dates or Payment Numbers. If you select this option, go to Part V.
c. Check the box corresponding to "Percent Distribution of Remaining Balance" if you want to redistribute that part of the Scheduled Amount that has not yet been paid (i.e., you want to change the allocation of the remaining funds among the remaining months and/or the distribution of payment amounts or Pay Dates within months). If you select this option, use Parts II and III to indicate the revised distribution of payments.

8. Part V. System Assisted Payment Schedule Revision
This Part is used, when "System Assisted Revision" was checked on line 17, to indicate the amount and type of revision to be made, if more than one revision is to be made, use a separate page 3, Part V, for each one.

Line 18.
a. Check the box corresponding to "Add/Change" if you want to add new payments and/or change the amount of an existing payment.
b. Check the box corresponding to "Delete" if you want to delete an existing payment.
Add/Change Revisions. Use Lines 19-20c only if "Add/Change" was check on line 18.
Line 19. If you want to transfer funds from an existing payment to either another existing payment or a new payment, check this box and enter the Program Code to which the change will apply, then use lines 19a and 19b.
Line 19a.
Transfer: Enter the amount of funds to be transferred between payments.
From Payment # to Payment #: If you want to transfer funds according to payment numbers, enter the existing payment number from which the funds are to be taken and the new or existing payment number to which they are to be added.
Line 19b.
From Pay Date to Pay Date: If you want to transfer funds according to Pay Dates, enter the existing Pay Date from which the funds are to be taken and the new or existing Pay Date to which they are to be added.
Line 20. If you want to transfer funds from Funds Available But Not Scheduled to either an existing payment or a new payment, check this box and enter the Program Code to which the change will apply, then use lines 20a-20c. (Note: In order to make this change, the change must first be reflected in the appropriate columns of lines 07-09 of Part I.
Line 20a.
Transfer: Enter the amount of funds to be transferred from Funds Available But Not Scheduled to a new or existing payment.
Line 20b.
Pay Date: If you want to transfer the funds to a particular Pay Date, enter that Pay Date.

Line 20c.
Payment #s (____ Thru ____); If you want to spread the funds equally over a series of payments, enter the numbers of the first and last payments in the series.
Delete Revisions: Use lines 21-22 only if "Delete" was checked on line 21. (Note: In order to make this change, the change must first be reflected in the appropriate columns of lines 07-09 of Part I.
Line 21. If you want to delete a payment number, enter that number and the Program Code(s) corresponding to the funds for which a payment is to be deleted.
Line 22. If you want to delete a Pay Date, enter the date and the Program Code(s) corresponding to the funds for which a payment is to be deleted.

9. Part VI. Manual Payment Entry
This Part is used to individually enter Pay Dates and payment amounts when LOCCS calculation of the Payment Schedule has **not** been selected and to manually revise a current or pending Payment Schedule. If more than twelve payments are to be scheduled, use additional copies of Page 4, as required. When revising Pay Dates or payment amounts of a current or pending Payment Schedule, you only need to enter the Payment Numbers to be revised and the new Pay Date and payment amount.
Column (a): Enter sequentially the number of each payment.
Column (b): Enter the date on which each payment is to be made.
Column (c): Enter the total of columns (d), (e) and (f).
Columns (d), (e) and (f): (Note: Use columns (e) and (f) only if the Payment Schedule will include more than one Program Code.) At the top of the column enter the Program Code corresponding to the funds to be scheduled and then enter the amount of each payment.
Total/Subtotal: Self-explanatory.

Calculation of Allowable Utilities Expense Level

PHA/IHA-Owned Rental Housing
Performance Funding System

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0029 (exp. 9/30/97)

Public Housing Agency / Indian Housing Authority :	Old Project Numbers: (data listed on lines 1,2,3)	New Project Numbers: (data listed on line 8)	Fiscal Year Ending: / AC Contract Number:	Submission: ☐ Original ☐ Revision No. ( )

Line No.	Description	Unit Months Available	Sewerage and Water Consumption	Electricity Consumption	Gas Consumption	Fuel (Specify type e.g., oil, coal, wood)		
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
01	UMA and actual consumption for old projects for 12 month period which ended 12 months before the Requested Budget Year.							
02	UMA and actual consumption for old projects for 12 month period which ended 24 months before the Requested Budget Year.							
03	UMA and actual consumption for old projects for 12 month period which ended 36 months before the Requested Budget Year.							
04	Accumulated UMA and actual consumption of old projects (sum of lines 01, 02, 03).							
05	Estimated Unit Months available for old projects for Requested Budget Year.							
06	Ratio of Unit months available for old projects (line 04 divided by line 05 of column 3)	3						
07	Estimated UMA and consumption for old projects for Requested Budget Year (Each figure on line 04 divided by line 06).							
08	Estimated UMA and consumption for new projects.							
09	Total estimated UMA and consumption for old and new projects for Requested Budget Year (line 07 + line 08).							
10	Estimated cost of consumption on line 09 for Requested Budget Year (see instructions).	**Costs**						
11	Total estimated cost for Requested Budget Year (sum of all columns of line 10).							
12	Est. PUM cost of consumption for Requested Budget Year (Allowable Utilities Expense Level) (Line 11 divided by line 09, col. 3)							
12a	Rate							
12b	Unit of Consumption							

Previous editions are obsolete

form **HUD-52722-A** (4/88)
ref. Handbook 78475.13

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is required by Section 9(a) of the U.S. Housing Act of 1937, as amended, and by 24 CFR Part 990 HUD regulations. HUD makes payments for operation of low-income housing projects to PHAs. The Performance Funding System (PFS) determines the amount of operating subsidy to be paid to PHAs. PHAs provide information on the Allowable Utilities Expense (AEL), Allowable Utilities Expense Level and Other Costs for the major PFS components. HUD reviews the information (Operating Budget) to determine each PHA's share of the total operating subsidy funds appropriated by Congress each fiscal year. HUD also uses the information as a means of estimating the annual aggregage operating subsidy eligibility of PHAs which serves as the basis for requesting annual approprations from Congress. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions

1. General. This form shall be used solely for PHA/IHA-owned rental housing projects. A separate form shall be submitted for each Annual Contributions Contract (ACC) which includes one or more projects which have reached the End of Initial Operating Period (EIOP) and will be in management for all or any part of the PHA/IHA fiscal year for which the PHA/IHA is eligible for Performance Funding System (PFS) Operating Subsidy. This form shall not be used with respect to the Section 23 Leased Housing Program, the Section 23 Housing Assistance Payments Program, the Section 8 Housing Assistance Payments Program, the Mutual-Help Program, or the Turnkey III or Turnkey IV Homeownership Opportunity Programs. In addition, this form is not applicable to the PHAs/IHAs of Alaska, Puerto Rico, the Virgin Islands or Guam, which are not subject to the PFS. The PFS regulation covering the purpose for the calculation required by this form is Section 990.107 of 24 CFR Part 990.

2. Preparation and Submission of Form.

Heading. In the spaces provided, enter; name of the Public Housing Agency or Indian Housing Authority; the fiscal year ending date for the year for which this form is being prepared; the Annual Contributions Contract Number; a check (") indicating an original submission or a revision and revision number; and the project identification number of those projects classified as "Old Projects" where the required data is listed on lines 01, 02, and 03, and "New Projects" where the required data is listed on line 08.

Columns 7, 8, and 9. Specify the type(s) of fuel being consumed by inserting the type(s) in one or more of the columnar headings (e.g., oil, coal or wood).

Special Instructions Regarding Lines 01, 02 and 03:

Rolling Base Period. The Rolling Base Period allowable average utility consumption is computed by using data recorded on lines 01, 02 and 03. The Rolling Base Period is applicable for PHA/IHA fiscal years beginning January 1, 1983, and thereafter.

Rolling Base Period of Less Than 36 Months. Section 990.107(c)(2) of the PFS regulations states that if a PHA/IHA has not maintained or cannot recapture consumption data nor develop comparable consumption data regarding a particular utility or utilities from its records or from the records of a comparable project, for the full Rolling Base Period, it may request HUD Field Office approval to utilize data for a period of at least 12 months. If HUD approves the use of data for a period of at least 12 months but less than 36 months, it shall be expanded to the full Rolling Base Period by use of the actual experience, plus estimated consumption for the period for which no record of experience is available. The estimated consumption may be based upon the actual experience. Take into account the relationship of the heating degree days of the periods of actual experience and the missing experience when considering utilities used for space heating. If consumption of a comparable project is utilized, that consumption must have taken place during the same periods of the PHA/IHA's Rolling Base.

Adjustment of the Consumption of the Rolling Base Period. To avoid a distortion of the average consumption for the three 12 month periods of the Rolling Base Period, the actual consumption or equivalent listed on each of these lines must be for the same number of units. Also, the consumption mix, by purposes for which each type of utility is consumed, must be the same in each year, for example, there must not be a switch in use of gas to oil or vise-versa. The unit months available (UMAs) will be the same for all three lines. Needed adjustments to achieve this result are provided below in section 3.

Line 01. By type of utility, enter the actual or adjusted consumption, in the appropriate units of measurement, for the 12-month period which ended twelve months before the requested budget year. In column 3, enter the number of UMAs during this same 12-month period. For example, a PHA with a fiscal year beginning 1/1/83 would report for the period from 1/1/81 through 12/31/81. Include only dwelling units and their consumption which were in management for the *entire* Base Period or are not specifically excluded from line 01 by the instructions of section 3 below. The unit months would include those units where all utilities are tenant-purchased.

Line 02. Refer to instructions for line 01 above, except the consumption to be recorded on line 02 for a fiscal year beginning 1/1/83 would be for the 12-month period from 1/1/80 through 12/31/80, which is the period ended twenty four months before the requested budget year.

Line 03. Refer to instructions for line 01 above, except the consumption to be recorded on line 03 for a fiscal year beginning 1/1/83 would be for the 12-month period from 1/1/79 through 12/31/79, which is the period ended thirty six months before the requested budget year.

Line 04. Enter the sum of lines 01, 02, and 03 in each column.

Line 05. Enter the number of UMAs during the requested budget year for Old Projects. This number must be the same as the UMAs shown on lines 01, 02 and 03, column (3) of this form. If the UMAs in the requested budget year are not the same as each period of the Rolling Base Period, see instructions contained in the second paragraph of section 3, below.

Line 06. Divide UMAs in column (3) of line 04 by UMAs in column (3) of line 05 to determine the ratio of UMAs available in the accumulated years to the UMAs available in the requested budget year. If the ratio is different than 3, there has been an error in stating UMAs on lines 01, 02, 03, 04, and/or 05.

Line 07. Divide each consumption amount and the UMAs on line 04 by the ratio in column (3) of line 06 (3) and enter each answer in the appropriate column of line 07.

Line 08. A "New Project" for the purpose of establishing the Rolling Base Period and the Allowable Utilities Expense Level is defined as either:

- A project which has not been in operation during at least 12 months of the Rolling Base Period, or a project which enters management after the Rolling Base Period and before the end of the Requested Budget Year.
- A project which during or after the Rolling Base Period has experienced: a conversion from one energy source to another; interruptible service sufficient to cause discernible variance from normal consumption pattern; a period in which the project is unoccupied; a switch from tenant-supplied to PHA/IHA-supplied utilities; or a switch from PHA/IHA-supplied to tenant-supplied utilities.

Specific instructions for establishing or adjusting utility consumption for each of the above mentioned possibilities are outlined in section 3 below.

Line 09. Enter the sum of line 07 and line 08 for UMAs and all consumption columns. Even if the utilities for one or more units are all tenant-purchased, the UMAs for such units must be included in column 3 of this line. The UMAs also will be included in the category of Old Projects (line 01, 02 and 03) or new projects (line 08), as appropriate. **In all cases, the total UMAs shown in column (3) of line 09 must be the same as the UMAs shown on form HUD-52723, "Calculation of Performance Funding System Operating Subsidy."**

Line 10. Compute the estimated costs attributable to the estimated consumption for each utility based on monthly rate schedules for each meter or unit price, and enter in the appropriate column. *The current applicable rates in effect at the time the Operating Budget is submitted to HUD will be used as the utilities rates for the Requested Budget Year,* except where prior to the date of submission of the budget to HUD, the appropriate utility commission has approved rate increases for future implementation. In these instances, the new rates may be used as the utility rates for the entire Requested Budget Year.

Line 11. Enter in column (3) the sum of all columns of line 10.

Line 12. Divide the amount in column (3) of line 11 by UMAs shown in column (3) of line 09. Enter the resulting PUM amount in this line and on the line titled "Allowable Utilities Expense Level" of form HUD-52723.

Line 12a. Enter for each type of utility or fuel the rate or unit price used to compute the estimated costs shown for each utility or fuel on line 10.

Line 12b. Indicate for each type of utility or fuel the unit of measurement (e.g. therms, kilowatt hour, gallons, cubic feet, 100 cubic feet, tons) which relates to the consumption shown for each utility or fuel on lines 01 thru 04.

3. Situations Requiring Special Adjustments to Lines 01 Through 08. Actual consumption of projects having the situations described in section 2, "Line 08", above, shall be established or adjusted in accordance with the instructions contained in this paragraph. The overriding consideration of all of the adjustments which are discussed here is that the consumption data shall not be distorted by including in lines 01, 02, 03, 05 or 07 of this form any UMAs or consumption for projects for only part of the Rolling Base Period or Requested Budget Year, and that the consumption mix, by purposes for which given utilities are used, will be the same for each such line. Where there is usage or a specific type of delivery or usage mix for only a part of the Rolling Base Period, either it will be eliminated from lines 01, 02, 03, 05 and 07 and, after appropriate adjustment, incorporated into line 08, or the total Rolling Base Period (lines 01, 02 and 03) will be adjusted to show a comparable situation as to usage mix for each unit in each twelve month period. Information supporting the special adjustments shall accompany this form.

New Project Not in Management During at Least 12 Months of the Rolling Base Period. The allowable consumption and UMAs for a project specified in section 2, the first subpart of "Line 08", above, shall not be included in lines 01, 02 or 03, but the allowable consumption levels and UMAs shall be entered in line 08 of this form. For the project in management for less than 12 months of the Rolling Base Period or one entering management after the Rolling Base Period but before the end of the Requested Budget Year, annual allowable consumption data shall be determined by using the consumption experience of a project (same PHA/IHA or other PHA/IHA) with comparable types of utilities and which is likely to have comparable per unit levels of consumption based on the physical characteristics of the buildings. Such experience must have occurred during the Rolling Base Period and must be for 12 months or more. If more than 12 months are used, the experience must be annualized. The annual consumption and UMAs shall then be adjusted to reflect the number of months the project is expected to be in management during the Requested Budget Year. The resulting allowable consumption levels and UMAs shall be entered on line 08. The HUD Field Office will provide these figures on request. Once this project has acquired 12 months experience, its allowable utilities consumption level for the next Requested Budget Year will be entered on this form in accordance with the instructions of "Rolling Base Period of Less Than 36 Months" in section 2.

Switch of Utilities - Energy Conversions: If the PHA/IHA has converted the units of a project from one energy source to another (e.g., from oil to coal) during or after the Rolling Base Period, or will convert before the end of the Requested Budget Year, the following adjustments are required for the Rolling Base Period and/or line 08.

- **For Discontinued Utility.** Exclude actual consumption of these units in the column on lines 01, 02 and 03.
- **For New Utility:**
  - **Between One and Three Years of Experience.** If there has been more than one, but less than three years of consumption experience during the Rolling Base Period, use such actual experience, plus estimated consumption for the time which had no experience, in the appropriate column on lines 01, 02 or 03. Line 08 is not to be used. Avoid overlapping estimated and actual consumption experience. As a means of estimating the missing consumption of the new space heating utility, the PHA/IHA's calculation could be based upon the old utility consumption for the missing period, using the relative BTU equivalent. If the PHA/IHA requires assistance to compute BTU equivalents, it should request it from the Field Office.
  - **Less Than One Year of Experience.** If there is less than one year of consumption experience as to the new utility during the Rolling Base Period, estimate the annual consumption and include it in the appropriate column on each of lines 01, 02 and 03. Line 08 is not to be used. In estimating, use actual consumption experience available. Consider the consumption patterns of comparable projects if such information is available. Avoid overlapping estimated consumption and actual experience. The BTU equivalent system mentioned in the preceding paragraph could be utilized to compute the missing experience.
  - **Switch After Rolling Base Period.** If the switch is between the Rolling Base Period and the start of the Requested Budget Year, estimate consumption for a full year for the new utility, as if for a "New Project," (see the second paragraph of part 3, above) and enter estimated consumption on line 08.

    If the date of the switch to the new utility will result in its use for a part of the Requested Budget Year, estimate the consumption of the discontinued utility for the number of months of the Requested Budget Year it will be used, and estimate the consumption of the new utility for the number of months it will be used, and include these estimates on line 08, in the appropriate columns. The estimate for the discontinued utility shall be based on historical data of the Rolling Base Period, and the

estimate for the new utility shall be made as if for "New Project" (see the second paragraph of part 3, above). Once the PHA/IHA has experienced actual consumption of the new utility for some part of the Rolling Base Period, the new utility shall be considered in accordance with the instructions in the preceding paragraph, "Less Than One Year of experience.

Unit Months Available. When a switch of utilities occurs, no adjustment of UMAs is required for lines 01, 02, or 03. Also do not enter UMAs on line 08, as this will duplicate the UMAs already shown on lines 01, 02 and 03.

Interruptible Service. If the PHA/IHA has a utilities combination which provides for interruptible service from one energy source to another, the HUD Field Office shall be contacted to determine a reasonable estimate of consumption to be used in calculating the allowable utility expense for the Requested Budget Year if the interruption is sufficient to cause discernible variance from normal consumption pattern. This adjustment would, of course, not be considered until after the interruption had occurred and, if possible, not until after the heating season has ended.

Unoccupied Projects. For a project that will be unoccupied for the entire Requested Budget Year, and no utility service is being provided, exclude the previous actual consumption of these units from the appropriate columns on lines 01, 02, and 03. For a project that will be unoccupied for a significant continuous period during the Requested Budget Year, for such reasons as extensive modernization or if the PHA is awaiting a decision on demolition, but some utility service is to be provided, the previous consumption shall be excluded from the appropriate columns on lines 01, 02, and 03, and the estimated consumption of utilities that may be furnished for the Requested Budget Year shall be included in line 08. The number of UMAs shown under column (3) will not be affected. When the reason for this adjustment has passed, then the Rolling Base Period consumption shall once again be entered on lines 01, 02 and 03 for this project in accordance with the instructions "For New Utility" in the third paragraph of this section. The PHA/IHA must submit documentation in support of any consumption entered on line 08 pursuant to this paragraph.

Switch of Utilities from Tenant-Purchased to PHA/IHA-Supplied. If the PHA/IHA has switched from tenant-purchased to PHA/IHA-supplied utilities during the Rolling Base Period or if it has or will do so after the Rolling Base Period but prior to the end of the Requested Budget Year, consumption data applicable to PHA/IHA-supplied utilities must be included on the form HUD-52722-A. The instructions contained in the third paragraph of this section, ("For New Utility") are appropriate for the adjustment necessary to reflect this switch. Keep in mind that where the instructions state "new utility" it will mean, for the purposes of this paragraph, the new PHA/IHA-supplied utility. In addition, where consumption experience is requested, it relates to experience under a PHA/IHA-supplied system and not to previous consumption charged directly to tenants.

Switch of Utilities from PHA/IHA-Supplied to Tenant-Purchased. If the PHA/IHA has changed from PHA/IHA-supplied to tenant-purchased utilities prior to the beginning of the Requested Budget Year, no data regarding PHA/IHA-supplied utilities shall be included in the Rolling Base Period (lines 01, 02 and 03) consumption data.

If the switch is to be made in the Requested Budget Year, the amount of PHA/IHA-supplied consumption for the period from the beginning of the Requested Budget Year to the date of the switch shall be shown on line 08; do not show UMAs for such units on line 08 since they are already included in lines 01, 02 and 03. The estimate shall be based upon consumption experience of the Rolling Base Period. In the next fiscal year, the partial consumption should be deleted from line 08.

Submission of Form HUD-52722-A. Submit form HUD-52722-A to the Field Office for approval together with form HUD-52723, "Calculation of PFS Operating Subsidy", and the Operating Budget, form HUD-52564, for the Requested Budget Year.

Supporting Documentation. The PHA/IHA shall retain supporting documentation substantiating the data reported on this form until audited.

Preparation of form HUD-52722-A for consideration of an Adjustment Due to Rate Increases During a Current Year. Prior to the submission of an adjustment for rate increases for a current year, refer to the provisions of Section 990.110(c) of the PFS regulations to determine if the PHA/IHA qualifies for early adjustment.

Lines 01 through 09. Enter the same amounts as shown on lines 01 through 09 of the last previously approved form HUD-52722-A, submitted for the Current Fiscal Year. These data usually will not be changed since it relates to consumption and UMAs, and adjustments for consumption are not allowed until after the close of the fiscal year. However, if the PHA/IHA has a valid basis for changing the UMAs shown on line 09 of the previously approved form HUD-52722-A, it may do so, but *all* documents relative to the Performance Funding System must be recalculated and resubmitted.

Line 10. Compute the revised estimated costs attributable to each consumption amount, based on monthly rate schedules or unit prices, and enter in the appropriate column. When a revised form HUD-52722-A is submitted to reflect rate increases implemented in the current fiscal year, the new rate shall only be applied to the consumption of the remaining portion of the current fiscal year. This can be accomplished by using a rate that is a weighted average. For those costs which do not change, enter previously approved amounts.

Line 11. Enter the sum of all columns of line 10.

Line 12. Divide the amount in column (3) of line 11 by UMAs shown in column (3) of line 09. Enter resulting PUM amount here and on the line titled "Allowable Utilities Expense Level" of revised form HUD-52723.

Submission. Submit the revised form HUD-52722-A to the Field Office for approval together with a revised form HUD-52723 and a revised Operating Budget, form HUD-52564.

Supporting Documentation. The PHA/IHA shall retain the documentation evidencing the change(s) in utility rate schedules or unit prices until audited.

Adjustment for Utility Consumption and Rates

PHA/IHA-Owned Rental Housing
Performance Funding System

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0029 (exp. 9/30/97)

Public reporting burden for this collection of information is estimated to average 1.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is required by Section 9(a) of the U.S. Housing Act of 1937, as amended, and by 24 CFR Part 990 HUD regulations. HUD makes payments for operation of low-income housing projects to PHAs. The Performance Funding System (PFS) determines the amount of operating subsidy to be paid to PHAs. PHAs provide information on the Allowable Utilities Expense (AEL), Allowable Utilities Expense Level and Other Costs for the major PFS components. HUD reviews the information (Operating Budget) to determine each PHA's share of the total operating subsidy funds appropriated by Congress each fiscal year. HUD also uses the information as a means of estimating the annual aggregage operating subsidy eligibility of PHAs which serves as the basis for requesting annual approprations from Congress. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

Public Housing Agency / Indian Housing Authority:	Fiscal Year Ending:	ACC Contract Number:	Type of Submission: ☐ Original ☐ Revision No. ( ) HDD Adjustment Factor Applied? ☐ Yes ☐ No

wood) No.	Description	Line Totals	Sewerage and Water Cost and Consumption	Electricity Costs and Consumption	Gas Costs and Consumption	Fuel Costs & Consumption (Specify type e.g., oil, coal,		
	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)
13	Actual utility costs for the fiscal year for which adjustment is requested.							
14	Actual consumption for the fiscal year for which adjustment is requested.							
15	Actual average rate (line 13 divided by line 14).							
16	Estimated consumption for old and new projects for the fiscal year for which adjustment is required.							
17	Costs of estimated consumption at average rate (line 15 times line 16; enter total in column 3).							
18	Line 17, column (3) times 0.50; enter the amount in column 3.							
19	Line 13, column (3) times 0.50; enter the amount in column 3.							
20	Total utility costs includable in Operating Subsidy Calculation (line 18 plus line 19).							
21	Total estimated cost for the fiscal year for which adjustment is requested (line11, form HUD-52722-A).							
22	Utility adjustment (line 20 minus line 21)							

Previous editions are obsolete

form **HUD-52722-B** (4/88)
ref. handbook 7475.13

Instructions. Note: These instructions apply to PHA/IHA fiscal years ending December 31,1983 and thereafter.

1. General. This form is an extension of form HUD-52722-A, "Calculation of Allowable Utilities Expense Level", and is used to adjust the estimated PUM cost of consumption for actual rates, consumption and heating degree days (HDD) experienced for the fiscal year for which the form HUD-52722-A was prepared. A copy of this form must be prepared and submitted by each PHA/IHA, by ACC, for each PHA/IHA fiscal year for which the PHA/IHA received approval of an operating subsidy, except where the subsidy was solely for the cost of an independent audit. A variance of actual rates or consumption from estimates will increase or decrease subsidy eligibility. A revised form HUD-52723, "Calculation of Performance Funding Operating Subsidy", for the same fiscal year for which the form HUD-52722-A was prepared, is required in conjunction with this form.

2. Preparation and Submission of this Form.

Heading. In the space provided, enter: name of Public Housing Agency or Indian Housing Authority; the fiscal year ending date for which the requested adjustment is being submitted; the Annual Contributions Contract Number; a check (") indicating an original submission or a revision and a revision number; and a check (") in the appropriate box to indicate whether the estimated consumption on line 16 has been adjusted by the heating degree day (HDD) factor.

Columns 7, 8, 9. Insert in the columnar headings the same information included on the last HUD-approved form HUD-52722-A for the fiscal year for which the adjustment is requested.

Line 13. By type of utility, enter the actual total utility costs, in the appropriate columns, for the fiscal year for which the adjustment is requested. The source of the cost data is the form HUD-52599, "Statement of Operating Receipts and Expenditures", prepared for the fiscal year for which the adjustment is requested. The PHA/IHA shall consider the following points prior to entering the costs on this line.

When all projects have been in management for a full 12-month fiscal year, whether the PHA/IHA is on a cash or an accrual basis, the costs entered on line 13 must be for a 12-month period to correspond with the estimates originally made on the form HUD-52722-A. If any utility costs reported on the form HUD-52599 are not for a 12-month priod, adjustment of costs to a 12-month period must be made and documentation must be submitted supporting the adjustment.

When all or some of the projects have been in management for less than or more than 12 months, the costs entered on this line shall be those costs incurred for the projects for the number of unit months available (UMAs) reported on the form HUD-52599, which must be the same as the UMAs entered on line 09, column 3 of form HUD-52722-A. If the UMAs are different from what was used on the latest approved form HUD-52722-A, all documents relative to the PFS must be recalculated and resubmitted using the correct UMAs.

Line 14. Enter the actual consumption for the fiscal year for which the adjustment is requested. This will be the consumption relative to the actual total utility costs entered on line 13 above. Refer to the instructions for adjustments of utilities rates, consumption and costs which may be required pursuant to instructions for line 13 above.

Line 15. Enter the results of dividing each column of line 13 by the corresponding column of line 14.

Line 16. Enter the estimated consumption for old and new projects for the fiscal year for which the adjustment is requested. These amounts will be the same as those on line 09 of the corresponding form HUD-52722-A for the fiscal year for which the adjustment is requested, except the AUCL applicable to space heating must be adjusted by a HDD change factor as explained in the following paragraph.

The AUCL of the Rolling Base Period utility(ies) used for space heating (as defined below) shall be adjusted to reflect the ratio of the heating degree days (HDD) of the PHA/IHA fiscal year for which this form is prepared to the average annual HDD for its three-year Rolling Base Period. The first PHA/IHA fiscal year to which the adjustment (Change Factor) was applicable was the fiscal year ending December 31, 1983. (Reference: PFS Regulations cited at 24 CFR 990.107(d)). The consumption readings of meters of utilities, or gallons of oil, or tons of coal used to heat dwelling units and other PHA/IHA buildings shall be adjusted up or down by the Change Factor supplied by HUD. Change Factors are provided for each county of each State by PHA/IHA fiscal year beginning dates. The Change Factor shall be applied to the total consumption reading of a meter of a utility, or gallons of oil, or tons of coal, etc., even if the utility measured by the meter is used for other purposes in addition to space heating; e.g., gas used for space heating and cooking measured on the same meter or oil used for space heating and heating water. The appropriate consumption for each fiscal year of the Rolling Base Period (Old Projects) shall be adjusted by the Change Factor. A suggested format to accomplish the adjustment of the Rolling Base Period is included in the paragraph "Supporting Documentation" below. The remaining consumption allowed for the same utility(ies) not used for heating (not adjusted by the Change Factor) shall be included in the total adjusted consumption. After adding the adjusted and nonadjusted consumption for each year, sum these totals for the three years and compute an average adjusted AUCL by dividing the sum by three (3). The Change Factor shall then be applied to the space heating utility(ies) of New Projects in the same manner as described above for Old Projects. The New Project adjusted total shall be added to the average amount determined for the Old Projects and this sum shall be entered on line 16 in the appropriate column. The AUCL of other types of utilities shall be entered in the appropriate columns of this line. If a PHA/IHA manages units in more than one county, and these counties have different change factors, the adjustment of the Rolling Base Period consumption shall be computed using a weighted average Change Factor based upon the number of units in each county and each county's Change Factor. If a PHA/IHA manages units in an independent city not within the jurisdiction of a county, it shall, (1) if surrounded by one county, use that county's Change Factor, or (2) if surrounded by more than one county, use the average of the Change Factors of the contiguous counties.

Line 17. Multiply the columns of line 15 by the columns of line 16 and enter the results in the appropriate columns of line 17. Sum the amounts of columns 4 through 9 and enter the total in column 3.

Line 18. Multiply the amount on line 17, column 3 by 0.50.

Line 19. Multiply the amount on line 13, column 3 by 0.50.

Line 20. Line 18 plus line 19. This is the amount that will be allowed for utilities costs instead of the utilities costs previously computed on form HUD-52722-A for the fiscal year for which the adjustment is requested.

Line 21. Enter the total cost that was estimated for the fiscal year for which the adjustment is requested, as shown on line 11 of the latest HUD approved form HUD-52722-A.

Line 22. Line 20 minus line 21. If line 21 is greater than line 20, enter the difference in brackets. Enter the amount here and on the line titled "Utility Adjustment" of a revised form HUD-52723 for the fiscal year for which the adjustment is requested.

Submission. Submission of this form to the Field Office Manager normally shall be within 30 days after receipt of the needed HDD Change Factor from HUD.

Supporting Documentation. The PHA/IHA shall retain supporting documentation substantiating the data reported on this form and retain the detailed records of consumption until audited. Included in this documentation shall be the calculations supporting the application of the Change Factor pursuant to the instructions for line 16, above. For each type of heating utility, the documentation shall be in a format such as that listed below.

A separate sheet shall be prepared for each utility used for heating and for each 12-month period of the Rolling Base Period. Refer to the PFS regulations (24 CFR 990.107) for an explanation of the application of the Change Factor.

Utilities Consumption Adjustment Format

PHA/IHA Name _____

_____

Type of Utility (Gas, Oil, Electricity) _____

12-Month Period Ended _____

Project Number	Meter Number	Consumption	x	Change Factor	=	Adjusted Consumption

Total Adjusted Consumption _____

Previous editions are obsolete

form **HUD-52722-B** (4/88)
ref. handbook 7475.13

Calculation of Performance Funding System Operating Subsidy
PHA/IHA-Owned Rental Housing

U.S. Department of Housing and Urban Development
Office of Public and Indian Housing

OMB Approval No. 2577-0029 (exp. 9/30/1997)

Name and Address of Public Housing Agency / Indian Housing Authority: (PHA/IHA)

☐ Budget submission to HUD required

Type of Submission:
☐ Original
☐ Revision No:_____

No. of HA Units	Unit Months Available: (UMAs)	Subject Fiscal Year:	ACC Number:	PAS/LOCCS Project No:	Submission Date:

Line No.	Description	Requested by PHA/IHA (PUM)	HUD Modifications (PUM)
Part A.	**Allowable Expenses and Additions**		
01	Previous allowable expense level (line 07 of form HUD-52723 for previous fiscal year)		
02 a	Line 01 multiplied by .005		
02 b	Delta from form HUD-52720-B, if applicable (see instructions)		
03	"Requested" year units from latest form HUD-52720-A(see instructions)		
04	Add-ons to allowable expense level from previous fiscal year (see instructions)		
05	Total of lines 01, 02a, 02b, and 04		
06	Inflation factor		
07	Revised allowable expense level (AEL)(line 05 times line 06)		
07a	Transition Funding		
07b	Increase to AEL		
08	Allowable utilities expense level from form HUD-52722-A		
09	☐ Actual or ☐ Estimated PUM cost of Independent Audit (IA) during subject fiscal year		
10	Costs attributable to deprogrammed units		
11	**Total Allowable Expenses and Additions** (sum of lines 07 thru 10)		
Part B.	**Dwelling Rental Income**		
12	Total rent roll (as of ____/____/____) $		
13	Number of occupied units as of rent roll date		
14	Average monthly dwelling rental charge per unit (line 12 divided by line 13)		
15	Change factor	1.	1.
16	Projected average monthly dwelling rental charge per unit (line 14 times line 15)		
17	Projected occupancy percentage (see instructions)	%	%
18	**Projected average monthly dwelling rental income per unit** (line 16 times line 17)		
Part C.	**Non-dwelling Income**		
19	Estimated Investment Income (EII)		
20	Other income		
21	**Total non-dwelling income** (line 19 plus line 20)		
22	**Total operating receipts** (line 18 plus line 21)		
23	**PUM deficit or (Income)** (line 11 minus line 22)		
		Requested by PHA/IHA (Whole dollars)	**HUD Modifications (Whole dollars)**
24	**Deficit or (Income) before add-ons** (line 23 times UMAs shown in heading)		
Part D.	**Add-ons for changes in Federal law or regulation and other eligibility**		
25	FICA contributions		
26	Unemployment compensation		
27	Flood insurance premiums		
28	Total Other (specify in Remarks section)		
28a	Add-on for Family Self Sufficiency Program		
28b	Other Add-ons for Federal law or regulations		
28c	Unit reconfiguration		
28d	Non-dwelling units		
28e	Long-term vacant units		
29	**Total add-ons** (sum of lines 25 thru 28)		

Previous edition is obsolete for PHA/IHA Fiscal Years beginning 1/1/95 and thereafter

form **HUD-52723** (5/96)
ref. Handbook 7475.13

Line No.	Description	Requested by PHA/IHA (PUM)	HUD Modifications (PUM)
Part E.	**Calculation of Operating Subsidy Eligibility Before Year-End Adjustments**		
30	Deficit or (income) before year-end adjustments (total of lines 24 and 29)		
31	☐ Actual or ☐ Estimated cost of Independent Audit (IA) during subject fiscal year		
32	**PFS operating subsidy eligibility before year-end adjustments** (greater of line 30 or line 31) (If less than zero, enter zero (0))		
Part F.	**Calculation of Operating Subsidy Approvable for Subject Fiscal Year (Note:** Do **not** revise after the end of the subject FY)		
33	Prior years' net year-end adjustments (identify individual FYs and amounts under "Remarks")		
34	Additional subject fiscal year operating subsidy eligibility (specify)		
35	Overobligations from prior fiscal years to be recovered in subject fiscal year	( )	( )
36	Unfunded eligibility in prior fiscal years to be obligated in subject fiscal year		
37	Incentive Adjustment		
38	Other (specify)		
39	Other (specify)		
40	Unfunded portion due to proration		
41	**Operating subsidy approvable for subject fiscal year** (total of lines 32 thru 40)		
HUD Use Only (Note: Do **not** revise after the end of the subject FY)			
43	Amount of operating subsidy approvable for subject fiscal year not funded		( )
44	Amount of funds obligated in excess of operating subsidy approvable for subject fiscal year		
45	**Funds obligated in subject fiscal year** (total of lines 41 thru 44) (Must be the same as line 690 of the Operating Budget, form HUD-52564, for the subject fiscal year)		
Part G.	**Memorandum of Amounts Due HUD, Including Amounts on Repayment Schedules**		
46	Total amount due in previous fiscal year (line 49 of form HUD-52723 for previous fiscal year)		
47	Total amount to be collected in subject fiscal year (identify individual amounts under "Remarks")	( )	( )
48	Total additional amount due HUD (include any amount entered on line 44) (Identify individual amounts under "Remarks")		
49	**Total amount due HUD to be collected in future fiscal year(s)** (Total of lines 46 thru 48) (Identify individual amounts under "Remarks")		
Part H.	**Calculation of Year-end Adjustment for Subject Fiscal Year** **This part is to be completed only after the subject fiscal year has ended**		
50	Indicate the types of adjustments that have been reflected on this form: ☐ Utility Adjustment ☐ Target Investment Income (TII) Adjustment ☐ Adjustment of Independent Audit (IA) Cost ☐ Unit Months Available (UMAs) ☐ Dwelling Rental Income ☐ Add-ons ☐ Other (specify under "Remarks")		
51	Estimated Investment Income (EII)		
52	Target Investment Income (TII)		
53	TII adjustment (line 51 minus line 52)		
54	Utility adjustment (line 22, form HUD-52722-B)		
55	Combined utility and TII adjustment (total of lines 53 and 54)		
56	Deficit or (Income) after year-end adjustments (total of lines 30 and 55)		
57	PFS operating subsidy eligibility after year-end adjustments (greater of line 31 or line 56)		
58	Line 32 of latest form HUD-52723 approved **during** subject FY **(Do not use line 32 of this revision)**		
61	**Net year-end adjustment for subject fiscal year** (line 57 minus line 58)		
62	Unfunded portion due to proration		
63	Prorated net year-end adjustment for subject fiscal year		

I hereby certify that all the information stated herein, as well as any information provided in the accompaniment herewith, is true and accurate.

Warning: HUD will prosecute false claims and statements. Conviction may result in criminal and/or civil penalties. (18 U.S.C. 1001, 1010, 1012; 31 U.S.C. 3729, 3802)

Signature of Authorized HA Representative & Date:	Signature of Authorized Field Office Representative & Date:
X	X

Remarks

Public Reporting Burden for this collection of information is estimated to average 2.5 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. This agency may not collect this information, and you are not required to complete this form, unless it displays a currently valid OMB control number. This information is required by Section 9(a) of the U.S. Housing Act of l937, as amended, and by 24 CFR Part 990 HUD regulations. HUD makes payments for operation of low-income housing projects to PHAs. The Performance Funding System (PFS) determines the amount of operating subsidy to be paid to PHAs. PHAs provide information on the Allowable Utilities Expense (AEL), Allowable Utilities Expense Level and Other Costs for the major PFS components. HUD reviews the information (Operating Budget) to determine each PHA's share of the total operating subsidy funds appropriated by Congress each fiscal year. HUD also uses the information as a means of estimating the annual aggregage operating subsidy eligibility of PHAs which serves as the basis for requesting annual approprations from Congress. Responses to the collection of information are required to obtain a benefit. The information requested does not lend itself to confidentiality.

Instructions

This form is used by Public Housing Agencies (PHAs) and Indian Housing Authorities (IHAs) to calculate eligibility for operating subsidy under the Performance Funding System (PFS), 24 CFR Parts 990 and 905, as applicable.

It is used for PHA/IHA-owned rental public housing projects when operating subsidy is requested for such projects under the PFS.

It is **not** used for Turnkey III and Mutual Help Homeownership Opportunity projects, Sections 23 and 10(c) leased projects, or the Section 8 Housing Assistance Payments (HAP) program.

Send this form along with a PHA/IHA's Operating Budget (form HUD-52564), if required, when operating subsidy is requested on line 690 of the form HUD-52564. A separate copy of this form must be sent for each project or group of projects under a separate Annual Contributions Contract (ACC) and/or Operating Budget for each PHA/IHA fiscal year in which operating subsidy is requested.

When a PHA/IHA requests operating subsidy solely to cover the cost of an Independent Audit (IA), only the heading, lines 31 and 32 in Part E, and Parts F and G need be completed.

Headings:

Budget Submission to HUD Required. Check this box if Operating Budget, form HUD-52564, is required to be submitted to HUD.

Type of Submission. Indicate whether this form is (1) the original submission for the **subject fiscal year** or (2) a revision of the latest approval for the subject fiscal year. If applicable, enter the revision number.

Number of HA Units. Enter the total number of dwelling units in the project covered.

Unit Months Available (UMAs). Enter the product of Project Units multiplied by the number of months the units will be available for occupancy during the subject fiscal year. (Note: The number of UMAs shown on all forms used to calculate PFS Operating Subsidy, as well as the Operating Budget, form HUD-52564, must be the same.) A unit is considered available for occupancy from the date established as the End of Initial Operating Period (EIOP) for the project until the time the unit is approved by HUD for deprogramming and is vacated or is approved for nondwelling use. In the case of an HA development involving the acquisition of scattered site housing, see also § 990.104(b). A unit will be considered a long-term vacancy and will not be considered available for occupancy in any given HA Requested Budget Year if the HA determines that:

(1) The unit has been vacant for more than 12 months at the time the HA determines its Actual Occupancy Percentage;

(2) The unit is not either: (i) a vacant unit undergoing modernization; or (ii) a unit vacant for circumstances and actions beyond the HA's control, as these terms are defined in the regulations; and

(3) The HA determines that it will have a vacancy percentage of more than 3 percent and will have more than five vacant units, for its Requested Budget Year, even after adjusting for vacant units undergoing modernization and units that are vacant for circumstances and actions beyond the HA's control, as defined in the regulations.

Subject Fiscal Year. Enter the ending date of the subject fiscal year. The subject fiscal year is the PHA/IHA's fiscal year or requested budget year for which this form is submitted. (References to **previous fiscal year** mean, specifically, the PHA/IHA's fiscal year immediately preceding the subject fiscal year; references to **prior fiscal years** mean, in a more general sense, one or more fiscal years which ended prior to the subject fiscal year.)

ACC Number. Enter the number of the Annual Contributions Contract (ACC) covering the projects for which this form is submitted.

PAS/LOCCS Project No. Enter the PAS/LOCCS Project Number applicable to the corresponding Operating Budget, form HUD-52564. (See paragraph 2 of the Instructions for form 52721, Direct Disbursement Payment Schedule Data.)

Part A. Allowable Expenses and Additions

Note. Except where otherwise indicated, all entries in Part A must be Per Unit Per Month (PUM) amounts, rounded to the nearest two (2) decimal places. A PUM amount is derived by dividing the corresponding dollar amount by the UMAs shown in the heading.

Line 01. Enter the Allowable Expense Level (AEL) for the previous fiscal year (i.e., the PHA/IHA fiscal year immediately preceding the subject fiscal year) as shown on line 07 of the latest approval for the previous fiscal year.

Line 02 a. Always enter the product of line 01 multiplied by .005.

Line 02 b. Enter the Delta from form HUD-52720-B if a PHA/IHA has experienced a change in the number of its units in excess of 5 percent or 1,000 units, whichever is less, since the last adjustment was made to the Allowable Expense Level using form HUD-52720-B.

Line 03. Enter the number of Requested Year "Total Dwelling Units" from the latest form HUD-52720-A. This maintains a record of the number of units used the last time an adjustment was made to the Allowable Expense Level using form HUD-52720-A, for the purpose of determining, in future years, when these forms must be used again in computing the amount on line 02.

Line 04. Enter the amount by which the Allowable Expense Level is to be increased during the subject fiscal year to incorporate Add-ons for costs attributable to changes in Federal law or regulation that were approved for the first time in the previous fiscal year (see 24 CFR Part 990.108(c) and Chapter 6 of the PFS Handbook, 7475.13). This amount is determined by dividing line 29 of this form for the **previous fiscal year** by the UMAs for the **subject fiscal year**, which is shown in the heading. In cases where the amounts entered in Part D in the previous fiscal year did not accurately reflect the increased costs incurred by the PHA/IHA for that year, an appropriate adjustment must first be made. In addition, any costs which do not remain relatively stable from year to year (e.g., FICA and unemployment compensation premiums which are based on the experience of the PHA/IHA) will not be incorporated into the Allowable Expense Level, but must be entered annually in Part D (see Chapter 6 of the PFS Handbook, 7475.13).

Line 06. Enter the applicable inflation factor from the "PFS Inflation Factor" table. **(Do not round.)**

Line 07a. Transition Funding (See 24 CFR 990.106.)

Line 07b. Reserved. Inoperative without specific instructions.

Line 08. Enter the Allowable Utilities Expense Level for the subject fiscal year from form HUD-52722-A.

Line 09. Check the appropriate box and enter the actual or estimated cost chargeable to the management phase of the PHA/IHA's owned rental housing projects during the subject fiscal year for an Independent Audit (IA). If the amount entered is an estimate, this form **must** be revised to reflect the actual cost after it is known (see "Adjustments").

Line 10. Enter the estimated costs attributable to deprogrammed units (see 24 CFR Part 990.108 (b)) which have been excluded from the UMAs shown in the heading of this form. Complete documentation of the costs must be attached. The costs entered on line 10 must not be included in any other element of the calculation of PFS operating subsidy.

Part B. Dwelling Rental Income

Note: Except where otherwise indicated, round all entries in Part B to the nearest two (2) decimal places.

Line 12. Enter the total net dwelling rental charges (recurring monthly dwelling rent less the utility reimbursements) for units occupied by eligible lower-income families, rounded to the nearest dollar, from the Rent Roll for the first day of the month immediately preceding the month in which the corresponding operating budget or PFS forms are submitted to HUD; however, the date of the Rent Roll must not be earlier than the first day of the month which is six months prior to the subject fiscal year or later than the first day of the month immediately preceding the subject fiscal year. In the space provided, indicate the date of the Rent Roll used.

Line 13. Enter the number of units occupied by eligible lower-income families as of the date of the Rent Roll used in Line 12.

Line 14. Enter the quotient of dividing line 12 by line 13. (This amount may be adjusted to reflect revisions of utility allowances which were implemented subsequent to the date of the Rent Roll used in line 12; however, the adjustment must be fully documented. An adjustment may not be made for anticipated revisions of utility allowances or for any other reason.)

Line 15. After the preprinted "1." enter, as a decimal, the Change Factor percentage for the subject fiscal year. (See 24 CFR 990.109). For example, 3 percent would be entered as .03 and would result in a Change Factor of 1.03.

Line 16. Enter the product of line 14 multiplied by line 15. If the PHA/IHA will have a new project which was not available for occupancy during the fiscal year preceding the subject fiscal year, but will reach EIOP within the first nine months of the subject fiscal year, the amount determined by multiplying line 14 by line 15 must be adjusted further, on a weighted-average basis, to reflect a projected average monthly dwelling rental charge per unit for the new project. The projected average monthly dwelling rental charge per unit for a new project is computed as follows:

If the PHA/IHA has another project or projects under management which are comparable in terms of elderly and nonelderly tenant composition, use the projected average monthly dwelling rental charge per unit of the comparable project or projects.

If the PHA/IHA has no other project or projects which are comparable in terms of elderly and nonelderly tenant composition, the HUD field office will provide a projected average monthly dwelling rental charge per unit for the new project or projects based on comparable projects located in the area.

Line 17. Enter the Projected Occupancy Percentage determined in accordance with 24 CFR Part 990.109 (b) (3) and the instructions in Part IV of form HUD-52728-A, PHA/IHA Occupancy Percentage for a Requested Budget Year.

Part C. Non-dwelling Income.

Note: Except where otherwise indicated, all entries in Part C must be Per Unit Per Month (PUM) amounts, rounded to the nearest two (2) decimal places, derived by dividing the correspondence dollar amounts by the UMAs shown in the heading.

Line 19. Enter the Estimated Investment Income (EII) amount for the subject fiscal year . (See 24 CFR 990.109 (e)(1).)

Line 20. Enter an estimate of other income for the subject fiscal year determined in accordance with 24 CFR Part 990.109 (e) (2) and Chapter 4 of the PFS handbook, 7475.13.

Line 23. Subtract line 22 from line 11 and enter the difference. Enter a negative amount in brackets.

Note: All remaining entries (lines 24 thru 61) must be whole dollar amounts rounded to the nearest dollar.

Line 24. Enter the product of line 23 multiplied by the UMAs shown in the heading.

Part D. Add-ons for Costs Attributable to Changes in Federal Law or Regulation.

Lines 25 - 28. Enter the amounts, if any, of additional costs resulting from changes in Federal law or regulation, as provided in 24 CFR Part 990.108 (c) and Chapter 6 of the PFS Handbook, 7475.13. Do not duplicate amounts previously incorporated in the Allowable Expense Level or to be incorporated in the Allowable Expense Level in the subject fiscal year (i.e., amounts entered on line 04 of a form HUD-52723). Complete documentation must be submitted to support all amounts claimed on lines 25 thru 28. Line 28c, Unit Reconfiguration, see 24 CFR 990.108(e). Line 28d, Non-Dwelling Units, see 24 CFR 990.108(b)(2). Line 28e, Long-term Vacant Units, see 24 CFR 990.108(b)(3).

Part E. Calculation of PFS Operating Subsidy Eligibility Before Year-End Adjustments.

Line 30. Enter the total of lines 24 and 29. (Add amounts shown **without** brackets and subtract amounts shown **with** brackets.)

Line 31. Check the appropriate box and enter the actual or estimated cost chargeable during the subject fiscal year to the management phase of the PHA/IHA's owned rental housing projects for an audit performed or to be performed by an Independent Auditor. If the amount entered is an estimate, this form must be revised to reflect the actual cost after it is known (see "Adjustments").

Part F. Calculation of Operating Subsidy Approvable for Subject Fiscal Year.

This part is used to make various adjustments to the PFS operating subsidy eligibility determined in Part E, including adjustments to prior years' operating subsidy to be effected or funded during the subject fiscal year and additional operating subsidy eligibility (e.g., periodic set-asides for specific purposes) approvable during the subject fiscal year. Lines 43 thru 45 are used by the HUD Field Office to reconcile the total amount of operating subsidy approvable in the subject fiscal year (line 41) with the amount of operating subsidy that is obligated.

Note: Never revise the lines in Part F (lines 33 thru 45) after the end of the subject fiscal year.

Line 33. Enter the total of prior years' net year-end adjustments which will be included in the amount of operating subsidy approved during the subject fiscal year. The type, amount, and fiscal year of each individual adjustment must be shown under "Remarks". Enter a net amount owed HUD in brackets.

Line 34. Enter the amount of any additional operating subsidy eligibility (e.g., periodic set-asides for specific purposes or special funding distributions for the subject fiscal year. Identify all such amounts here or under "Remarks".

Line 35. Enter any amount of operating subsidy that was overobligated to a PHA/IHA in a prior fiscal year and will be recovered through a reduction in the amount of operating subsidy approved for the subject fiscal year. Identify under "Remarks" the fiscal year in which the overobligation occurred and the reason.

Line 36. Enter any amount of operating subsidy eligibility for a prior fiscal year that was not funded (obligated) by HUD and will be obligated in the subject fiscal year. Identify under "Remarks" the fiscal year not fully funded and the reason.

Lines 37 thru 39. Enter any other adjustments to operating subsidy eligibility, including prior year adjustments not reflected in line 33, that will be effected during the subject fiscal year. Enter an adjustment owed HUD (downward adjustment) in brackets.

Line 40. Enter the unfunded portion (100 percent minus the applicable percentage) of the subject year's eligibility (line 32) in brackets. If, however, line 32 is operating subsidy eligibility for IA costs only, do not make an entry on this line.

Line 41. Enter the total of lines 32 thru 40. (Add amounts shown **without** brackets and subtract amounts **with** brackets.)

Lines 43 thru 45 are to be used by the HUD Field Office only.

Line 43. Enter the amount, if any, of operating subsidy approvable for the subject fiscal year (line 41) which is not being funded (obligated) at this time (e.g., because sufficient funds have not been subassigned to the Field Office).

Line 44. Enter the amount, if any, of operating subsidy funds obligated in excess of the amount approvable for the subject fiscal year (line 41) which cannot or should not be deobligated at this time (e.g., because they have already been paid).

Line 45. Total of lines 43 and 44. (Add amounts shown **without** brackets and subtract amounts shown **with** brackets.) The amount entered on this line must be the same as the amount obligated in the corresponding Operating Budget, form HUD-52564, if required, (or a letter of intent, when authorized by HUD Headquarters).

Part G. Memorandum of Amounts Due HUD, Including Amounts on Repayment Schedules.

This part is used to maintain an ongoing record of all amounts owed to HUD by a PHA/IHA which are related to operating subsidy payments for the projects covered by this form. All amounts owed HUD must be identified under "Remarks" . In most cases, a formal repayment (recovery) schedule should be established and maintained on file with this form.

Line 46. Enter the total amount owed HUD at the end of the previous fiscal year, as shown on line 49 of the latest approval for the previous fiscal year.

Line 47. Enter any part of the amount shown on line 46 that has been collected or is reflected as a reduction in the amount of operating subsidy approvable in Part F, as well as any adjustment of amounts previously identified as due HUD. Identify individual amounts under "Remarks".

Line 48. Enter the total of any additional amounts determined to be due HUD, including any amount entered on line 44. (Do not duplicate amounts already included in the amount shown on line 46.) Identify the individual amounts making up the total under "Remarks".

Line 49. Enter the total of lines 46 thru 48. (Add amounts shown **without** brackets and subtract amounts shown **with** brackets.) Identify the individual amounts making up the total under "Remarks".

Adjustments

Types of Adjustments. Certain adjustments to income, expenses and Unit Months Available (UMAs) for a PHA/IHA's fiscal year are required, or may be requested, based on actual experience during the fiscal year. The adjustable elements of the PFS are as follows:

(1) Utilities Expense Level
  (a) Rates
  (b) Consumption
(2) Investment Income
(3) Estimated Cost of an Independent Audit
(4) Dwelling Rental Income
(5) Unit Months Available (UMAs)
(6) Add-ons
(7) Other adjustments approved by HUD

Mandatory adjustments. Certain of the above adjustments are mandatory for any PHA/IHA fiscal year in which operating subsidy is approved.

(1) Adjustment of the estimated Utilities Expense Level (Utility Adjustment), except when the operating subsidy was approved solely for the cost of an audit.

(2) Adjustment of Estimated Investment Income (Target Investment Income Adjustment) for all PHA/IHAs having an average monthly cash balance of $20,000 or more.

(3) Adjustment of the **estimated** cost of an Independent Audit (Audit Adjustment) after the PHA/IHA knows the actual cost.

(4) Adjustment of UMAs (UMA Adjustment) if actual UMAs for a PHA/IHA's fiscal year differ from what was used in completing this form for the fiscal year.

Timing of Adjustments.

(1) The Utility Adjustment and the Target Investment Income (TII) adjustment must be submitted by a PHA/IHA within 45 calendar days after the end of the PHA/IHA's fiscal year.

(2) The Audit Adjustment is submitted with the Utility Adjustment unless the PHA/IHA received operating subsidy during the subject year solely for the cost of an audit, in which case the Audit Adjustment is submitted as soon as the actual cost is known.

(3) All other adjustments (e.g., dwelling rental income) should be submitted in conjunction with the Utility Adjustment in order to minimize the number of submissions of this form.

(4) Adjustments to PFS elements, except Utility Consumption and Investment Income, may be requested prior to the time of the mandatory Utility Adjustment if the PHA/IHA establishes to HUD's satisfaction that a severe financial crisis will result if an adjustment is not made earlier.

Adjustment Instructions

A copy of this form with revised information must be submitted for the fiscal year **to which the adjustments apply** (i.e., the subject fiscal year) in order to recalculate operating subsidy eligibility and determine a **net year-end adjustment** for the fiscal year.

Utility Rate Increases. (Reference: 24 CFR Part 990.110(c)) Early adjustment of the Allowable Utilities Expense Level (AUEL) may be requested for a change in utility **rates**, but **not** for utility consumption. Calculate this adjustment by revising the information originally submitted on form HUD-52722-A for the subject fiscal year. Do **not** use Part H of this form in the revision.

Mandatory Utility Adjustment. (Reference: 24 CFR Part 990.110(c)) The Mandatory Utility Adjustment for rates and consumption, based on actual experience for a fiscal year, is calculated on form HUD-52722-B, Adjustment for Utilities Consumption and Rates. The dollar amount shown on line 22 of the completed form HUD-52722-B is entered on line 54 of the revised copy of this form for **the fiscal year to which the utility adjustment applies** (i.e., the subject fiscal year).

Target Investment Income (TII) Adjustment. (Reference: 24 CFR Part 990.110 (b)) PHA/IHAs with an average cash balance of at least $20,000 must enter the Estimated Investment Income (EII) and Target Investment Income (TII) amounts, determined in accordance with 24 CFR Parts 990.109 (e)(1) and 990.110 (b), on lines 51 and 52, respectively, of the revised copy of this form for **the fiscal year to which the adjustment applies** (i.e., the subject fiscal year). The adjustment is the difference between EII and TII and is entered on line 53 of this form.

Audit Adjustment. (Reference: 24 CFR 990.108 (a)) Enter the actual cost of the Independent Audit on lines 09 (as a PUM) and 31 (as a dollar amount) of the revised copy of this form for **the fiscal year to which the adjustment applies** (i.e., the subject fiscal year). All other lines of the form must also be completed and the information revised, as applicable, to reflect the change in the cost of the audit.

Unit Months Available (UMAs). An adjustment of UMAs is required when the actual UMAs for a fiscal year differ from what was used in originally calculating a PHA/IHA's operating subsidy eligibility. To effect this adjustment, **all** forms used for calculating PFS operating subsidy eligibility must be revised to reflect the correct UMAs in all calculations.

Dwelling Rental Income. (Reference: 24 CFR 990.110(d)) A PHA/IHA may request an adjustment of the Projected Average Monthly Dwelling Rental Income for a fiscal year if the projected amount was not attained because of circumstances that were beyond the control of the PHA/IHA. Enter the revised amount for dwelling rental income on line 18 of the revised copy of this form for **the fiscal year to which the adjustment applies** (i.e., the subject fiscal year) and attach complete documentation for the adjustment. All other lines of the form must also be completed and the information revised, as applicable, to reflect the change in dwelling rental income.

An adjustment of line 14 (Average Monthly Dwelling Rental Charge per Unit) may be requested to reflect approved revisions of utility allowances which are implemented during the subject fiscal year. The methodology used to calculate the adjustment must be fully explained and documented. An adjustment may **not** be made for **anticipated** revisions of utility allowances.

Add-ons. Adjustments of amounts claimed as Add-ons are effected by revising the information on lines 25 thru 29. The information on all other lines of the form must be revised, as applicable, to reflect the adjustment.

Other Adjustments. (References: 24 CFR Part 990.110 (e)) All other adjustments are effected by revising the information on the appropriate lines of this form for **the fiscal year to which an adjustment applies** (i.e., the subject fiscal year).

PHA/IHAs must fully justify and document all requests for adjustments.

Part H. Calculation of Year-end Adjustment for Subject Fiscal Year.

Note: This part is completed only after the subject fiscal year has ended. It is used to recalculate the PFS operating subsidy eligibility for the subject fiscal year in order to reflect the mandatory and other year-end adjustments. It is important to note that all individual adjustments relating to a particular PHA/IHA fiscal year are reflected in Part H of the copy of this form covering the same fiscal year; **not** in Part H of the form submitted for a subsequent fiscal year. However, the Net Year-end Adjustment calculated on line 61 must be included in line 33 of the copy of this form prepared for the PHA/IHA fiscal year in which the adjustment is actually effected (i.e., reflected in the amount of operating subsidy approved in an operating budget or letter of intent).

Utility and TII Adjustments are entered using lines 51 thru 55 of this part. All other adjustments are reflected by revising the information on the appropriate lines of Parts A thru E before completing Part H of this form.

Parts F and G are **not** revised as part of a year-end adjustment.

Line 50. Indicate the types of year-end adjustments that are reflected on this form and will be included in the net year-end adjustment shown on line 61.

Note: Lines 51 thru 53 are to be completed only by PHA/IHAs having an average cash balance of $20,000 or more.

Line 51. Enter the Estimated Investment Income (EII) amount for the subject fiscal year determined in accordance with 24 CFR 990.109 (e)(1)).

Line 52. Enter the Target Investment Income (TII) amount for the subject fiscal year determined in accordance with 24 CFR 990.110 (b).

Line 53. Line 51 minus line 52. Enter a negative amount in brackets.

Line 54. Enter the amount shown on line 22 of the form HUD-52722-B, Adjustment for Utility Consumption and Rates, covering the **subject fiscal year.**

Line 55. Enter the total of lines 53 and 54. (Add amounts shown **without** brackets and subtract amounts shown **with** brackets.)

Line 56. Enter the total of lines 30 and 55. (Add amounts shown **without** brackets and subtract amounts shown **with** brackets.)

Line 57. Enter the greater of line 31 or line 56. If less than zero, enter zero (0).

Line 58. Enter the amount shown on line 32 of the latest submission of this form for the subject fiscal year **that was approved during the subject fiscal year. Do not use the amount shown on line 32 of this revision.**

Line 61. Subtract line 58 from line 57 and enter the difference. Enter a negative amount in brackets.

Line 62. Enter the unfunded portion (100 percent eligibility adjusted by the applicable proration percentage) of line 61 in brackets if line 61 is positive. If line 61 is in brackets, enter the unfunded portion as a positive number.

Line 63. Enter the prorated net year end adjustment (combine lines 61 and 62).

PHAs/IHAs must submit a copy of this form showing the revised information for the subject fiscal year, and a copy of this form prepared for the current fiscal year, along with forms HUD-52564 (Operating Budget), if required, and HUD-52721 (Direct Disbursement Payment Schedule Data) before the deadline established in "Timing of Adjustments". The above forms will reflect the increase or decrease in operating subsidy eligibility which will be included in the amount of operating subsidy approved during the current fiscal year.

[FR Doc. 97–26763 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–33–C

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR 4263–N–34]

Notice of Proposed Information Collection for Public Comment

AGENCY: Office of the Assistant Secretary for Housing, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due: December 8, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing and Urban Development, 451—7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Joseph McCloskey, telephone number (202) 708–1672 (this is not a toll-free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public and affecting agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond; including through the use of appropriate automated collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

This Notice also lists the following information:

Title of Proposal: Certification Regarding Adjustment for Damage or Neglect Pursuant to 203.379 (C).

OMB Control Number: 2502–0349.

Description of the need for the information and proposed use: This Notice requests to extend the use of Form HUD–92900 to be submitted by homeowners to mortgagees to determine their continued eligibility for assistance and to determine the amount of assistance a homeowner is to receive. The forms are also used by mortgagees to report statistical and general program data to HUD.

Agency forms, if applicable: HUD 92900.

Members of affected public: An estimation of the total number of hours needed to prepare the information collection is 140, the number of respondents is 280 and frequency of responses is annual.

Status of the proposed information collection: Extension of a currently approved collection.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, amended.

Dated: October 2, 1997.

Sarah Rosen,

Associate General Deputy Assistant Secretary for Housing.

[FR Doc. 97–26768 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–39]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 10, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F.Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 1, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Notice of Funding Availability for the Homeownership Zone Program.

Office: Community Planning and Development.

OMB Approval Number: 2506–0164.

Description of the Need For the Information and Its Proposed Use: The Homeownership Zone Program is authorized under Section 205 of the Departments of Veterans Affairs and the Housing and Urban Development, and Independent Agencies Appropriation Act of 1997. The Homeownership Zone program is dedicated to large scale development projects designed to reclaim distressed neighborhoods by creating homeownership opportunities for low and moderate income families, and to serve as a catalyst for private investment, business creation, and

neighborhood revitalization. The information collection will enable HUD to determine the eligibility, qualifications, and capability of applicants to administer Homeownership Zone activities.

Form Number: SF–424, SF–LLL, and HUD–40205.

Respondents: State, Local, or Tribal Governments.

Frequency of Submission: Annually and recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Application	70		1		100		7,000
Recordkeeping and Reporting	4		1		50		200

Total Estimated Burden Hours: 7,200.

Status: Extension, without changes.

Contact: Cliff Taffet, HUD, (202) 708–3226 x4589, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 1, 1997.

[FR Doc. 97–26764 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–38]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirements described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 10, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of information collection proposal: (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, an hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 1, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Mortgagee Review Board.

Office: Housing.

OMB Approval Number: 2502–0450.

Description of the Need for the Information and Its Proposed Use: Section 202(c) of the HUD Reform Act of 1989 established a Mortgagee Review Board to impose administrative sanctions and civil money penalties against HUD approved mortgagees that violate the Department of Housing and Urban Development's requirements in the origination and servicing of HUD–FHA insured mortgages. As part of the administrative sanction process, the Board may issue a Letter of Reprimand, place a mortgagee on probation, or suspend or withdraw the HUD approval of a mortgagee to participate in the HUD–FHA mortgage insurance programs. Mortgagees may respond to and/or appeal Board actions.

Form Number: None.

Respondents: Business or other for-profit.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Information Collection	35		1		92.5		3,236

Total Estimated Burden Hours: 3,236.

Status: Reinstatement, with changes.

Contact: Andrew Zirneklis, HUD, (202) 708–1515 x102, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 1, 1997.

[FR Doc. 97–26765 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No FR–4263–N–37]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is

soliciting public comments on the subject proposal.

DATES: Comments due date: November 10, 1997.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received within thirty (30) days from the date of this Notice. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 135, as amended.

Dated: October 1, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Utility Allowance Adjustments.

Office: Housing.

OMB Approval Number: 2502–0352.

Description of the Need for the Information and Its Proposed Use: The information will be used by the project owners to advise HUD and request approval of new utility allowances when the utility rate change results in a cumulative increase of 10 percent or more. If periodic adjustments to the utility allowance are not made, tenants would be required to pay a larger total tenant payment than is permissible.

Form Number: None.

Respondents: State, Local, or Tribal Government, Business or Other For-Profit, and Not-For-Profit Institutions.

Frequency of Submission: On occasion.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Periodic Requests	1,200		1		0.5		600

Total Estimated Burden Hours: 600.

Status: Reinstatement, without changes.

Contact: Michael E. Diggs, HUD, (202) 708–3944 x2514, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 1, 1997.

[FR Doc. 97–26766 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–36]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act, The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 10, 1997.

ADDRESS: Interested persons are invited to submit comments regarding this proposal. Comments must be received on or before November 10, 1997. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 1, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Issuer's Monthly Remittance Advice.

Office: Government National Mortgage Association.

OMB Approval Number: 2503–0015.

Description of the Need for the Information and Its Proposed Use: Government National Mortgage Associations (GNMA) issuers are required to provide summary information to the holder of each GNMA mortgage-backed security with respect to the current month's share of total cash distribution. The information collected is used to advise each security holder of the current's month account transactions and calculation of holder's fractional share of total cash distribution.

Form Number: HUD–11714 and HUD–1171SN.

Respondents: Business or Other For-Profit and the Federal Government.

Frequency of Submission: Monthly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Issuer's Monthly Remittance	19,264		12		1/60		3,853

Total Estimated Burden Hours: 3,853.

Status: Extension, with changes.

Contact: Sonya K. Suarez, HUD, (202) 708–2772 x4975, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 1, 1997.

[FR Doc. 97–26767 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–33]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 10, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received on or before November 10, 1997. Comments should refer to the proposal by name and/or OMB approval number and should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 30, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Safe Neighborhood Grants Program.

Office: Housing.

OMB Approval Number: 2502–0520.

Description of the Need for the Information and Its Proposed Use: Owners and operators of low-income housing must apply for grants to use in eliminating security and crime problems in Federally assisted low-income housing. The application process includes establishing local partnership with City officials, law enforcement, residents, and other officials to develop a plan. This plan will certify compliance with HUD requirements and outline a comprehensive security and crime prevention and reduction program.

Form Number: SF–424, 424A, SF–LLL, HUD–50080 and 2880.

Respondents: State, Local, or Tribal Government.

Frequency of Submission: On Occasion and Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Grantees	500		1		40		20,000

Total Estimated Burden Hours: 20,000.

Status: Extension, with changes.

Contact: Michael Diggs, HUD, (202) 708–3944, ext. 2514, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 30, 1997.

[FR Doc. 97–26769 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–32]

Submission for OMB Review: Comment Request

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: Comments due date: November 10, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments must be received on or before November 10, 1997. Comments should refer to the proposal by name and/or OMB approval number should be sent to: Joseph F. Lackey, Jr., OMB Desk Officer, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Kay F. Weaver, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street, Southwest, Washington, DC 20410, telephone (202) 708–2374. This is not a toll-free number. Copies of the proposed forms and other available documents submitted to OMB may be obtained from Ms. Weaver.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal for the collection of information, as described below, to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the OMB approval number, if applicable; (4) the description of the need for the information and its proposed use; (5) the agency form number, if applicable; (6) what members of the public will be affected by the proposal; (7) how frequently information submissions will be required; (8) an estimate of the total number of hours needed to prepare the information submission including number of respondents, frequency of response, and hours of response; (9) whether the proposal is new, an extension, reinstatement, or revision of an information collection requirement; and (10) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Authority: Sec. 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: September 30, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Proposal: Community Development Block Grants: State's Program.

Office: Community Planning and Development.

OMB Approval Number: 2506–0085.

Description of the Need for the Information and Its Proposed Use: Section 104 (A) and (D) of the Housing Community Development Act of 1974, as amended, requires States and local governments to submit a final statement and performance and evaluation report to HUD. These reports are submitted annually. The reports are evaluated to determine the use of the funds made available under Section 106 of the Act and to determine if the States and local governments are complying with statutory regulations.

Respondents: State, Local, and Tribal Government.

Frequency Of Submission: Annually and Recordkeeping.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden hours
Annual Report	49		1		216		10,584
Recordkeeping (States)	49		1		117		5,733
Recordkeeping (Localities)	3,500		1		26		91,000

Total Estimated Burden Hours: 107,317.

Status: Reinstatement, with changes.

Contact: Yvette Aidara, HUD, (202) 708–1322 x4378, Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: September 30, 1997.

[FR Doc. 97–26770 Filed 10–8–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Submitted to the Office of Management and Budget (OMB) for Reinstatement Approval

ACTION: Notice.

SUMMARY: The information collection requirements listed below have been submitted to OMB for reinstatement approval under the provisions of the Paperwork Reduction Act of 1995. Copes of specific information collection requirements, related forms, and explanatory material may be obtained by contacting the Fish and Wildlife Service (Service) Information Collection Clearance Officer at the address and/or phone numbers listed below.

DATES: Comments must be submitted on or before November 10, 1997.

ADDRESSES: Comments and suggestions on specific requirements should be sent directly to the Office of Information and Regulatory Affairs; Office of Management and Budget; Attention: Desk Officer for the Department of the Interior (1018–0022); Washington, D.C. 20503; and a copy of the comments should be sent to the Service Information Collection Clearance Officer, U.S. Fish and Wildlife Service, MS 224–ARLSQ; 1849 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Service Information Collection Clearance Officer at 703/358–1943; 703/358–2269 (fax).

SUPPLEMENTARY INFORMATION: The Service has submitted the following information collection requirements to OMB for review and extension approval under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments are requested regarding (1) 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; (2) the accuracy of the agency's estimate of burden, 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 through the use of appropriate automated, electronic mechanical, or other technological collection techniques or other forms of information technology.

The information collection requirements in this submission implement the regulatory requirements of the Endangered Species Act (16 U.S.C. 1539), the Migratory Bird Treaty Act (15 U.S.C. 704), the Lacey Act (18 U.S.C. 42–44), the Bald Eagle Protection Act (16 U.S.C. 668), the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES), (27 UST 108), and the Marine Mammal Protection Act (16 U.S.C. 1361–1407), and the Wild Bird Conservation Act (16 U.S.C. 4901–4916), and are contained in Service regulations in Chapter I, Subchapter B of Title 50 of the Code of Federal Regulations (CFR). Common permit application and record keeping requirements have been consolidated in 50 CFR 13, and unique requirements of the various statutes in separate parts as identified below.

The Service has redesigned the standard license/permit application form number 3–200 to assist persons in applying for Service permits issued under Subchapter B. Under the present clearance, all permit requirements were contained in one submission and they were assigned OMB Approval 1018–0022, the Federal Fish and Wildlife License/Permit Application and Related Reports. In an attempt to make the application and the comment process more ''user friendly,'' similar types of permits have been grouped together and numbered. The application to apply for Service permits issued under Subchapter B of Title 50 of the Code of Federal Regulations (CFR), will still require completion of the 3–200 form, which has been redesigned and renumbered and is now Service form 3–200–1. In addition to the permit application, attachments are often necessary to provide additional information required for specific types of permits, and have been assigned numbers, e.g., 3–200–2.

The information to be supplied on the application and the attachments will be used by the Service to review permit applications and allow the Service to make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation or denial of permits. The Service has reviewed all permit requirements in this submission to ensure that the number of respondents was as accurate as possible and the burden imposed on the public is the lowest possible. As a result, some estimates have been revised and are marked with an asterisk. The obligation to respond is, ''required to obtain a benefit.'' An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB control number. The following requirements are in this submission:

1. Title: Import of Sport-hunted Trophies of Southern African Leopard and African Elephant.

Service form number: 3–200–19.

Description and use: To evaluate whether a Convention on International Trade in endangered Species (CITES) permit can be issued to allow the import of sport-hunted African leopard or African elephant for personal use, and addresses specific requirements contained in 50 CFR 17.40 (e) and (f), 23.11, 23.12, and 23.15.

Description of respondents: Individuals and households; or taxidermists (business) acting on behalf of an individual.

Number of respondents: 1,000.

Estimated completion time: 20 minutes (.333 hours).

Total annual burden: 333 hours.

2. Title: Import of Sport-hunted Trophies under the Endangered species Act (ESA) or ESA/Appendix I of CITES (excludes southern African leopard and African Elephant).

Service form number: 3–200–20.

Description and use: To evaluate whether an ESA import permit or an ESA/CITES import permit can be issued to allow the import of a sport-hunted trophy of an ESA or ESA/CITES protected species for personal use, and addresses specific requirements in 50 CFR 17.21, 17.22, 17.31, 17.32, 23.11 23.12 and 23.15.

Description of respondents: Individuals and households.

Number of respondents: *30 (correction re-estimate -20).

Estimated completion time: 1 hour.

Total annual burden: *30 hours (correction re-estimate -20 hours).

3. Title: Import of Sport-hunted Trophies of Argali.

Service form number: 3–200–21.

Description and use: To evaluate whether an ESA import permit can be issued to allow the import of a sport-hunted argali trophy from Mongolia, Kyrgyzstan, and Tajikistan for personal use, and addresses specific requirements in 50 CFR 17.21, 17.22, 17.31, 17.32, 23.12 and 23.15.

Description of respondents: Individuals or households.

Number of respondents: *50 (correction re-estimate +20).

Estimated completion time: .75 hours (45 minutes).

Total annual burden: *37.5 (correction re-estimate +15 hours).

4. Title: Import of Sport-hunted Trophies.

Service form number: 3–200–22.

Description and use: To evaluate whether an ESA import permit can be issued to allow the import of a sport-hunted bontebok trophy taken from registered ranches in South Africa for personal use, and addresses specific requirements in 50 CFR 17.21 and 17.22.

Description of respondents: Individuals or households.

Number of respondents: 60.

Estimated completion time: .333 hours (20 minutes).

Total annual burden: 20 hours.

5. Title: Export of Pre-Convention, Pre-Act of Antique Animal Products.

Service form number: 3–200–23.

Description and use: To evaluate whether specimens (animal products) qualify as an antique, as pre-convention under CITES, or as pre-act under the ESA or the Marine Mammal Protection Act (MMPA), and whether a pre-convention certificate can be issued to export animal products from the United States, and addresses specific requirements in 50 CFR 14.22, 17.4, 18.14, 23.11, 23.13(c) and 23.15.

Description of respondents: Individuals and households; business or other for-profit; not-for-profit institutions; State, local or Tribal government; Federal Government.

Number of respondents: *1,000 (correction re-estimate +600).

Estimated completion time: 40 minutes.

Total annual burden: *666 hours (correction re-estimate +399 hours).

6. Title: Export of Live Animals (except raptors) Captive Born in the United States under CITES.

Service form number: 3–200–24.

Description and use: To evaluate whether a CITES export permit or captive-bred certificate can be issued to export U.S. born or hatched specimens from the United States.

Description of respondents: Individual and households; business or other for-profit; not-for-profit institutions; state, local or tribal

government; federal government, and addresses specific requirements in 50 CFR 23.11, 23.12, and 23.15.

Number of respondents: *2,000 (correction re-estimate +1,200).

Estimated completion time: 40 minutes.

Total annual burden: *1,333 hours (correction re-estimate +800).

7. Title: Export of Raptors.

Service form number: 3–200–25.

Description and use: To evaluate whether a CITES and Migratory Bird Treaty Act export permit can be issued to export raptors from the United States, and addresses specific requirements in 50 CFR 21.21, 21.30, 23.11, 23.12 and 23.15.

Description of respondents: Individuals and households; not-for-profit institution.

Number of respondents: *100 (correction re-estimate +20).

Estimated completion time: 2 hours.

Total annual burden: *200 hours (correction re-estimate +40 hours).

8. Title: Export/Re-export/Pre-Convention Animals Under CITES.

Service form number: 3–200–27.

Description and use: To evaluate whether a CITES export permit or re-export certificate can be issued to export specimens of CITES listed species (except for raptors) from the United States. This form was developed for applicants exporting pets that require CITES permits or for those applicants who are not sure what type of CITES permit they should apply for.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; State, local or tribal government; federal government, and addresses specific requirements in 50 CFR 23.11, 23.12, and 23.15.

Number of Respondents: *1,500 (correction re-estimate +700).

Estimate completion time: .666 hours (40 minutes).

Total annual burden: *1,000 hours (correction re-estimate +467 hours).

9. Export/Re-export of Trophies by Taxidermists Under CITES.

Service form number: 3–200–28.

Description and use: To evaluate whether a CITES export permit or re-export certificate can be issued to allow the export or re-export of specimens of CITES listed species. CITES regulates trade in many species whether wild caught or captive born through a systems of permits and certificates. International shipments of CITES listed specimens must be accompanied by CITES documentation. Prior to the export of these specimens, the exporting country must determine that export will not be detrimental to the survival of the species, that live animals be shipped humanely, and whether the specimens were acquired lawfully. Since the last OMB approval, a new application form was created from the existing CITES export application specifically for use by taxidermists. The scope of the questions was narrowed and the application was reformatted. The implementing regulations authorizing this collection of information is found in 50 CFR 23.11, 23.12, and 23.15.

Description of respondents: Business or other for-profit; individuals with taxidermy as a hobby.

Number of respondents: *300 (correction re-estimate +150).

Estimated completion time: .5 hours (30 minutes).

Total annual burden: *150 hours (correction re-estimate +75 hours).

10. Title: Export/Re-export of Samples Collected from CITES and/or ESA-listed Wildlife.

Service form number: 3–200–29.

Description and use: To evaluate whether a CITES export permit or re-export certificate can be issued to export tissue samples from specimens of CITES listed species from the United States, and addresses specific requirements in 50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12, 23.13, and 23.15.

Description of respondents: Business or other for-profit; not-for-profit institutions.

Number of respondents: *300 (correction re-estimate +220).

Estimated completion time: 1 hour.

Total annual burden: *300 hours (correction re-estimate +220 hours).

11. Title: Circuses and Traveling Animal Exhibitions.

Service form number: 3–200–30.

Description and use: To evaluate whether a CITES pre-Convention certificate, export permit or captive-bred certificate and/or and ESA export/re-import can be issued for a circus or live animal act to export CITES or ESA listed species as part of a traveling animal exhibition, and addresses specific requirements in 50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12, and 23.15.

Description of respondents: Business or other for-profit.

Number of respondents: *120 (correction re-estimate +20).

Estimated completion time: 1 hour.

Total annual burden: *120 hours (correction re-estimate +20 hours).

12. Title: Import of Appendix-I Animals Under CITES.

Service form number: 3–200–31.

Description and use: To evaluate whether a CITES import permit can be issued to allow the import of a specimen of an Appendix I CITES listed species for noncommercial purposes, and addresses requirements found in regulations at 50 CFR 23.11, 23.12 and 23.15.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; State, local or Tribal government; federal government.

Number of respondents: 40.

Estimated completion time: 1 hour.

Total annual burden: 40 hours.

13. Title: Export/Re-export/Pre-Convention Plants under CITES.

Service form number: 3–200–32.

Description and use: To evaluate whether a CITES export permit or re-export certificate can be issued to allow the export of a specimen of a CITES listed plant species from the United States. This application form was developed for export of plants that do not qualify as artificially propagated or for use by applicants who are unsure of which type of CITES plant export permit they should apply for, and addresses specific requirements in 50 CFR 23.11, 23.12, 23.13, and 23.15.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

Number of respondents: 40.

Estimated completion time: 1 hour.

Total annual burden: 40 hours.

14. Title: Certificate for Artificially Propagated Plants and/or ESA Cultivated Plants.

Service form number: 3–200–33.

Description and use: To evaluate whether a CITES certificate of artificially propagation can be issued to allow the export, import, or interstate (non-native ESA plants only) commerce of specimens of CITES listed plant species from the United States whose trade is regulated by ESA and/or CITES, and addresses specific requirements in 50 CFR 17.61, 17.62, 17.71, 17.72, 23.11, 23.12, 23.13, and 23.15.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

Number of respondents: 48.

Estimated completion time: 2 hours.

Total annual burden: 96 hours.

15. Title: Export of American Ginseng under CITES.

Service form number: 3–200–34.

Description and use: To evaluate whether a CITES export permit can be issued to export either cultivated or wild ginseng from the United States, and addresses requirements found in

regulations in 50 CFR 23.11, 23.12, 23.13, and 23.15.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; farms; state, local, or tribal government; federal government.

Number of respondents: 80.

Estimated completion time: .333 hours (20 minutes).

Total annual burden: 26 hours.

16. Title: Import of Appendix–I Plants Under CITES.

Service form number: 3–200–35.

Description and use: To evaluate whether a CITES import permit can be issued to allow the import specimens of CITES Appendix I plant species for non-commercial purposes, and addresses specific requirements in 50 CFR 23.11, 23.12, 23.13 and 23.15.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: 2.

Estimated completion time: 1 hour.

Total annual burden: 2 hours.

17. Title: Export, Import, Foreign Commerce of Plants under ESA or ESA/CITES or Interstate Commerce of Non-native ESA Plants.

Service form number: 3–200–36.

Description and use: To evaluate whether a permit can be issued to allow export, import, foreign commerce or interstate commerce (non-native ESA species only) of ESA/CITES-protected plant species, and addresses specific requirements in regulations in 50 CFR 17.61, 17.62, 17.71, 17.72, 23.11, 23.12, and 23.15.

Description of respondents: Individuals or households; farms; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

Number of respondents: 2.

Estimated completion time: 1 hour.

Total annual burden: 2 hours.

18. Title: Export, Import, or Foreign Commerce of Animals under ESA or ESA/CITES or Interstate Commerce of Non-native ESA Animals.

Service form number: 3–200–37.

Description and use: To evaluate whether a permit can be issued to import or export an ESA or ESA/CITES species for interstate commerce of a non-native ESA protected species. This application can be used for both live and dead specimens, and addresses specific requirements in 50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12 and 23.15.

Description of respondents: Individuals or households; farms; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: 60.

Estimated completion time: 2 hours.

Total annual burden: 120 hours.

19. Title: Import of Samples Collected from CITES Appendix-I and/or ESA-listed Wildlife.

Service form number: 3–200–38.

Description and use: To evaluate whether a permit can be issued to import tissue samples of ESA or ESA and CITES Appendix I species, and addresses requirements found in 50 CFR 17.21, 17.22, 17.31, 17.32, 23.11, 23.12, and 23.15.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

Number of respondents: 30.

Estimated completion time: 1 hour.

Total annual burden: 30 hours.

20. Title: Certificates of Scientific Exchange under CITES.

Service form number: 3–200–39.

Description and use: To evaluate whether a CITES certificate of scientific exchange can be issued to an institution in order to exchange, on a non-commercial loan, CITES specimens that are accessioned/catalogued in scientific institutions that are registered with the CITES Secretariat. Issuance of this certificate includes registration with the CITES Secretariat, and addresses requirements found in 50 CFR 23.11, 23.13(g) and 23.15.

Description of respondents: Business or other for-profit; not-for-profit institution.

Number of respondents: 30.

Estimated completion time: 1 hour.

Total annual burden: 30 hours.

21. Title: Export and Re-import of museum Specimens under the ESA.

Service form number: 3–200–40.

Description and use: To evaluate whether an ESA permit can be issued to export and re-import nonliving museum specimens for the purpose of enhancing the survival of the species, and addresses requirements found in 50 CFR 17.21, 17.22, 17.31, 17.32, 17.61, 17.62, 17.71 and 17.72.

Description of respondents: Business or other for-profit; not-for-profit institutions.

Number of respondents: 10.

Estimated completion time: 1 hour.

Total annual burden: 10 hours.

22. Title: Captive-bred Wildlife Registration.

Service form number: 3–200–41.

Description and use: To evaluate whether a facility can become registered to engage in take, export, re-import and interstate commerce of non-native species protected by the ESA for the enhancement of the species through captive-breeding, and addresses requirements found in 50 CFR 17.21(g) and 17.31.

Note: There is an annual reporting requirement associated with this registration. The annual report is filed on Service form number: 3–200–41a.

Estimated completion time(s): 3 hours (3–200–41) 2 hours (3–200–41a).

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: 70 (3–200–41); 70 (3–200–41a).

Estimated completion time: 3 hours (3–200–41) 2 hours (3–200–41a).

Total annual burden: 500 hours (including 200 hours record keeping requirements for the annual report).

23. Title: Import/Transport of Injurious Wildlife.

Service form number: 3–200–42.

Description and use: To evaluate whether a permit can be issued to import and/or transport an injurious wildlife species for zoological, educational, medical or scientific purposes as regulated by the Lacey Act, and addresses requirements found in 50 CFR 16.22.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: 20.

Estimated completion time: 2 hours.

Total annual burden: 40 hours.

24. Title: Take/Import/Transport of Marine Mammals.

Service form number: 3–200–43.

Description and use: To evaluate whether a permit can be issued to take, import and/or transport a marine mammal species protected by the MMPA and under the jurisdiction of the Service, and addresses regulations in 50 CFR 18.11, 18.12, 18.31, 17.21, 17.22, 17.31, 17.32, 23.11, 23.12, 23.13, and 23.15.

Note: This permit requires the permittee to file an annual report. No specific form is required for the annual report, and the information that must be submitted is outlined on the permit itself.

Description of respondents: Individuals and households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: *20 (correction re-estimate −10).

Estimated completion time: 2 hours (permit application only), 1 hour (reporting requirement)

Total annual burden: *80 hours (including 20 hours record keeping and reporting requirements).

25. Title: Registration of an Agent or Tannery.

Service form number: 3–200–44 and 3–200–44a.

Description and use: To evaluate whether a person or business can become registered as an agency or tannery under the MMPA to act as an agent to possess and process marine mammal products for Indians, Aleuts, or Eskimos, and addresses requirements found in 50 CFR 18.11, 18.12 and 18.23(d).

Note: There is an annual reporting requirement for this permit that requires an average of 1 hour to complete. The annual report is filed on Service form number 3–200–44a.

Description of respondents: Individuals and households; business or other for-profit.

Number of respondents: 10.

Estimated completion time: .5 hours (permit application only) 1 hour (reporting requirement).

Total annual burden: 150 hours (including 100 hours for an annual report).

26. Title: Import of Sport-hunted Trophies of Polar Bear.

Service form number(s): 3–200–45.

Description and use: To evaluate whether a person can be issued a permit to import a sport-hunted polar bear trophy taken in Canada for personal use, and addresses requirements in 50 CFR 18.11, 18.12 and 18.30.

Number of respondents: *150 (correction re-estimate +50).

Estimated completion time: .5 hours (30 minutes).

Total annual burden: *75 hours (correction re-estimate +25 hours).

27. Title: Import of Pet Birds.

Service form number: 3–200–46.

OMB Approval Number: 1018–0084.

Description and use: To evaluate whether an import permit can be issued to a person to import pet bird(s) under the Wild Bird Conservation Act (WBCA), and addresses requirements in 50 CFR 15.11, 15.12, 15.21 and 15.25.

Description of respondents: Individuals or households.

Number of respondents: 500.

Estimated completion time: 30 minutes.

Total annual burden: 250 hours.

28. Title: Import of Birds for Scientific Research or Zoological Breeding Display.

Service form number: 3–200–47.

OMB Approval Number: 1018–0084.

Description and use: To evaluate whether an import permit can be issued to allow the import of birds under the WBCA approved cooperative breeding programs. The applicant must first have a cooperative breeding program approved (using form 3–200–49 as described below) prior to applying for this permit, and addresses requirements found in 50 CFR 15.11, 15.12, 15.21 and 15.25.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: 100.

Estimated completion time: 2 hours.

Total annual burden: 200 hours.

29. Title: Import of Birds under an Approved Cooperative Breeding Program.

Service form number: 3–200–48.

OMB Approval Number: 1018–0084.

Description and use: To evaluate whether an import permit can be issued to allow import of birds under a WBCA approved cooperative breeding program. The applicant must first have a cooperative breeding program approved (using form 3–200.49 as described below) prior to application, and addresses requirements found in 50 CFR 15.11, 15.12, 15.21 and 15.24.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions.

Number of respondents: 100.

Estimated completion time: 1 hour.

Total annual burden: 100 hours.

30. Title: Approval under a Cooperative Breeding Program.

Service form number: 3–200–49.

OMB Approval number: 1018–0084.

Description and use: To evaluate whether a cooperative breeding program can be approved for the import of birds as regulated by the WBCA, and addresses requirements found in 50 CFR 15.11, 15.12, 15.21 and 15.26.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: 100.

Estimated completion time: 3 hours.

Total annual burden: 300 hours.

31. Title: Approval of Scientifically-based Sustainable Use Management Plans.

Service form number: 3–200–50.

OMB approval number: 1018–0084.

Description and use: The WBCA prohibits the importation of exotic birds that are listed pursuant to the CITES, unless these importations qualify for one of the permitted exemptions under the WBCA or, the species to be imported are on an approved list pursuant to the WBCA. The information collection requirements necessary for the public to apply for importations of exotic birds under the permitted exemptions of the WBCA are contained in the current approval. Since the issuance of the current approval, the Fish and Wildlife Service has issued additional regulations, required under the statute, that establish the criteria for the development an approved list of wild-caught exotic birds for which importation is not prohibited by the WBCA.

The approved list of wild-caught exotic bird species will be developed based on information received by the Service from countries that are instituting scientifically based sustainable use management plans for certain exotic bird species within their borders in accordance with the requirements contained in 50 CFR 1532. Only foreign governments can apply for this exemption. The data collected will establish whether or not the Service can include a given species of exotic birds from a particular country in the approved list of non-captive-bred exotic bird species.

Number of respondents: 630.

Estimated completion time: 2 hours.

Total annual burden: 1,300 (Includes 1,260 for all respondents plus 40 hours for the annual report requirements for foreign breeding facility applicants only, as further described below).

32. Title: Approval of Foreign Breeding Facilities.

Service form number: 3–200–51.

OMB approval Number: 1018–0084.

Description and use: To evaluate whether to allow importation of exotic birds that are otherwise prohibited by the WBCA, and addresses specific requirements in 50 CFR 15.11, 15.12, 15.21 and 15.41. The information collection requirements necessary for the public to apply for importations of exotic birds under the permitted exemptions of the WBCA are covered under the current OMB approval (1018–0084). However, the Service anticipates the issuance of additional regulations, required under the statute, to establish the criteria for the development of an approved list of foreign breeding facilities from which the importation of certain exotic birds species is not prohibited by the WBCA.

Upon publication in the **Federal Register** of the requirements contained in 50 CFR 15.41 and 15.42, the approved list of foreign breeding

facilities for certain exotic bird species will be developed based on information received by the Service from foreign breeding facilities that are breeding certain exotic bird species in accordance with the requirements contained in 50 CFR 15.41 and 15.42. This collection of information will establish whether or not the Service can include certain exotic bird species from a particular foreign breeding facility in the approved list of such facilities for certain exotic bird species.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal and foreign governments.

Number of respondents: 600.

Estimated completion time: 2 hours.

Total annual burden: 1,300 hours (includes 1,260 hours plus 40 hours for the annual reporting requirements for foreign breeding facility applicants).

33. Title: Reissuance of CITES Permit/Certificate of Renewal of Fish and Wildlife Permits or Registrations.

Service form number: 3–200–52.

Description and use: Necessary for applicants to apply for reissuance or renewal of previously issued permits, certificates or registrations.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local, or tribal government; federal government.

Number of respondents: 200.

Estimated completion time: .25 hours (15 minutes).

Total annual burden: 50 hours.

34. Title: Export or Re-export of Marine Mammals under CITES.

Service form number: 3–200–53.

Description and use: To evaluate whether a CITES export permit or re-export certificate can be issued to allow the export or re-export of marine mammals protected under the MMPA, and addresses the specific requirements in 50 CFR 13.21 and 13.22.

Description of respondents: Individuals or households; business or other for-profit; not-for-profit institutions; state, local or tribal government; federal government.

Number of respondents: 400.

Estimated completion time: .25 hours (15 minutes).

Total annual burden: 100 hours.

Total number of respondents—management authority: 9,832.

Total number of burden hours requested: 9,030.5.

Dated: September 30, 1997.

Marshall P. Jones, Jr.,

Assistant Director—International Affairs.

[FR Doc. 97–26816 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collections Submitted to the Office of Management and Budget (OMB) for Reinstatement Approval

ACTION: Notice.

SUMMARY: The collection of information listed below is submitted to the OMB for reinstatement under the provisions of the Paperwork Reduction Act of 1995. Copies of specific information collection requirements, related forms and explanatory material may be obtained by contacting the Service Information Collection Clearance officer at the address and/or phone number listed below.

DATES: Comments must be submitted on or before November 10, 1997.

ADDRESSES: Comments and suggestions on specific requirements should be sent directly to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for the Interior Department (1018–0022), Washington, D.C. 20503, and a copy to the Service Information Collection Clearance Officer, US Fish and Wildlife Service, MS 224–ARLSQ; 1849 C Street, NW., Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: Phyllis H. Cook, Service Information Collection Clearance Officer, 703/358–1943; 703/358–2269 (fax).

SUPPLEMENTARY INFORMATION: The Service submitted the following information collection requirements to OMB for review and clearance under the Paperwork Reduction Act of 1995, (44 U.S.C. Chapter 35). Comments are invited on: (1) 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; (2) the accuracy of the agency's estimate of a burden, including whether 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 through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

The information collection requirements in this submission implement the following regulatory requirements: the Lacey Act (18 U.S.C. 42) Lacey Act Amendments of 1981 (16 U.S.C. 3371–3378), Migratory Bird Treaty Act (16 U.S.C. 703–712) Bald and Golden Eagle Protection Act (16 U.S.C. 668–668d), the Endangered Species Act of 1973 (16 U.S.C. 1531–1543), the Tariff Classification Act of 1962 (19 U.S.C. 1202), Fish and Wildlife Act of 1972 (16 U.S.C. 742a–742j–l), and the Marine Mammal Protection Act of 1972 (16 U.S.C. 1361–1384, 1401–1407).

Previously, all permit requirements were contained in one submission and they were assigned OMB Approval Number 1018–0022, the Federal Fish and Wildlife License/Permit Application and Related Reports, Service form number 3–200. In an attempt to make the comment and application process more ''user friendly,'' the Service has redesigned the standard license/permit form 3–200, and similar types of permits have been grouped together and numbered. The application to apply for Service permits issued under subchapter B of Title 50 of the Code of Federal Regulations (CFR), will still require completion of the standard 3–200 form. In addition to the permit application, attachments are often necessary to provide additional information required for each specific type of permit and have been assigned numbers, e.g., 3–200–2.

The information on the application form will be used by the Service to review permit applications and allow the Service to make decisions, according to criteria established in various Federal wildlife conservation statutes and regulations, on the issuance, suspension, revocation or denial of permits. The frequency of response for the following types of permit applications/licenses is on occasion, and all have been currently assigned OMB Approval Number 1018–0022, unless otherwise noted.

A notice was published in the **Federal Register** on June 3, 1997 (62 FR 30333) soliciting public comment on the information collection requirements prior to submission to OMB. One comment was received and that commenter recommended that the hourly burden estimated contained in the **Federal Register** notice cited above was too low, considering the time required for applicants to respond to requests for additional information from the Service. The Service has considered this comment and agrees with the commenter's assessment. The Service

has increased the hourly burden estimates accordingly.

An agency may not conduct or sponsor a collection of information unless the collection of information displays a currently valid OMB approval number and the agency informs the potential persons who are to respond to such collections that they are not required to respond to the collection of information unless it displays a currently valid OMB approval number. The following requirements are included in this submission:

1. Title: Federal Fish and Wildlife Permit Application.

Service form number: 3–200–1.

Description and use: The application will be used by any person intending to engage in an activity for which a permit is required by subchapter B of 50 CFR. Persons desiring permit privileges authorized by subchapter B must complete an application for such a permit as required by 50 CFR 13, as well as other regulations which may require additional information for the specific permit desired.

Description of respondents: Individuals and households; business or other for-profit; not-for-profit institutions; farms; state, local, tribal government; and federal government.

Number of respondents: 27,109.

Estimated completion time: 10 minutes (.166 hours).

Total annual burden: 4,337 hours.

2. Title: Designated Port Exception Permits (requirements in 50 CFR 14.31–14.33).

Service form number: 3–200–2.

Description and use: The Endangered Species Act of 1973 (ESA), as amended, requires that fish or wildlife be imported into or exported from the United States only at a designated port or at a nondesignated port under certain limited circumstances. To date, thirteen (13) customs ports of entry are designed for the import and export of wildlife and wildlife products. Exceptions to the designated port requirement are permitted by the Secretary of the Interior under specific terms and conditions. Permits are available to import or export wildlife at nondesignated ports for any one of the three reasons: (1) Scientific purposes; (2) to minimize deterioration or loss; and (3) to alleviate undue economic hardship.

Description of respondents: Individuals or households; business or other for-profit; and not-for-profit institutions.

Number of respondents: 524.

Estimated completion time: 1 hour.

Total annual burden: 524.

3. Title: Import/Export License (requirements in 50 CFR 14.91–14.93).

Service form number: 3–200–3.

Description and use: This license will allow any person to engage in business as an importer or exporter of fish or wildlife under the Endangered Species Act, unless that person imports or exports certain excepted wildlife or falls within one of the categories of persons accepted from the requirement by the rules in 50 CFR 14.91–14.93. Currently, licensees must (1) pay $50 for a license plus import/export inspection fees; (2) keep certain specified records and retain them for five years; (3) allow the Service to inspect these records and any inventories of imported wildlife; and, (4) file any requested reports.

Description of respondents: Business or other for-profit; not for-profit institutions; and individuals and households, or any other entities conducting ''commercial'' imports or exports of fish or wildlife.

Number of respondents: 7,000.

Estimated completion time: 1 hour.

Total annual burden: 7,000.

4. Title: Federal Fish and Wildlife Permit Application for Export or Re-export Permits (requirements in 50 CFR 23.12 and 23.15).

Service form number: 3–200–26.

Description and use: This permit will allow the re-export of specimens of Appendix II and II species regulated by the Convention on International Trade in Endangered species (CITES), and the export of specimens of American alligator (*Alligator mississippiensis*); Alaskan brown bear (*Ursus arctos*); Alaskan gray wolf (*Canis lupus,*); Bobcat (*Lynx rufus)*; Lynx (*Lynx canadensis*); and River otter (*Lutra canadensis*) which are species also CITES regulated.

Description of respondents: Individuals or households; businesses or other for-profit; and not-for-profit institutions.

Number of respondents: 2,360.

Estimated completion time: 1 hour.

Total annual burden: 2,360 hours.

Dated: September 29, 1997.

Tom Striegler,

Acting Assistant Director—Refuges and Wildlife.

[FR Doc. 97–26817 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Notice of Intent To Prepare a Comprehensive Management Plan and Associated Environmental Document

SUMMARY: This notice advises the public that the U.S. Fish and Wildlife Service (Service) intends to gather information necessary to prepare a Comprehensive Management Plan (CMP) and an environmental document (environmental assessment or environmental impact statement) for Nisqually National Wildlife Refuge, Thurston and Pierce Counties, Washington. The Service is furnishing this notice in compliance with Service CMP policy and the National Environmental Policy Act (NEPA) and implementing regulations: (1) To advise other agencies and the public of our intentions, (2) to obtain suggestions and information on the scope of issues to include in the environmental document, and (3) to announce a public open house to occur near the end of October. Information about the time and location of the open house will be published in local media or is available by contacting the refuge.

DATES: Written comments should be received on or before November 10, 1997.

ADDRESSES: Address comments and requests for more information to: Refuge Manager, Nisqually National Wildlife Refuge, 100 Brown Farm Road, Olympia, Washington, 98516 (360/753–9467).

FOR FURTHER INFORMATION CONTACT: Bill Hesselbart at the above address.

SUPPLEMENTARY INFORMATION:

Background

The Service started the comprehensive management planning process for Nisqually National Wildlife Refuge (Nisqually NWR) IN 1996. Several meetings were held with a variety of public and private interest groups, including a preliminary public scoping meeting in July 1996. Two planning updates soliciting additional comments were mailed on August 20, 1996, and November 10, 1996, to more than 200 addresses. Comments received are being used to develop goals, key issues, and habitat management strategies to be presented at a public scoping meeting in the fall of 1997. Additional opportunities for public participation will occur throughout the process, which is expected to be completed in late 1998, or early 1999. Data collection has been initiated to create computerized mapping, including vegetation, topography, habitat types and existing land uses. Data collection and mapping will continue through 1997.

It is Service policy to have all lands within the National Wildlife Refuge System managed in accordance with an approved CMP. The CMP guides management decisions and identifies

refuge goals, long-range objectives, and strategies for achieving refuge purposes. Public input into this planning process is encouraged. The CMP will provide other agencies and the public with a clear understanding of the desired conditions for the Refuge and how the Service will implement management strategies.

The Nisqually NWR was established in 1974, ''* * * for use as an inviolate sanctuary, or for any other management purpose, for migratory birds'' (16 U.S.C. 715d). A CMP is needed to update the 1978 Nisqually NWR Conceptual Plan and facilitate potential changes in habitat management and associated public uses, with full public participation. Until the CMP is completed, Refuge management will be guided by official Refuge purposes; Federal legislation regarding management of national wildlife refuges; the Nisqually NWR Conceptual Plan and other legal, regulatory and policy guidance. The major issues to be addressed in the CMP include habitat protection and enhancement, boundary expansion and completion of the Refuge, riparian and tidal restoration, control of invasive and exotic vegetation, future flooding, compatibility of secondary uses, jurisdiction over navigable waters within the Refuge, public access and accessibility, and hunting and fishing. The plan will include the following topics:

(a) Habitat management, including management of forest, freshwater, estuarine, tidal and riparian areas, water courses, wetlands, old farm fields, and meadows;

(b) Wildlife population management, including federally-listed endangered and threatened species, migratory birds, and native mammals and fish;

(c) Public use management, including hunting, fishing, wildlife observation and photography, environmental education and interpretation, hiking, biking;

(d) Cultural resource identification and protection; and

(e) Expansion of partnerships, community outreach and volunteers.

Alternatives (and their effects) that address the issues and management strategies associated with these topics will be included in the environmental document. With the publication of this notice, the public is encouraged to send written comments on these and other issues, courses of action that the Service should consider, and potential impacts that could result from CMP implementation on Nisqually NWR. Comments already received are on record and need not be resubmitted.

The environmental review of this project will be conducted in accordance with the requirements of the National Environmental Policy Act of 1969, as amended (42 U.S.C. 4321 *et seq.*), NEPA Regulations (40 CFR 1500–1508), other appropriate Federal laws and regulations, Executive Order 12996, and Service policies and procedures for compliance with those regulations. We estimate that the draft environmental document will be available by Fall 1998.

Dated: September 25, 1997.

Thomas J. Dwyer,

Acting, Regional Director, Region I, Portland Oregon.

[FR Doc. 97–26809 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Ruffe Control Committee Meeting

AGENCY: Department of the Interior, Fish and Wildlife Service.

ACTION: Notice of meeting.

SUMMARY: This notice announces a meeting of the Ruffe Control Committee, a committee of the Aquatic Nuisance Species Task Force. The purposes of the upcoming meeting are to: (1) Review current information on ruffe populations; (2) review progress on implementation of the eight components of the Ruffe Control Program; and (3) review the status of the Ruffe Control Program and the Committee. Products of the meeting will be: (1) material for a report to the Aquatic Nuisance Species Task Force on 1997 activities; and (2) recommendations from the Committee to the Task Force regarding the future of the Ruffe Control Program and the Committee. An optional field trip is planned to trawl for ruffe in Duluth–Superior Harbor.

DATES: The Ruffe Control Committee will meet from 1:00 p.m. to 5:00 p.m. on Wednesday, October 29, 1997, and 8:00 a.m. to 12 Noon on Thursday, October 30, 1997. The optional field trip will begin at 9:00 a.m., Wednesday, October 29, 1997.

ADDRESSES: The meeting will be held at the Days Inn, 110 East Second Street, Superior, Wisconsin. The optional field trip will leave from the Days Inn.

FOR FURTHER INFORMATION CONTACT: Tom Busiahn, Chair, Ruffe Control Committee, at 715–682–6185, or Bob Peoples, Executive Secretary, Aquatic Nuisance Species Task Force, at 703–358–2025.

SUPPLEMENTARY INFORMATION: Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (5 U.S.C. App. I), this notice announces a meeting of the Ruffe Control Committee, a committee of the Aquatic Nuisance Species Task Force established under the authority of the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 (16 U.S.C. 4701–4741). Minutes of the meeting will be maintained by the Executive Secretary, Aquatic Nuisance Species Task Force, Suite 840, 4401 North Fairfax Drive, Arlington, Virginia 22203–1622, and the Chair, Ruffe Control Committee, U.S. Fish and Wildlife Service, Fishery Resources Office, 2800 Lake Shore Drive East, Ashland, Wisconsin 54806, and will be available for public inspection during regular business hours, Monday through Friday, within 30 days following the meeting.

Dated: October 3, 1997.

Gary Edwards,

Co-Chair, Aquatic Nuisance, Species Task Force Assistant Director—Fisheries.

[FR Doc. 97–26795 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–020–1990–01]

Final Environmental Impact Statement, Florida Canyon Mine Proposed Expansion and Comprehensive Reclamation Plan

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability of the Final Environmental Impact Statement addressing the Florida Canyon Mine Proposed Expansion and Comprehensive Reclamation Plan, and the initiation of a 30-day review period

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, notice is given that the Winnemucca Field Office of the Bureau of Land Management (BLM) has prepared, by third party contractor, a Final Environmental Impact Statement on Florida Canyon Mining Incorporated's Florida Canyon Mine Expansion and Comprehensive Reclamation Plan. The mine is located on public and private lands in Pershing County, Nevada, approximately 35 miles northeast of Lovelock and 38 miles southwest of Winnemucca. This document will become available to the public for a 30-day review period before issuance of a Record of Decision.

DATES AND ADDRESSES: The Final Environmental Impact Statement (FEIS)

will be distributed and made available to the public on 10 October 1997. Comments on the FEIS must be received by the close of business 10 November 1997. On or after that date a Record of Decision will be issued regarding the Proposed Action

A copy of the FEIS can be obtained from: Bureau of Land Management, Winnemucca Field Office, ATTN: Ken Loda, Project NEPA Coordinator, 5100 E. Winnemucca Boulevard, Winnemucca, Nevada 89445. Those who did not receive the Draft Environmental Impact Statement (DEIS) should request that document as well.

The FEIS and DEIS are also available for inspection at the following additional locations: Bureau of Land Management, Nevada State Office, 850 Harvard Way, Reno, Nevada; Humboldt County Library, Winnemucca, Nevada; Pershing County Library, Lovelock, Nevada; Lander County Library, Battle Mountain, Nevada; and the University of Nevada Library in Reno, Nevada.

FOR FURTHER INFORMATION CONTACT: Ken Loda, Project NEPA Coordinator at the above Winnemucca Field Office address, by telephone at (702) 623–1500, or by email at kloda@nv.blm.gov.

SUPPLEMENTARY INFORMATION: The FEIS was prepared in abbreviated form, and with the DEIS (issued on 20 June 1997) they represent the complete Environmental Impact Statement. The FEIS responds to comments received on the DEIS. Together the documents analyze the potential direct, indirect and cumulative environmental impacts that could result from the expansion of the open pit and north and south waste rock storage areas; development of the new south heap leach pad; haul road; solution ponds; solution corridor/road; plant; monitoring wells/road; crusher site; diversion channels and sediment ponds; growth media stockpiles; exploration roads and drill sites; waste supply pipelines; realignment of the Johnson Canyon access road; and a revised comprehensive reclamation plan for the mine. Approximately 860 acres would be disturbed by the proposed mine expansion, of which 447 are public and 413 private. Approval of the proposed project would extend the life of the mine five years. Alternatives analyzed are the north extension of the heap leach pad alternative and the no action alternative.

Dated: September 26, 1997.

Ron Wenker,

District Manager.

[FR Doc. 97–26719 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–HC–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–932–1430–01; AA–8917]

Public Land Order No. 7286; Partial Revocation of Public Land Order No. 664; Alaska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order partially revokes a public land order insofar as it affects approximately 148 acres of public land on Sitkinak Island, which was withdrawn in aid of contemplated legislation. The land is no longer needed for the purpose for which it was withdrawn. The land will continue to be withdrawn as part of the Alaska Maritime National Wildlife Refuge, as established and designated by the Alaska National Interest Lands Conservation Act.

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Shirley J. Macke, BLM Alaska State Office, 222 W. 7th Avenue, No. 13, Anchorage, Alaska 99513–7599, 907–271–5477.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Public Land Order No. 664, which withdrew public land on Sitkinak Island in aid of contemplated legislation, is hereby revoked insofar as it affects the following described land:

Seward Meridian

T. 42 S., R. 30 W., Tract B.
T. 41 S., R. 31 W.,

Tract B, excluding the northernmost portion described as follows:

Beginning at the true point for corner No. 1, Tract B, which is a meander corner on the westerly shore of Sitkinak Strait, and the true point of beginning;

Thence S. 32°12′ W., 1.73 chs. to W.C.M.C. No. 1, a concrete-filled iron post with a brass cap established at latitude 56°35′20.69″ N., longitude 154°04′27.53″ W.;

Thence continuing S. 32°12′ W., 26.21 chs. to W.C.M.C. No. 2, a concrete-filled iron post with a brass cap established at latitude 56°35′06.27″ N., longitude 154°04′44.00″ W.;

Thence continuing S. 32°12′ W., 5.27 chs. to corner No. 2, Tract B, which is a meander corner on the northerly shore of Sitkinak Lagoon;

Thence northeasterly and southeasterly with the meanders of the mean-high tide line of the shore of Sitkinak Lagoon, approximately 12.94 chs. to a point;

Thence N. 56°24′57″ E., approximately 12.54 chs. to a point on the mean-high tide line of the westerly shore of Sitkinak Strait;

Thence northwesterly with the meanders of the line of mean-high tide of the westerly shore of Sitkinak Strait, approximately 20 chs. to the true point of beginning.

T. 42 S., R. 31 W., Tract C.

The area described, less the excluded portion, contains approximately 148 acres.

2. The land described above will remain withdrawn as part of the Alaska Maritime National Wildlife Refuge, pursuant to Sections 303(1)(iv) and 304(c) of the Alaska National Interest Lands Conservation Act, 16 U.S.C. 668(dd) (1994); and will be subject to the terms and conditions of any other withdrawal or segregation of record.

Dated: September 26, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–26818 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–JA–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–930–1430–01; CACA 8026, CAS 051740, and CAS 2816]

Public Land Order No. 7289; Revocation of Executive Order No. 6544 and Public Land Orders No. 2618 and 4845; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes Executive Order No. 6544 and Public Land Order No. 2618, and revokes Public Land Order No. 4845, in its entirety, insofar as they affect 240 acres of lands withdrawn for the Forest Service's Gazelle Mountain fire lookout and the Bureau of Land Management's Copco Lake Access Area. The lands are no longer needed for the purposes for which they were withdrawn, and the revocations are necessary to facilitate a pending land exchange. The lands are temporarily closed to surface entry and mining because of the pending land exchange. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Duane Marti, BLM California State Office (CA–931.4), 2135 Butano Drive, Sacramento, California 95825; 916–978–4675.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Executive Order No. 6544 (CACA 8026), which withdrew public land for

the Forest Service's Gazelle Mountain fire lookout site, is hereby revoked insofar as it affects the following described land:

Mount Diablo Meridian

T. 41 N., R. 7 W.,
Sec. 8, NE¼SE¼.

The area described contains 40 acres in Siskiyou County.

2. Public Land Order No. 2618 (CAS 051740), and Public Land Order No. 4845 (CAS 2816), which withdrew public land for the Bureau of Land Management's Copco Lake Access Area, are hereby revoked insofar as they affect the following described land:

Mount Diablo Meridian

T. 48 N., R. 4 W.,
Sec. 34, SW¼NE¼, SE¼NW¼, SE¼SE¼, and W½SE¼.

The area described contains 200 acres in Siskiyou County.

3. The above described lands are hereby made available for exchange under Section 206 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1716 (1994).

Dated: September 26, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–26814 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–28248]

Public Land Order No. 7290; Revocation of Secretarial Order dated May 12, 1904; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public land order.

SUMMARY: This order revokes a Secretarial order that withdrew 160 acres of public land for the Bureau of Reclamation's Kremmling Reservoir, Colorado River Storage Project. The land is no longer needed for reclamation purposes, and the revocation is needed to allow for disposal by exchange. The land is temporarily closed to surface entry and mining due to a pending exchange proposal. The land has been and will remain open to mineral leasing.

EFFECTIVE DATE: November 10, 1997.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Secretarial Order dated May 12, 1904, which withdrew public land for the Bureau of Reclamation's Kremmling Reservoir, Colorado River Storage Project, is hereby revoked in its entirety:

Sixth Principal Meridian

T. 1 S., R. 80 W.,
Sec. 5, SE¼SW¼;
Sec. 6, SW¼NE¼ and N½SE¼.

The area described contains 160 acres in Grand County.

2. At 9 a.m. on November 10, 1997, the land will be opened to the operation of the public land laws generally, subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. All valid applications received at or prior to 9 a.m. on November 10, 1997, shall be considered as simultaneously filed at that time. Those received thereafter shall be considered in the order of filing.

3. At 9 a.m. on November 10, 1997, the land will be opened to location and entry under the United States mining laws subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law. Appropriation of any of the land described in this order under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. 38 (1994), shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

Dated: September 26, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–26811 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–935–1430–01; COC–28607, COC–28644]

Public Land Order No. 7288; Partial Revocation of an Executive Order and a Secretarial Order; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order partially revokes an Executive order and a Secretarial order insofar as they affect 3,815.40 acres of National Forest System lands withdrawn for waterpower purposes. These lands no longer have waterpower value. The withdrawals will be revoked and the lands opened to such forms of disposition as may by law be made of National Forest System lands to allow for an exchange. The lands have been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, and these provisions are no longer required. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: October 24, 1997.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215–7076, 303–239–3706.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. The Executive Order dated March 21, 1914, which established Power Site Reserve No. 427, and the Secretarial Order dated July 1, 1944, which established Power Site Classification No. 362, are hereby revoked insofar as they affect the following described National Forest System lands:

Sixth Principal Meridian

Arapaho National Forest

T. 2 N., R. 71 W.,
Sec. 4, lots 3 and 4, and S½NW¼;
Sec. 5, lots 1 to 4, inclusive, and S½N½.
T. 3 N., R. 71 W.,
Sec. 19, lots 9 to 13, inclusive;
Sec. 20, NW¼SW¼ and N½SE¼;
Sec. 21, SE¼NE¼, S½NW¼, and NW¼SW¼;
Sec. 28, S½SE¼;
Sec. 31, lots 11 and 12;
Sec. 32, lots 8, 9, and 12 to 15, inclusive;
Sec. 33, lots 3 to 6, inclusive, and 11 to 14, inclusive.
T. 2 N., R. 72 W.,
Sec. 2, SE¼, E½SW¼, and SW¼SW¼;
Sec. 5, SW¼NW¼;
Sec. 7, lots 11 and 14;
Sec. 10, lots 1, 4, 5, and 7 to 16, inclusive;

Sec. 11, N½ and N½SW¼;
Sec. 12, NW¼NW¼;
Sec. 15, N½NE¼, SW¼NE¼, NW¼NW¼, and E½W½.
T. 3 N., R. 72 W.,
Sec. 15, lots 13 and 14;
Sec. 21, lots 8 and 9;
Sec. 24, lots 2, 4, and 8.
T. 3 N., R. 73 W.,
Sec. 12, SW¼SE¼;
Sec. 13, W½NE¼, E½NW¼, and NE¼SW¼.

The areas described aggregate 3,815.40 acres in Boulder County.

2. At 9 a.m. on October 24, 1997, the lands described above shall be open to such forms of disposition as may by law be made of National Forest System lands subject to valid existing rights, the provisions of existing withdrawals, other segregations of record, and the requirements of applicable law.

The lands have been open to mining under the provisions of the Mining Claims Rights Restoration Act of 1955, 30 U.S.C. 621 (1994), and these provisions are no longer required.

Dated: September 26, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–26815 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–921–1430–01; NEW 135267]

Public Land Order No. 7287; Withdrawal of Public Lands for Addition to the Crescent Lake National Wildlife Refuge; Nebraska

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 145.87 acres of public lands from surface entry and mining for a period of 50 years for the Fish and Wildlife Service as an addition to the Crescent Lake National Wildlife Refuge. The lands have been and will remain open to mineral leasing.

EFFECTIVE DATE: October 9, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Booth, BLM Wyoming State Office, P.O. Box 1828, Cheyenne, Wyoming 82003, 307–775–6124.

By virtue of the authority vested in the Secretary of the Interior by Section 204 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714 (1994), it is ordered as follows:

1. Subject to valid existing rights, the following described public lands are hereby withdrawn from settlement, sale, location, or entry under the general land laws, including the United States mining laws (30 U.S.C. Ch. 2), but not from leasing under the mineral leasing laws, for the Fish and Wildlife Service to preserve the integrity of the wetlands and surrounding uplands and offer a sanctuary to wildlife at the Crescent Lake National Wildlife Refuge:

Sixth Principal Meridian, Nebraska

T. 22 N., R. 47 W.,
Sec. 1, lots 10 to 13, inclusive, and lot 16;
Sec. 12, lot 1.

The areas described aggregate 145.87 acres in Morrill County.

2. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of lands under lease, license, or permit, or governing the disposal of their mineral or vegetative resources other than under the mining laws.

3. This withdrawal will expire 50 years from the effective date of this order unless, as a result of a review conducted before the expiration date pursuant to Section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f) (1994), the Secretary determines that the withdrawal shall be extended.

Dated: September 26, 1997.

Bob Armstrong,

Assistant Secretary of the Interior.

[FR Doc. 97–26827 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–942–5700–00]

Filing of Plats of Survey; CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested state and local government officials of the latest filing of Plats of Survey in California.

EFFECTIVE DATE: Unless otherwise noted, filing was effective at 10:00 a.m. on the next federal work day following the plat acceptance date.

FOR FURTHER INFORMATION CONTACT: Lance J. Bishop, Chief, Branch of Cadastral Survey, Bureau of Land Management (BLM), California State Office, 2135 Butano Drive, Sacramento, CA 95825–0451, (916) 978–4310.

SUPPLEMENTARY INFORMATION: The plats of Survey of lands described below have been officially filed at the California State Office of the Bureau of Land Management in Sacramento, CA.

Mount Diablo Meridian, California

T. 16 N., R. 10 E.—Supplemental plat of the SE ¼ of section 22, accepted September 18, 1997, to meet certain administrative needs of the US Forest Service, Tahoe National Forest.

T. 18 N., R. 10 E.—Supplemental plat of section 33 and the W ½ of section 34, accepted September 22, 1997, to meet certain administrative needs of the BLM, Bakersfield District, Folsom Resource Area.

All of the above listed survey plats are now the basic record for describing the lands for all authorized purposes. The survey plats have been placed in the open files in the BLM, California State Office, and are available to the public as a matter of information. Copies of the survey plats and related field notes will be furnished to the public upon payment of the appropriate fee.

Dated: October 2, 1997.

Lance J. Bishop,

Chief, Branch of Cadastral Survey.

[FR Doc. 97–26805 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–40–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–956–97–1420–00]

Colorado: Filing of Plats of Survey

September 30, 1997.

The plats of survey of the following described land will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 am., September 30, 1997. All inquiries should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

The plat representing the dependent resurvey of portions of the south boundary (Second Stan. Par. South) and the east boundary, T. 10 S., R. 75 W., Sixth Principal Meridian, Group 1150, Colorado, was accepted September 16, 1997.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines, T. 11 S., R. 75 W., Sixth Principal Meridian, Group 1150, Colorado, was accepted September 16, 1997.

These surveys were requested by the State of Colorado, Department of Natural Resources, Board of Land Commissioners, for administrative purposes.

The plat, which constitutes the entire record of this survey, representing the dependent resurvey and survey in SW 1/4 section 6, T. 6 S., R. 77 W, Sixth Principal Meridian, Group 1180,

Colorado, was accepted September 22, 1997.

The plat, which constitutes the entire record of this survey, representing the dependent resurvey and survey in SW 1/4 section 34, T. 6 N., R. 71 W, Sixth Principal Meridian, Group 1189, Colorado, was accepted September 22, 1997.

The plat representing the corrective dependent resurvey of a portion of the subdivision of sections 2 and 12, the extension survey of a portion of the line between sections 2 and 3, and the metes-and-bounds survey of certain lots in sections 2 and 12, T. 5 S., R. 80 W., Sixth Principal Meridian, Group 1113, Colorado, was accepted August 11, 1997.

The plat representing the dependent resurvey of portions of the west boundary and subdivisional lines and a metes-and-bounds survey of certain lots in sections 7 (extension survey) and 18, T. 5 S., R. 79 W., Sixth Principal Meridian, Group 1113, Colorado, was accepted July 24, 1997.

The plat (in two sheets) representing the dependent resurvey of portions of the subdivisional lines and subdivision of sections and a metes-and-bounds survey of certain lots in unsurveyed section 4, and sections 7 and 9, T. 5 S., R. 80 W., Sixth Principal Meridian, Group 1113, Colorado, was accepted August 11, 1997.

The plat representing the dependent resurvey of portions of the east boundary and subdivisional lines and a metes-and-bounds survey of lots 22 and 23 in section 1, T. 5 S., R. 81 W., Sixth Principal Meridian, Group 1113, Colorado, was accepted July 24, 1997.

The plat representing the dependent resurvey of a portion of the subdivisional lines and a metes-and-bounds survey in sections 3 and 4, T. 8 N., R. 74 W., Sixth Principal Meridian, Group 939, Colorado, was accepted August 20, 1997.

The plat (in three sheets) representing the dependent resurvey of a portion of the east boundary and portions of the subdivisional lines and a metes-and-bounds survey of certain parcels in section 36, T. 9 N., R. 74 W., Sixth Principal Meridian, Group 939, Colorado, was accepted August 25, 1997.

The supplemental plat, creating new lots 12, 13, 14, and 15 in the N½ of section 14, T. 5 S., R. 78 W., Sixth Principal Meridian, Colorado, was accepted August 20, 1997.

The supplemental plat, creating new lot 2 in the SE¼SE¼ of section 17, T. 5 S., R. 77 W., Sixth Principal Meridian, Colorado, was accepted August 20, 1997.

These surveys were requested by the USDA Forest Service for management purposes.

The plat representing the dependent resurvey of portions of the east boundary and the subdivisional lines with a subdivision of section 13 and metes-and-bounds survey of irregular boundaries in section 13, T. 49 N., R. 2 E., New Mexico Principal Meridian, Group 1159, Colorado, was accepted September 29, 1997.

The plat representing the dependent resurvey of a portion of the north boundary and a portion of the subdivisional lines, the partial subdivision of section 3, and the metes-and-bounds survey of irregular boundaries in section 3, T. 15 S., R. 92 W., Sixth Principal Meridian, Group 1159, Colorado, was accepted September 19, 1997.

The plat, which constitutes the entire record of this survey, representing the dependent resurvey of a portion of the subdivisional lines, the partial subdivision of section 9, and a metes-and-bounds survey to segregate a body of land located east of the Highway 550 in the NW¼SE¼ section 9, T. 45 N., R. 8 W., New Mexico Principal Meridian, Group 1159, Colorado, was accepted September 23, 1997.

The plat (in four sheets) representing the dependent resurvey of portions of the north boundary and subdivisional lines, the subdivision of section 6, and the metes-and-bounds survey of irregular boundaries in sections 5, 6, 7, and 18, T. 46 N., R. 3 W., New Mexico Principal Meridian, Group 1177, Colorado, was accepted September 29, 1997.

The plat (in two sheets) representing the dependent resurvey of a portion of the First Standard Parallel South, T. 5 S., R 88 and 89 W., a portion of the Eleventh Guide Meridian West (east boundary), a portion of the south boundary, the west boundary, and a portion of the subdivisional lines, and the subdivision of certain sections in T. 6 S., R. 89 W., Sixth Principal Meridian, Group 1079, Colorado was accepted September 5, 1997.

The supplemental plat, creating new lots 8 and 9 from previous lot 5 in the NE¼NE¼ of section 16, Fractional T. 2 S., R. 1 E., Ute Meridian, Colorado, was accepted September 5, 1997.

The supplemental plat, creating lots 12 and 13 from the original lot 5 in section 2, T. 12 S., R 91 W., Sixth Principal Meridian, Colorado, was approved September 9, 1997.

These surveys were requested by the BLM for administrative purposes.

Darryl A. Wilson,

Chief Cadastral Surveyor for Colorado.

[FR Doc. 97–26807 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–JB–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–989–1050–00–P]

Filing of Plats of Survey; Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The plats of survey of the following described lands are scheduled to be officially filed in the Wyoming State Office, Cheyenne, Wyoming, thirty (30) calendar days from the date of this publication.

Sixth Principal Meridian, Wyoming

T. 48 N., R. 63 W., accepted September 29, 1997
T. 49 N., R. 73 W., accepted September 29, 1997
T. 35 N., R. 74 W., accepted September 29, 1997
T. 36 N., R. 74 W., accepted September 29, 1997
T. 37 N., R. 74 W., accepted September 29, 1997
T. 35 N., R. 75 W., accepted September 29, 1997
T. 36 N., R. 75 W., accepted September 29, 1997
T. 25 N., R. 111 W., accepted September 29, 1997

Sixth Principal Meridian, Nebraska

T. 35 N., R. 20 W., accepted July 31, 1997

If protests against a survey, as shown on any of the above plats, are received prior to the official filing, the filing will be stayed pending consideration of the protest(s) and or appeal(s). A plat will not be officially filed until after disposition of protest(s) and or appeal(s).

These plats will be placed in the open files of the Wyoming State Office, Bureau of Land Management, 5353 Yellowstone Road, Cheyenne, Wyoming, and will be available to the public as a matter of information only. Copies of the plats will be made available upon request and prepayment of the reproduction fee of $1.10 per copy.

A person or party who wishes to protest a survey must file with the State Director, Bureau of Land Management, Cheyenne, Wyoming, a notice of protest prior to thirty (30) calendar days from the date of this publication. If the protest notice did not include a

statement of reasons for the protest, the protestant shall file such a statement with the State Director within thirty (30) calendar days after the notice of protest was filed.

The above-listed plats represent dependent resurveys, subdivision of sections.

FOR FURTHER INFORMATION CONTACT: Bureau of Land Management, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003.

Dated: October 1, 1997.

John P. Lee,

Chief, Cadastral Survey Group.

[FR Doc. 97–26810 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA 30389]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 15 acres of National Forest System land to protect the Cagle Cabin Administrative Site. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System land.

DATES: Comments and requests for a meeting should be received on or before January 7, 1997.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor, Tonto National Forest, 2324 E. McDowell Road, Phoenix, Arizona 85006.

FOR FURTHER INFORMATION CONTACT: Jim Young, Tonto National Forest, 602–225–5200, or Howard Okamoto, Pleasant Valley Ranger District, 520–462–4300.

SUPPLEMENTARY INFORMATION: On September 22, 1997, the Forest Service filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

Tonto National Forest

T. 7 N., R. 14 E.,
Sec. 30, W½SE¼NE¼SE¼, E½SW¼NE¼SE¼, NW¼NE¼SE¼SE¼, and NE¼NW¼SE¼SE¼, unsurveyed.

The area described contains 15 acres in Gila County.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal must present their views in writing, by the date specified above, to the Forest Supervisor, Tonto National Forest.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request, by the date specified above, to the Forest Supervisor, Tonto National Forest. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days prior to the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Dated: September 30, 1997.

Michael A. Ferguson,

Deputy State Director, Resources Division.

[FR Doc. 97–26803 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–950–5700–77; AZA 30390]

Notice of Proposed Withdrawal and Opportunity for Public Meeting; Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The United States Department of Agriculture, Forest Service, has filed an application to withdraw 1,620 acres of National Forest System land to protect the Upper Hassayampa River Corridor. This notice closes the land for up to 2 years from location and entry under the United States mining laws. The land will remain open to all other uses which may be made of National Forest System land.

DATES: Comments and requests for a meeting should be received on or before January 7, 1998.

ADDRESSES: Comments and meeting requests should be sent to the Forest Supervisor, Prescott National Forest, 344 S. Cortez Street, Prescott, Arizona 86303.

FOR FURTHER INFORMATION CONTACT: Beverley Everson or Doug Franch, Prescott National Forest, 520–445–7253.

SUPPLEMENTARY INFORMATION: On September 18, 1997, the Forest Service filed an application to withdraw the following described National Forest System land from location and entry under the United States mining laws, subject to valid existing rights:

Gila and Salt River Meridian

Prescott National Forest

T. 13 N., R. 2 W.,
Sec. 31, lot 20;
Sec. 32, lots 13 to 20, inclusive;
Sec. 33, lots 11 to 14, inclusive.
T. 12½ N., R. 2 W.,
Sec. 20, lots 1 to 4, inclusive;
Sec. 21, lots 1 to 4, inclusive, SW¼SE¼, SE¼SE¼, and SE¼SW¼;
Sec. 22, SW¼SW¼, and SE¼SW¼;
Sec. 26, SW¼, SW¼NW¼, and SW¼SE¼, excluding MS 3986;
Sec. 27, N½;
Sec. 35, NE¼NW¼, NW¼NE¼, N½SW¼NE¼, SE¼SW¼NE¼, and W½SE¼NE¼, excluding MS 1481, MS 3966, MS 1291, and MS 966.

The area described contains 1,620 acres in Yavapai County.

All persons who wish to submit comments, suggestions, or objections in connection with the proposed withdrawal may present their views in writing, by the date specified above, to the Forest Supervisor, Prescott National Forest.

Notice is hereby given that an opportunity for a public meeting is afforded in connection with the proposed withdrawal. All interested persons who desire a public meeting for the purpose of being heard on the proposed withdrawal must submit a written request, by the date specified above, to the Forest Supervisor, Prescott National Forest. Upon determination by the authorized officer that a public meeting will be held, a notice of time and place will be published in the **Federal Register** at least 30 days before the scheduled date of the meeting.

The application will be processed in accordance with the regulations set forth in 43 CFR 2300.

For a period of 2 years from the date of publication of this notice in the **Federal Register**, the land will be segregated as specified above unless the application is denied or canceled or the withdrawal is approved prior to that date.

Dated: September 30, 1997.

Michael A. Ferguson,

Deputy State Director, Resources Division.

[FR Doc. 97–26804 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–930–1430–01; COC–60906]

Proposed Withdrawal; Opportunity for Public Meeting; Colorado

September 30, 1997.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management proposes to withdraw approximately 129.8 acres of public lands for 20 years to protect three recreation sites. This notice closes these lands to operation of the public land laws including location and entry under the mining laws for up to two years. The lands have been and remain open to mineral leasing.

DATES: Comments on this proposed withdrawal or requests for public meeting must be received on or before January 7, 1998.

ADDRESSES: Comments and requests for a meeting should be sent to the Colorado State Director, BLM, 2850 Youngfield Street, Lakewood, Colorado 80215–7076.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–239–3706.

SUPPLEMENTARY INFORMATION: On September 26, 1997, a petition was approved allowing the Bureau of Land Management to file an application to withdraw the following described public lands from settlement, sale, location, or entry under the general land laws, including the mining laws, subject to valid existing rights:

Sixth Principal Meridian

Mud Springs

T. 13 S., R. 102 W.,
Sec. 24, S½NW¼SE¼ and N½SW¼SE¼.

Dominguez

T. 15 S., R. 100 W.,
Sec. 15, SW¼NE¼SE¼, SE¼NW¼SE¼, NE¼SW¼SE¼, and NW¼SE¼SE¼

Miracle Rock

T. 12 S., R. 103 W.,
Sec. 26, West 10 chains of Lot 3, and that portion of the SE¼SW¼ within acquired parcel C–832;
Sec. 35, West 10 chains of Lot 2, and that portion of the NE¼NW¼ within acquired parcel C–832.

The areas described aggregate approximately 129.8 acres in Mesa County.

For a period of 90 days from the date of publication of this notice, all parties who wish to submit comments, suggestions, or objections in connection with this proposed action, or to request a public meeting, may present their views in writing to the Colorado State Director. If the authorized officer determines that a meeting should be held, the meeting will be scheduled and conducted in accordance with 43 CFR 2310.3–1(c)(2)).

This application will be processed in accordance with the regulations set forth in 43 CFR part 2310.

For a period of two years from the date of publication in the **Federal Register,** these lands will be segregated as specified above unless the application is denied or cancelled or the withdrawal is approved prior to that date. During this period the Bureau of Land Management will continue to manage this land.

Jenny L. Saunders,

Realty Officer.

[FR Doc. 97–26718 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

Notice on Outer Continental Shelf Oil and Gas Lease Sales

AGENCY: Minerals Management Service, Interior.

ACTION: List of restricted joint bidders.

SUMMARY: Pursuant to the authority vested in the Director of the Minerals Management Service by the joint bidding provisions of 30 CFR 256.41, each entity within one of the following groups shall be restricted from bidding with any entity in any other of the following groups at Outer Continental Shelf oil and gas lease sales to be held during the bidding period from November 1, 1997, through April 30, 1998. The List of Restricted Joint Bidders published March 27, 1997, in the **Federal Register** at 62 FR 14699 covered the period of May 1, 1997, through October 31, 1997.

Group I

Exxon Corporation; Exxon San Joaquin Production Co.

Group II

Shell Oil Co.; Shell Offshore Inc.; Shell Western E&P Inc.; Shell Frontier Oil & Gas Inc.; Shell Consolidated Energy Resources Inc.; Shell Land & Energy Company; Shell Onshore Ventures Inc.; Shell Deepwater Development Inc.; Shell Deepwater Production Inc.; Shell Offshore Properties and Capital II Inc.

Group III

Mobil Oil Corp.; Mobil Oil Exploration and Producing Southeast Inc.; Mobil Producing Texas and New Mexico Inc.; Mobil Exploration and Producing North America Inc.

Group IV

BP America Inc.; The Standard Oil Co.; BP Exploration & Oil Inc.; BP Exploration (Alaska) Inc.

Dated: October 3, 1997.

Cynthia L. Quarterman,

Director, Minerals Management Service.

[FR Doc. 97–26852 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–MR–M

DEPARTMENT OF THE INTERIOR

National Park Service

Delaware and Lehigh Navigation Canal National Heritage Corridor Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of meeting.

SUMMARY: This notice announces an upcoming meeting of the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

Meeting Date and Time: Wednesday, October 15, 1997; 1:30–4:00 p.m.

Addresses: The Sun Inn, 564 Main Street, Bethlehem, PA 18018.

The agenda for the meeting will focus on implementation of the Management Action Plan for the Delaware and Lehigh Canal National Heritage Corridor and State Heritage Park. The Commission was established to assist the Commonwealth of Pennsylvania and its political subdivisions in planning and implementing an integrated strategy for protecting and promoting cultural, historic and natural resources. The Commission reports to the Secretary of the Interior and to Congress.

SUPPLEMENTARY INFORMATION: The Delaware and Lehigh Navigation Canal National Heritage Corridor Commission was established by Public Law 100–692, November 18, 1988.

FOR FURTHER INFORMATION CONTACT: Executive Director, Delaware and Lehigh Navigation Canal, National Heritage Corridor Commission, 10 E. Church Street, Room P–208, Bethlehem, PA 18018, (610) 861–9345.

Dated: October 3, 1997.

Gerald R. Bastoni,

Executive Director, Delaware and Lehigh Navigation Canal NHC Commission.

[FR Doc. 97–26793 Filed 10–8–97; 8:45 am]

BILLING CODE 6820–PE–M

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Notice of Proposed Information Collection

AGENCY: Office of Surface Mining Reclamation and Enforcement.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, the Office of Surface Mining Reclamation and Enforcement (OSM) is announcing its intention to request renewed approval for the collection of information under 30 CFR part 850 which provides authority for State regulatory authorities to develop a blaster certification program.

DATES: Comments on the proposed information collection must be received by December 8, 1997, to be assured of consideration.

ADDRESSES: Comments may be mailed to John A. Trelease, Office of Surface Mining Reclamation and Enforcement, 1951 Constitution Ave, NW, Room 210—SIB, Washington, DC 20240. Comments may also be submitted electronically to jtreleas@osmre.gov.

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection request, explanatory information and related forms, contact John A. Trelease, at (202) 208–2783.

SUPPLEMENTARY INFORMATION: The Office of Management and Budget (OMB) regulations at 5 CFR 1320, which implementing provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see 5 CFR 1320.8 (d). This notice identifies information collections that OSM will be submitting to OMB for extension. These collections are contained in 30 CFR 850, Permanent regulatory program requirements—standards for certifications of blasters.

OSM revised burden estimates, where appropriate, to reflect current reporting levels or adjustments based on reestimates of burden or respondents. OSM will request a 3-year term of approval for each information collection activity.

Comments are invited on: (1) The need for the collection of information for the performance of the functions of the agency; (2) the accuracy of the agency's burden estimates; (3) ways to enhance the quality, utility and clarity of the information collection; and (4) ways to minimize the information collection burden on respondents, such as use of automated means of collection of the information. A summary of the public comments will accompany OSM's submission of the information collection request to OMB

The following information is provided for the information collection: (1) Title of the information collection; (2) ONB control number; (3) summary of the information collection activity; and (4) frequency of collection, description of the respondents, estimated total annual responses, and the total annual reporting and recordkeeping burden for the collection of information.

Title: Permanent regulatory program requirements—standards for certification of blasters, 30 CFR 850.

OMB Control Number: 1029–0080.

Summary: This part establishes the requirements and procedures applicable to the development of regulatory programs for the training, examination, and certification of persons engaging in or directly responsible for the use of explosives in surface coal mining operations.

Bureau Form Number: None.

Frequency of Collection: Once.

Description of Respondents: State governments.

Total Annual Responses: 1.

Total Annual Burden Hours: 1.

Dated: October 6, 1997.

Richard G. Bryson,

Chief, Division of Regulatory Support.

[FR Doc. 97–26802 Filed 10–8–97; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Agency for International Development

Notice of Public Information Collections Submitted to OMB for Review

SUMMARY: U.S. Agency for International Development (USAID) has submitted the following information collections to OMB for review and clearance under the Paperwork Reduction Act of 1995, Pub. L. 104–13. Comments regarding this information collection are best assured of having their full effect if received within 30 days of this notification. Comments should be addressed to: Desk Officer for USAID, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, D.C. 20523. Copies of submission may be obtained by calling (202) 712–1765.

SUPPLEMENTARY INFORMATION:

OMB Number: OMB 0412–0012.

Form Number: Form AID 282.

Title: Supplier's Certificate Agreement with the U.S. Agency for International Development—Invoice and Contract Abstract.

Type of Submission: Renew.

Purpose: The U.S. Agency for International Development (USAID) finances goods and related services under its Commodity Import Program which are contracted for by public and private entities in the countries receiving the USAID Assistance. Since USAID is not a party to these contracts, USAID needs some means to collect information directly from the suppliers of the goods and related services and to enable USAID to take an appropriate action against them in the event they do not comply with the applicable regulations. USAID does this by securing from the suppliers, as a condition for the disbursement of funds a certificate and agreement with USAID which contains appropriate representations by the suppliers.

Annual Reporting Burden:

Respondents: 400,

Total Annual responses: 3,600,

Total annual hours requested: 1,800.

OMB Number: OMB 0412–0510.

Form Number: N/A.

Title: Administrative of Assistance Awards to U.S. Non-Governmental Organizations, 22 CFR 226, and USAID's Automated Directive System, Chapter 303.

Type of Submission: Renew.

Purpose: Section 635(b) of the Foreign Assistance Act (FAA) authorizes USAID to make grants and cooperative agreements with any organization and within limits of the FAA. Most of the information that USAID requests of its recipients is necessary to fulfill the requirement that USAID, as Federal Agency, ensure prudent management of public funds under all of its assistance instruments. The pre-award information is necessary to assure that funds are provided for programs that further the purposes of the FAA and that the recipients have the capability to manage the program administratively and financially. The administration (post-award) requirements are based on the need to assure that the program is functioning adequately, the funds are managed properly and that statutory

and regulatory requirement are complied with.

Annual Reporting Burden:
Respondents: 400,
Total Annual responses: 37,400,
Total annual hours requested: 1,100.

OMB Number: OMB 0412–0551.
Form Number: N/A.
Title: U.S. Agency for International Development Acquisition Regulations (AIDAR) Clause 752.70.26 Reports.
Type of Submission: Revision of currently approved collection.
Purpose: Section 635(b) of the Foreign Assistance Act (FAA) authorizes USAID to make contract with any cooperative, international organization, or other body or persons in or out of the United States in furtherance of the purposes and within the limitations of the FAA. To determine how well contractors are performing to meet the requirements of the contract, USAID requires periodic performance reports from contractors. The performance report requirements are contained in the USAID clause new AIDAR reports (October 1996).

Annual Reporting Burden:
Respondents: 350,
Total Annual responses: 2,000,
Total annual hours requested: 8,000.

Dated: October 1, 1997.

Willette L. Smith,

Acting Chief, Information and Records Division, Office of Administrative Services, Bureau of Management.

[FR Doc. 97–26808 Filed 10–8–97; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 1:97CV01515]

Public Comments and Response on Proposed Final Judgment United States v. Raytheon Company, et al.

Pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b)(h), the United States of America hereby publishes below the comments received on the proposed Final Judgment in *United States* v. *Raytheon Company, et al.*, Civil Action No. 1: 97CV01515, filed in the United States District for the District of Columbia, together with the United States' response to the comments.

Copies of the comments and responses are available for inspection in Room 215 of the U.S. Department of Justice, Antitrust Division, 325 7th Street, N.W., Washington, D.C. 20530, telephone: (202) 514–2481, and at the office of the Clerk of the United States District of Columbia, United States Courthouse, Third Street and Constitution Avenue, N.W., Washington, D.C. 20001. Copies of any of these materials may be obtained upon request and payment of a copying fee.

Constance K. Robinson,

Director of Operations Antitrust Division.

U.S. Department of Justice

Antitrust Division, 1401 H Street, City Center Building, Washington, DC 20530.

September 26, 1997.

John Heston, Senior MMIC Designer,
David Heston, Technical Director Space Programs,
Texas Instruments, Inc., 13510 North Central Expressway, MS 209, Dallas, Texas 75265

Re: *United States, et al.* v. *Raytheon Company, et al.; Civil Action No.: 1:97CV01515 (District of Columbia, July 2, 1997)*

Dear Messrs. John Heston and David Heston: This letter responds to your letter of August 4, 1997, commenting on the proposed Final Judgment in the above-captioned civil antitrust case challenging the acquisition by Raytheon Company of Texas Instruments' Defense Systems and Electronics Unit. The Complaint alleges that the acquisition violates Section 7 of the Clayton Act, as amended, 15 U.S.C. Section 18, because it is likely substantially to lessen competition in the manufacture and sale of gallium arsenide monolithic microwave integrated circuits (MMICs) in the United States. Under the proposed Final Judgment, the defendants are required to divest Texas Instruments' Defense Systems and Electronics Unit MMICs business located in Dallas, Texas.

In your letter, you expressed concern that the proposed Final Judgment may degrade national security, cause prices of MMICs to increase substantially, eliminate efficiencies, slow technological development of MMICs as well as transmit and receive modules (TR modules), which house the MMICs, and harm synergies between the development of MMICs and TR modules. Your letter recommended approval of the proposed acquisition, or in the alternative, that Texas Instruments' Defense Systems and Electronics Unit TR module business be divested along with the MMICs business.

With regards to the national security issue, the U.S. Department of Justice and the Department of Defense (DoD) found no evidence that challenging this transaction would compromise national security. After a thorough investigation, the Antitrust Division and DoD concluded that the proposed transaction, if not blocked, might lead to higher prices for MMICs. In addition, access to these critical components of advanced radar systems might be foreclosed to Raytheon's radar competitors, thereby, increasing DoD's costs for new radar programs. These radars are an important part of our nation's defense.

The MMIC cost increases you project, should the acquisition not occur, are not supported by the evidence obtained in the Department's investigation. Indeed, the very MMIC and TR module synergies you hypothesize that would be obtained from the acquisition will likely also be obtained by an alternative purchaser. For example, if the alternative purchaser is a commercial MMIC and/or TR module supplier, the design and capacity utilization efficiencies you discuss should accrue to that purchaser as well. Under these circumstances, the costs of MMICs will not increase and, ultimately, may decline. Moreover, there is little incentive for the commercial alternative purchaser to spurn military business, as you claim, especially in view of the excess capacity in the industry.

This same rational applies to the likelihood of advancement of the MMIC and TR module technology. As you point out, DoD programs require state-of-the-art MMICs and TR modules. First, technological advancements should be enhanced by maintaining competition in the industry not by eliminating it. Second, ''cost plus'' contracts, which are common in military procurement, by themselves will not ensure low costs or more technological development without ample competition in the marketplace. Without competition, there is little incentive to keep costs down or innovate in MMICs or TR modules. Third, Raytheon, by acquiring the Texas Instruments' TR module business, likely will achieve efficiencies in the research and development and production of its TR modules and MMICs making the achievement of ''cross functional technology breakthroughs'' possible.

Finally, because our investigation found that competition in the TR module industry is robust and that the MMIC business could easily be segregated for purposes of divestiture, sale of the entire R/F Microwave Unit, as you propose, is not required.

The Antitrust Division appreciates you bringing your concerns to our attention and hopes that this response will alleviate them. While the Department understands your positions, we believe that the proposed Final Judgment will adequately address the competitive concerns created by the Raytheon's acquisition of Texas Instruments' Defense Systems and Electronics Unit. Pursuant to the Antitrust Procedures and Penalties Act, a copy of your letter and this response will be published in the **Federal Register** and filed with the Court.

Thank you for your interest in the enforcement of the antitrust laws.

Sincerely yours,

J. Robert Kramer II,

Chief, Litigation II Section.

To: J. Robert Kramer
From: John Heston, Senior MMIC designer RTIS, David Heston, Technical Director Space Programs RTIS

Claim: We claim that the July 2 order of the Department of Justice (97 1515) to break up the R/F Microwave business unit of Raytheon TI Systems (i.e. divestiture of the 'MMIC Business') will degrade the national security in both the short term and long term. It is our premise that the Department of Justice made a premature decision due to time pressures, political pressures, and lack of complete information. This paper presents additional information relevant to the Department of Justice decision and asks for reconsideration.

Our perspective of the July 2 consent decree: On January 6, 1997 Raytheon proposed to purchase the Defense Systems and Electronics Group of Texas Instruments for ~$3B. In clearing the anti-trust issues with the proposed acquisition the technology used to manufacture radar components (i.e. GaAs MMIC circuits and microwave modules) became an issue. Several months were spent in an investigation of this technology and both Raytheon and Texas Instruments provided information on microwave power amplifiers and modules to the Department of Justice. With direction from the Office of the Secretary of Defense the Department of Justice issued a consent decree to allow the acquisition of TI's defense group provided the 'MMIC Business' of Texas Instruments RF/Microwave Department be divested. The RF/Microwave Department employees ~800 people and had annual sales of ~$125M in 1996. The RF/Microwave department is comprised of: GaAs operations (MMIC fabrication), module manufacturing, MMIC and module design groups, and program management. The 'MMIC business' as decreed by the Department of Justice comprises ~300 of these people (all of GaAs operations, a portion of the MMIC design and program management capabilities, and the microwave GaAs research lab) and had equivalent revenues of ~$50M in 1996.

The goal of the Department of Justice decision was to keep Northrop Grumman and other military system suppliers competitive in the microwave module business by ensuring it a supply source of outstanding GaAs MMICs. It was the underlying assumption that this competition was necessary to drive down the cost of military-use MMICs.

However, there are four facts that need to be reviewed again before the consent decree is issued. The conclusions previously reached regarding the impact of this consent decree need to be reconsidered.

Fact 1

The 'MMIC Business' spin-off company will have to raise MMIC costs.

Reasons for FACT 1: The same fabrication overhead will now be spread over a much smaller revenue and people. Short term MMIC costs will soar. Initial estimates provided to the programs from the now 'fire-walled' MMIC Business group indicate a 50% to 100% price increase for MMIC devices. This price increase is effective August 1, 1997. The price increase does not include GNA or profit since they are still part of RTIS.

Also, the synergy existing and being developed between the module and MMIC business will be broken. This synergy includes sharing office space, test equipment, printer/copiers, secretarial support, financial support, prototype parts stock, design seminars, and profit. As a result of eliminating this synergy, the long term cost of the 'MMIC Business' spin-off will remain higher than they would have been regardless of the Buyer.

Revised Conclusion 1A

Northrop Grumman and other military system suppliers will not be able to compete against Raytheon at the microwave module level in cost since it will be purchasing higher priced MMICs from the 'MMIC Business' spin-off. Raytheon will still have access to their own MMICs which will not change in price. Raytheon will also be able to lower module costs due to synergy between the two module factories (i.e. its own module factory and the one acquired from Texas Instrument's RF/Microwave department.

Revised Conclusion 1B

Short term cost to F–22 and all other RTIS microwave military (cost plus) programs will increase.

Fact 2

The commercial market (not military competition) dominates the volume and cost of every GaAs fabrication plant and thus the cost of military radar MMICs.

Reasons for FACT 2: The bulk of the fab cost is fixed. Therefore, volume drives the cost/die down and allows profits to grow. Military programs have low volumes. Even a military phased array such as F–22 only requires an estimated 500 wafers/year of high yielding power amplifier MMICs [estimate based on 440 planes produced in a 10 year period]. By contrast, cellular phones require millions of units per year (~7000 wafers/year for every 1 million phones.) And the potential commercial telecommunications phased array market (Teledesic, Motorola, Alcatel) is also much larger than the military market. To place this in perspective, in 1996 Texas Instrument's GaAs facility produced only 414 wafers of high power X-band MMICs for all of its microwave customers (military and commercial). The only way to achieve low cost military use MMICs without allowing commercial volume to set the price would be to operate a very tiny GaAs fab.

Revised Conclusion 2A

To provide a good supply of military MMICs, the 'MMIC Business' spin-off must be viably competitive in the commercial market. The increased overhead rate of the 'MMIC Business' spin-off may cause it to lose business to commercial competitors such as MA/COM, Triquent, and RFMD. Unless they are extremely successful in the commercial market the long term cost/availability of the military radar MMICs from this group is questionable. The 'MMIC Business' spin-off will also be focusing their resources on commercial MMICs instead of military MMICs since they know that their survival is dependent upon success in that market.

Fact 3

Military component costs (i.e. radar MMICs and modules) are driven by technology immaturity.

Reasons for FACT 3: Military programs require the latest MMIC technology (0.25um gates, pHEMT material, highest power levels) that has been developed. The program costs are typically driven more by development of this technology and solving unexpected travails of the technology development than by competitive pricing analysis. All the process development costs involved in solving technology development difficulties are passed onto the government through cost plus contracts.

The GaAs industry is still struggling to solve the two key problems that held Silicon growth down until the 1970's: reliability and FET pinchoff control. These two issues are not as thorny for lower requirement commercial MMICs.

Revised Conclusion 3

Military MMIC cost and availability will likely be improved more by allowing consolidation than by increasing competition. The use of cost plus contracts will prevent the consolidated companies from arbitrarily raising prices on military programs. Commercial competition will keep the MMIC costs low. Teaming agreements between military system suppliers (as is the case on F22 where RTIS and Northrop Grumman are teamed together) can be used to provide a continuous source of microwave components to competitors.

Fact 4

Divestiture of the 'MMIC Business' divides a team that is acknowledged as a leader in military microwave solutions and may impair technical breakthroughs on future military programs. Cost of future military programs will be higher without these breakthroughs.

Reasons for FACT 4

The RF/Microwave department at Texas Instruments has very good synergy between system requirements from government agencies and the technology needed to achieve these requirements. There is synergy between module and MMIC designers, between MMIC designers and the GaAs facility, and between programs and the research lab that has developed over the past 25 years. A number of cross functional engineering teams are in place to promote technology development and minimize re-invention. We have both worked on programs where a Government agency had a technology roadmap of desired system capability and the year they anticipated this capability becoming available. Through a combination of Government research programs and internal investments key technical areas in the research lab and GaAs facility were targeted for development to achieve specific module performance levels. Over a 3 to 4 year period, a number of technical breakthroughs occurred at both device (GaAs process and material) and design (MMIC and module) levels. These breakthroughs enabled system architectures up to 5 years sooner than previously anticipated. Hopefully this pull-up has benefited the National Security and also provided a lower cost solution. This type of technical breakthrough will be much more difficult with the 'MMIC Business' divestiture and a breakup of the cross functional engineering groups developed over many years within the RF/microwave department.

A secondary result of the 'MMIC Business' divestiture is an increased turnover of personnel. Since the decision, three MMIC designers and six process personnel in the 'MMIC Business' have already given notice of

their intention to leave the company and many others are openly talking of leaving due to career uncertainty created by the Justice Department decree. Morale is extremely low and it possibly endangers the core team of MMIC design/process expertise that is being divested.

Revised Conclusion 4

The 'MMIC Business' divestiture will increase the cost of future military microwave components through increased difficulty in achieving cross functional technology breakthroughs.

Revised Conclusion 4B

The 'MMIC Business' spin-off could potentially lose critical mass of its key personnel due to morale problems associated with the Justice Department decree.

Proposed Solution

Keep the R/F Microwave Business unit intact. This will prevent an increase in MMIC costs, keep the company viable for commercial business, and allow the company to continue development of advanced technology.

Option 1: Keep the unit with Raytheon. This will provide the greatest opportunity for high performance, low cost military MMICs and modules. Since RTIS is teamed with Northrop Grumman on the F22 program they will be provided necessary MMICs for their module build as part of that agreement.

Option 2: Spin off the entire R/F Microwave unit from RTIS. This will make Northrop Grumman and other military system suppliers more competitive. The downside is a loss of possible maturity for advanced MMIC processes that would have occurred with the merger (i.e. combination of Raytheon and TI engineers sharing information.)

Regards

John Heston, (972) 995–6051, RTIS, 13510 North Central Expressway, MS 209, Dallas, TX 75265

David Heston, (972) 995–6048, RTIS, 13510 North Central Expressway, MS 262, Dallas, TX 75265

[FR Doc. 97–26828 Filed 10–8–97; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

Criminal Justice Information Services (CJIS) Advisory Policy Board

The Criminal Justice Information Services (CJIS) Advisory Policy Board will meet on December 10–11, 1997, from 9 a.m. until 5 p.m., at the Sunburst Resort Hotel, 4925 Scottsdale Road, Scottsdale, Arizona, telephone 602–945–7666, to formulate recommendations to the Director, Federal Bureau of Investigation (FBI) on the security, policy, and operation of the National Crime Information Center (NCIC), NCIC 2000, the Integrated Automated Fingerprint Identification System (IAFIS), and the Uniform Crime Reporting and National Incident Based Reporting System programs.

The topics to be discussed will include the progress of the NCIC 2000 and IAFIS projects, and other topics related to the operation of the FBI's criminal justice information systems.

The meeting will be open to the public on a first-come, first-seated basis. Any member of the public may file a written statement concerning the FBI CJIS Division programs or related matters with the Board. Anyone wishing to address this session of the meeting should notify the Designated Federal Employee, at least 24 hours prior to the start of the session. The notification may be by mail, telegram, cable, facsimile, or a hand-delivered note. It should contain the requestor's name, corporate designation, consumer affiliation, or Government designation, along with a short statement describing the topic to be addressed, and the time needed for the presentation. A nonmember requestor will ordinarily be allowed not more than 15 minutes to present a topic, unless specifically approved by the Chairman of the Board.

Inquiries may be addressed to the Designated Federal Employee, Mr. Demery R. Bishop, Section Chief, Programs Development Section, CJIS Division, FBI, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306, telephone 304–625–2740, facsimile 304–625–5090.

Dated: October 3, 1997.

Demery R. Bishop,

Section Chief, Programs Development Section, Federal Bureau of Investigation, Designated Federal Employee.

[FR Doc. 97–26812 Filed 10–8–97; 8:45 am]

BILLING CODE 4410–02–M

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Collection; Comment Request

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a preclearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration is soliciting comments concerning the proposed new collection of the Center for Employment and Training (CET) 24-Month Follow-Up Survey. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice.

DATES: Written comments must be submitted to the office listed in the addressee section below on or before December 8, 1997. The Department of Labor is particularly interested in comments which:

- evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- 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.

ADDRESSES: Tom NaSell, Office of Policy and Research; 200 Constitution Ave., NW, Room N–5629; Washington DC 20210; (202) 219–5782 (this is not a toll free number).

SUPPLEMENTARY INFORMATION:

I. Background

The Center for Employment Training (CET) model of employment and training programs for out-of-school youth has gained national attention as a result of its strong employment impacts relative to comparable programs. Building on this success, the Department of Labor (DOL) began funding the CET Replication Project in December 1992, providing a grant for CET–San Jose, CA to assist other programs in implementing CET-like training. In 1994 DOL competitively

awarded grants to select six of these programs in order to evaluate the effects of the CET model on participating youth. Six additional sites have also been selected from among CET programs in California and Nevada. The purpose of this study, A Random Assignment Evaluation of the CET Replication Sites, is to evaluate the CET model in the selected sites to assess whether it can be replicated outside of San Jose, and whether the replication sites have similarly positive employment impacts on out-of-school youth.

In order to assess the success of CET outside of San Jose, DOL has contracted with the Manpower Demonstration Research Corporation (MDRC) to evaluate the CET Republican Project. As part of this evaluation, follow-up information will be collected on all youth undergoing random assignment at the CET replication sites. This information will be collected through a telephone survey conducted approximately 24 months after the random assignment of youth. The 24-Month Follow-Up Survey will be used to examine the effects of this employment and training program on participants' outcomes two years after beginning the CET training. It will also assess the subsequent outcomes of comparable youth randomly assigned to a control group.

II. Current Actions

This is a request for OMB approval of a new information collection for the CET Replication Project funded by the Department of Labor (DOL). Information in the form of a follow-up phone or in-person survey will be collected from randomly assigned participants at each of the CET Replication Project sites on a one-time basis, approximately 24 months following their initial assignment to the program or control groups. The survey data will be utilized to analyze the impact of the CET program on participants' outcomes including education and training, employment, earnings, public assistance participation, childbearing, and other behaviors and activities. The findings will be directly relevant for the future development of employment and training policy for youth.

Type of Review: New.

Agency: Employment and Training Administration.

Title: CET 24-Month Follow-Up Survey.

OMB Number: 1205–NEW.

Affected Public: Participants in the CET Replication Project.

Total Respondents: 1,500.

Frequency: One time.

Total Responses: 1,500.

Average Time per Response: 37 Minutes.

Estimated Total Burden Hours: 925 Hours.

Total Burden Cost (capital/startup): $0.

Total Burden Cost (operating/maintaining): $6,808.

Comments submitted in response to this comment request will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: October 3, 1997.

Gerard F. Fiala,

Administrator, Office of Policy and Research.

[FR Doc. 97–26831 Filed 10–8–97; 8:45 am]

BILLING CODE 4510–30–M

DEPARTMENT OF LABOR

Employment and Training Administration

Labor Surplus Area Classification Under Executive Orders 12073 and 10582; Notice of the Annual List of Labor Surplus Areas

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

DATE: The annual list of labor surplus areas is effective October 1, 1997.

SUMMARY: The purpose of this notice is to announce the annual list of labor surplus areas for Fiscal Year 1998.

FOR FURTHER INFORMATION CONTACT: William J. McGarrity, Labor Economist, USES, Employment and Training Administration, 200 Constitution Avenue, N.W., Room N–4470, Attention: TEESS, Washington, D.C. 20210. Telephone: 202–219–5185, ext. 129.

SUPPLEMENTARY INFORMATION: Executive Order 12073 requires executive agencies to emphasize procurement set-asides in labor surplus areas. The Secretary of Labor is responsible under that Order for classifying and designating areas as labor surplus areas. Executive agencies should refer to Federal Acquisition Regulation Part 20 (48 CFR Part 20) in order to assess the impact of the labor surplus area program on particular procurements.

Under Executive Order 10582 executive agencies may reject bids or offers of foreign materials in favor of the lowest offer by a domestic supplier, provided that the domestic supplier undertakes to produce substantially all of the materials in areas of substantial unemployment as defined by the Secretary of Labor. The preference given to domestic suppliers under Executive Order 10582 has been modified by Executive Order 12260. Federal Acquisition Regulation Part 25 (48 CFR Part 25) implements Executive Order 12260. Executive agencies should refer to Federal Acquisition Regulation Part 25 in procurements involving foreign businesses or products in order to assess its impact on the particular procurements.

The Department of Labor regulations implementing Executive Orders 12073 and 10582 are set forth at 20 CFR Part 654, Subparts A and B. Subpart A requires the Assistant Secretary of Labor to classify jurisdictions as labor surplus areas pursuant to the criteria specified in the regulations and to publish annually a list of labor surplus areas. Pursuant to those regulations the Assistant Secretary of Labor is hereby publishing the annual list of labor surplus areas.

Subpart B of Part 654 states that an area of substantial unemployment for purposes of Executive Order 10582 is any area classified as a labor surplus area under Subpart A. Thus, labor surplus areas under Executive Order 12073 are also areas of substantial unemployment under Executive Order 10582.

The areas described below have been classified by the Assistant Secretary as labor surplus areas pursuant to 20 CFR 654.5(b) (48 FR 15615 April 12, 1983) effective October 1, 1997.

The list of labor surplus areas is published for the use of all Federal agencies in directing procurement activities and locating new plants or facilities.

Signed at Washington, D.C. on September 24, 1997.

Raymond Uhalde,

Acting Assistant Secretary.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998

Eligible labor surplus areas	Civil jurisdictions included
ALABAMA	
ANNISTON CITY	ANNISTON CITY IN CALHOUN COUNTY.
BARBOUR COUNTY	BARBOUR COUNTY.
BIBB COUNTY	BIBB COUNTY.
BULLOCK COUNTY	BULLOCK COUNTY.
BUTLER COUNTY	BUTLER COUNTY.
CHOCTAW COUNTY	CHOCTAW COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
CLARKE COUNTY	CLARKE COUNTY.
COLBERT COUNTY	COLBERT COUNTY.
CONECUH COUNTY	CONECUH COUNTY.
COVINGTON COUNTY.	COVINGTON COUNTY.
CRENSHAW COUNTY.	CRENSHAW COUNTY.
DALLAS COUNTY	DALLAS COUNTY.
ESCAMBIA COUNTY	ESCAMBIA COUNTY.
FLORENCE CITY	FLORENCE CITY IN LAUDERDALE COUNTY.
FRANKLIN COUNTY	FRANKLIN COUNTY.
GADSDEN CITY	GADSDEN CITY IN ETOWAH COUNTY.
GENEVA COUNTY	GENEVA COUNTY.
GREENE COUNTY	GREENE COUNTY.
HALE COUNTY	HALE COUNTY.
HENRY COUNTY	HENRY COUNTY.
JACKSON COUNTY	JACKSON COUNTY.
LAWRENCE COUNTY.	LAWRENCE COUNTY.
LOWNDES COUNTY	LOWNDES COUNTY.
MACON COUNTY	MACON COUNTY.
MARENGO COUNTY	MARENGO COUNTY.
MARION COUNTY	MARION COUNTY.
MOBILE CITY	MOBILE CITY IN MOBILE COUNTY.
MONROE COUNTY	MONROE COUNTY.
PERRY COUNTY	PERRY COUNTY.
PICKENS COUNTY	PICKENS COUNTY.
PRICHARD CITY	PRICHARD CITY IN MOBILE COUNTY.
RANDOLPH COUNTY.	RANDOLPH COUNTY.
SUMTER COUNTY	SUMTER COUNTY.
TALLADEGA COUNTY.	TALLADEGA COUNTY.
WALKER COUNTY	WALKER COUNTY.
WASHINGTON COUNTY.	WASHINGTON COUNTY.
WILCOX COUNTY	WILCOX COUNTY.
ALASKA	
BETHEL CENSUS AREA.	BETHEL CENSUS AREA.
BRISTOL BAY BOROUGH DIV.	BRISTOL BAY BOROUGH DIV.
DENALI BOROUGH	DENALI BOROUGH.
DILLINGHAM CENSUS AREA.	DILLINGHAM CENSUS AREA.
FAIRBANKS CITY	FAIRBANKS CITY IN FAIRBANKS NORTH STAR BOROUGH.
BALANCE OF FAIRBANKS NORTH STAR BOROUGH.	FAIRBANKS NORTH STAR BOROUGH LESS FAIRBANKS CITY.
HAINES BOROUGH	HAINES BOROUGH.
KENAI PENINSULA BOROUGH.	KENAI PENINSULA BOROUGH.
KETCHIKAN GATEWAY BOROUGH.	KETCHIKAN GATEWAY BOROUGH.
KODIAK ISLAND BOROUGH.	KODIAK ISLAND BOROUGH.
LAKE AND PENINSULA BOROUGH.	LAKE AND PENINSULA BOROUGH.
MATANUSKA-SUSITNA BOROUGH.	MATANUSKA-SUSITNA BOROUGH.
NOME CENSUS AREA.	NOME CENSUS AREA.
NORTHWEST ARCTIC BOROUGH.	NORTHWEST ARCTIC BOROUGH.
PRINCE OF WALES OUTER KETCHIKAN.	PRINCE OF WALES OUTER KETCHIKAN.
SKAGWAY-HOONAH-ANGOON CEN AREA.	SKAGWAY-HOONAH-ANGOON CEN AREA.
SOUTHEAST FAIRBANKS CENSUS AREA.	SOUTHEAST FAIRBANKS CENSUS AREA.
VALDEZ CORDOVA CENSUS AREA.	VALDEZ CORDOVA CENSUS AREA.
WADE HAMPTON CENSUS AREA.	WADE HAMPTON CENSUS AREA.
WRANGELL-PETERSBURG CENSUS AREA.	WRANGELL-PETERSBURG CENSUS AREA.
YAKUTAT BOROUGH.	YAKUTAT BOROUGH.
YUKON-KOYUKUK CENSUS AREA.	YUKON-KOYUKUK CENSUS AREA.
ARIZONA	
APACHE COUNTY	APACHE COUNTY.
BULLHEAD CITY	BULLHEAD CITY IN MOHAVE COUNTY.
BALANCE OF COCHISE COUNTY.	COCHISE COUNTY LESS SIERRA VISTA CITY.
BALANCE OF COCONINO COUNTY.	COCONINO COUNTY LESS FLAGSTAFF CITY.
GILA COUNTY	GILA COUNTY.
GRAHAM COUNTY	GRAHAM COUNTY.
GREENLEE COUNTY	GREENLEE COUNTY.
LA PAZ COUNTY	LA PAZ COUNTY.
BALANCE OF MOHAVE COUNTY.	MOHAVE COUNTY LESS —— BULLHEAD CITY.
	LAKE HAVASU CITY.
NAVAJO COUNTY	NAVAJO COUNTY.
SANTA CRUZ COUNTY.	SANTA CRUZ COUNTY
SIERRA VISTA CITY	SIERRA VISTA CITY IN COCHISE COUNTY.
YUMA CITY	YUMA CITY IN YUMA COUNTY.
BALANCE OF YUMA COUNTY.	YUMA COUNTY LESS YUMA CITY.
ARKANSAS	
BRADLEY COUNTY	BRADLEY COUNTY.
CALHOUN COUNTY	CALHOUN COUNTY.
CHICOT COUNTY	CHICOT COUNTY.
CLAY COUNTY	CLAY COUNTY.
COLUMBIA COUNTY	COLUMBIA COUNTY.
DALLAS COUNTY	DALLAS COUNTY.
DESHA COUNTY	DESHA COUNTY.
DREW COUNTY	DREW COUNTY.
HEMPSTEAD COUNTY.	HEMPSTEAD COUNTY.
IZARD COUNTY	IZARD COUNTY.
JACKSON COUNTY	JACKSON COUNTY.
LAFAYETTE COUNTY.	LAFAYETTE COUNTY.
LAWRENCE COUNTY.	LAWRENCE COUNTY.
LEE COUNTY	LEE COUNTY.
LITTLE RIVER COUNTY.	LITTLE RIVER COUNTY.
MISSISSIPPI COUNTY.	MISSISSIPPI COUNTY.
MONROE COUNTY	MONROE COUNTY
NEVADA COUNTY	NEVADA COUNTY.
OUACHITA COUNTY	OUACHITA COUNTY.
PHILLIPS COUNTY	PHILLIPS COUNTY.
PINE BLUFF CITY	PINE BLUFF CITY IN JEFFERSON COUNTY.
PRAIRIE COUNTY	PRAIRIE COUNTY.
RANDOLPH COUNTY.	RANDOLPH COUNTY.
ST. FRANCIS COUNTY.	ST. FRANCIS COUNTY.
UNION COUNTY	UNION COUNTY.
VAN BUREN COUNTY.	VAN BUREN COUNTY.
WOODRUFF COUNTY.	WOODRUFF COUNTY.
CALIFORNIA	
ALPINE COUNTY	ALPINE COUNTY.
AMADOR COUNTY	AMADOR COUNTY.
ANTIOCH CITY	ANTIOCH CITY IN CONTRA COSTA COUNTY.
APPLE VALLEY CITY	APPLE VALLEY CITY IN SAN BERNARDINO COUNTY.
AZUSA CITY	AZUSA CITY IN LOS ANGELES COUNTY.
BAKERSFIELD CITY	BAKERSFIELD CITY IN KERN COUNTY.
BALDWIN PARK CITY.	BALDWIN PARK CITY IN LOS ANGELES COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
BELL CITY	BELL CITY IN LOS ANGELES COUNTY.
BELL GARDENS CITY.	BELL GARDENS CITY IN LOS ANGELES COUNTY.
BALANCE OF BUTTE COUNTY.	BUTTE COUNTY LESS CHICO CITY.
	PARADISE CITY.
CALAVERAS COUNTY.	CALAVERAS COUNTY.
CARSON CITY	CARSON CITY IN LOS ANGELES COUNTY.
CATHEDRAL CITY	CATHEDRAL CITY IN RIVERSIDE COUNTY.
CERES CITY	CERES CITY IN STANISLAUS COUNTY.
CHICO CITY	CHICO CITY IN BUTTE COUNTY.
CLOVIS CITY	CLOVIS CITY IN FRESNO COUNTY.
COLTON CITY	COLTON CITY IN SAN BERNARDINO COUNTY.
COLUSA COUNTY	COLUSA COUNTY.
COMPTON CITY	COMPTON CITY IN LOS ANGELES COUNTY.
CORONA CITY	CORONA CITY IN RIVERERSIDE COUNTY.
DEL NORTE COUNTY.	DEL NORTE COUNTY.
DELANO CITY	DELANO CITY IN KERN COUNTY.
EAST PALO ALTO CITY.	EAST PALO ALTO CITY IN SAN MATEO COUNTY.
EL CAJON CITY	EL CAJON CITY IN ——— SAN DIEGO COUNTY.
EL CENTRO CITY	EL CENTRO CITY IN ——— IMPERIAL COUNTY.
EL MONTE CITY	EL MONTE CITY IN–——— LOS ANGELES COUNTY.
EUREKA CITY	EUREKA CITY IN ——— HUMBOLDT COUNTY.
FAIRFIELD CITY	FAIRFIELD CITY IN ——— SOLANO COUNTY.
FONTANA CITY	FONTANA CITY IN ——— SAN BERNARDINO COUNTY.
FRESNO CITY	FRESNO CITY IN ——— FRESNO COUNTY
BALANCE OF FRESNO COUNTY.	FRESNO COUNTY LESS———
	CLOVIS CITY
	FRESNO CITY.
GILROY CITY	GILROY CITY IN ——— SANTA CLARA COUNTY.
GLENDALE CITY	GLENDALE CITY IN ——— LOS ANGELES COUNTY.
GLENN COUNTY	GLENN COUNTY.
HANFORD CITY	HANFORD CITY IN ——— KINGS COUNTY.
HAWTHORNE CITY	HAWTHORNE CITY IN ——— LOS ANGELES COUNTY.
HEMET CITY	HEMET CITY IN ——— RIVERSIDE COUNTY.
HESPERIA CITY	HESPERIA CITY IN ——— SAN BERNARDINO COUNTY.
HIGHLAND CITY	HIGHLAND CITY IN ——— SAN BERNARDINO COUNTY.
BALANCE OF HUMBOLDT COUNTY.	HUMBOLDT COUNTY LESS ——— EUREKA CITY.
HUNTINGTON PARK CITY.	HUNTINGTON PARK CITY IN ——— LOS ANGELES COUNTY.
IMPERIAL BEACH CITY.	IMPERIAL BEACH CITY IN ——— SAN DIEGO COUNTY.
BALANCE OF IMPERIAL COUNTY.	IMPERIAL COUNTY LESS ——— EL CENTRO CITY.
INDIO CITY	INDIO CITY IN ——— RIVERSIDE COUNTY.
INGLEWOOD CITY	INGLEWOOD CITY IN ——— LOS ANGELES COUNTY.
INYO COUNTY	INYO COUNTY.
BALANCE OF KERN COUNTY.	KERN COUNTY LESS ———
	BAKERSFIELD CITY. ———
	DELANO CITY
	RIDGECREST CITY.———
BALANCE OF KINGS COUNTY.	KINGS COUNTY LESS ——— HANFORD CITY.
LA PUENTE CITY	LA PUENTE CITY IN ——— LOS ANGELES COUNTY.
LAKE COUNTY	LAKE COUNTY.
LANCASTER CITY	LANCASTER CITY IN——— LOS ANGELES COUNTY.
LASSEN COUNTY	LASSEN COUNTY.
LAWNDALE CITY	LAWNDALE CITY IN ——— LOS ANGELES COUNTY.
LEMON GROVE CITY.	LEMON GROVE CITY IN ——— SAN DIEGO COUNTY.
LODI CITY	LODI CITY IN ——— SAN JOAQUIN COUNTY.
LOMPOC CITY	LOMPOC CITY IN ——— SANTA BARBARA COUNTY.
LONG BEACH CITY	LONG BEACH CITY IN ——— LOS ANGELES COUNTY.
LOS ANGELES CITY	LOS ANGELES CITY IN ——— LOS ANGELES COUNTY.
BALANCE OF LOS ANGELES COUNTY.	LOS ANGELES COUNTY LESS ——— AGOURA HILLS CITY ———
	ALHAMBRA CITY ———
	ARCADIA CITY ———
	AZUSA CITY ———
	BALDWIN PARK CITY ———
	BELL CITY ———
	BELL GARDENS CITY ———
	BELLFLOWER CITY
	BEVERLY HILLS CITY.
	BURBANK CITY.
	CARSON CITY.
	CERRITOS CITY.
	CLAREMONT CITY.
	COMPTON CITY.
	COVINA CITY.
	CULVER CITY.
	DIAMOND BAR CITY.
	DOWNEY CITY.
	EL MONTE CITY.
	GARDENA CITY.
	GLENDALE CITY.
	GLENDORA CITY.
	HAWTHORNE CITY.
	HUNTINGTON PARK CITY.
	INGLEWOOD CITY.
	LA MIRADA CITY.
	LA PUENTE CITY.
	LA VERNE CITY.
	LAKEWOOD CITY.
	LANCASTER CITY.
	LAWNDALE CITY.
	LONG BEACH CITY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
	LOS ANGELES CITY.
	LYNWOOD CITY.
	MANHATTAN BEACH CITY.
	MAYWOOD CITY.
	MONROVIA CITY.
	MONTEBELLO CITY.
	MONTEREY PARK CITY.
	NORWALK CITY.
	PALMDALE CITY.
	PARAMOUNT CITY.
	PASADENA CITY.
	PICO RIVERA CITY.
	POMONA CITY.
	RANCHO PALOS VERDES CITY.
	REDONDO BEACH CITY.
	ROSEMEAD CITY.
	SAN DIMAS CITY.
	SAN GABRIEL CITY.
	SANTA CLARITA CITY.
	SANTA MONICA CITY.
	SOUTH GATE CITY.
	TEMPLE CITY.
	TORRANCE CITY.
	WALNUT CITY.
	WEST COVINA CITY.
	WEST HOLLYWOOD CITY.
	WHITTIER CITY.
LYNWOOD CITY	LYNWOOD CITY IN LOS ANGELES COUNTY.
MADERA CITY	MADERA CITY IN MADERA COUNTY.
BALANCE OF MADERA COUNTY.	MADERA COUNTY LESS MADERA CITY.
MANTECA CITY	MANTECA CITY IN SAN JOAQUIN COUNTY.
MARINA CITY	MARINA CITY IN MONTEREY COUNTY.
MARIPOSA COUNTY	MARIPOSA COUNTY.
MAYWOOD CITY	MAYWOOD CITY IN LOS ANGELES COUNTY.
MENDOCINO COUNTY.	MENDOCINO COUNTY .
MERCED CITY	MERCED CITY IN MERCED COUNTY.
BALANCE OF MERCED COUNTY.	MERCED COUNTY LESS MERCED CITY.
MODESTO CITY	MODESTO CITY IN STANISLAUS COUNTY.
MODOC COUNTY	MODOC COUNTY.
MONO COUNTY	MONO COUNTY.
MONROVIA CITY	MONROVIA CITY IN LOS ANGELES COUNTY.
MONTCLAIR CITY	MONTCLAIR CITY IN SAN BERNARDINO COUNTY.
MONTEBELLO CITY	MONTEBELLO CITY IN LOS ANGELES COUNTY.
BALANCE OF MONTEREY COUNTY.	MONTEREY COUNTY LESS MARINA CITY.
	MONTEREY CITY.
	SALINAS CITY.
	SEASIDE CITY.
MONTEREY PARK CITY.	MONTEREY PARK CITY IN LOS ANGELES COUNTY.
MORENO VALLEY CITY.	MORENO VALLEY CITY IN RIVERSIDE COUNTY.
NAPA CITY	NAPA CITY IN NAPA COUNTY.
NATIONAL CITY	NATIONAL CITY IN SAN DIEGO COUNTY.
NEVADA COUNTY	NEVADA COUNTY.
NORWALK CITY	NORWALK CITY IN LOS ANGELES COUNTY.
OAKLAND CITY	OAKLAND CITY IN ALAMEDA COUNTY.
OCEANSIDE CITY	OCEANSIDE CITY IN SAN DIEGO COUNTY.
ONTARIO CITY	ONTARIO CITY IN SAN BERNARDINO COUNTY.
OXNARD CITY	OXNARD CITY IN VENTURA COUNTY.
PALM SPRINGS CITY.	PALM SPRINGS CITY IN RIVERSIDE COUNTY.
PALMDALE CITY	PALMDALE CITY IN LOS ANGELES COUNTY.
PARADISE CITY	PARADISE CITY IN BUTTE COUNTY.
PARAMOUNT CITY	PARAMOUNT CITY IN LOS ANGELES COUNTY.
PASADENA CITY	PASADENA CITY IN LOS ANGELES COUNTY.
PERRIS CITY	PERRIS CITY IN RIVERSIDE COUNTY.
PICO RIVERA CITY	PICO RIVERA CITY IN LOS ANGELES COUNTY.
PITTSBURG CITY	PITTSBURG CITY IN CONTRA COSTA COUNTY.
PLUMAS COUNTY	PLUMAS COUNTY.
POMONA CITY	POMONA CITY IN LOS ANGELES COUNTY.
PORTERVILLE CITY	PORTERVILLE CITY IN TULARE COUNTY.
REDDING CITY	REDDING CITY IN SHASTA COUNTY.
RIALTO CITY	RIALTO CITY IN SAN BERNARDINO COUNTY.
RICHMOND CITY	RICHMOND CITY IN CONTRA COSTA COUNTY.
RIDGECREST CITY	RIDGECREST CITY IN KERN COUNTY.
RIVERSIDE CITY	RIVERSIDE CITY IN RIVERSIDE COUNTY.
BALANCE OF RIVERSIDE COUNTY.	RIVERSIDE COUNTY LESS CATHEDRAL CITY.
	CORONA CITY.
	HEMET CITY.
	INDIO CITY.
	MORENO VALLEY CITY.
	MURRIETA CITY.
	NORCO CITY.
	PALM DESERT CITY.
	PALM SPRINGS CITY.
	PERRIS CITY.
	RIVERSIDE CITY.
	TEMECULA CITY.
ROSEMEAD CITY	ROSEMEAD CITY IN LOS ANGELES COUNTY.
SACRAMENTO CITY	SACRAMENTO CITY IN SACRAMENTO COUNTY.
SALINAS CITY	SALINAS CITY IN MONTEREY COUNTY.
SAN BENITO COUNTY.	SAN BENITO COUNTY.
SAN BERNARDINO CITY.	SAN BERNARDINO CITY IN SAN BERNARDINO COUNTY.
BALANCE OF SAN BERNARDINO COUNTY.	SAN BERNARDINO COUNTY LESS APPLE VALLEY CITY.
	CHINO CITY.
	COLTON CITY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
	FONTANA CITY.
	HESPERIA CITY.
	HIGHLAND CITY.
	MONTCLAIR CITY.
	ONTARIO CITY.
	RANCHO CUCAMONGA CITY.
	REDLANDS CITY.
	RIALTO CITY.
	SAN BERNARDINO CITY.
	UPLAND CITY.
	VICTORVILLE CITY.
	YUCAIPA CITY.
SAN GABRIEL CITY	SAN GABRIEL CITY IN LOS ANGELES COUNTY.
BALANCE OF SAN JOAQUIN COUNTY.	SAN JOAQUIN COUNTY LESS LODI CITY.
	MANTECA CITY.
	STOCKTON CITY.
	TRACEY CITY.
SAN PABLO CITY	SAN PABLO CITY IN CONTRA COSTA COUNTY.
SANTA ANA CITY	SANTA ANA CITY IN ORANGE COUNTY.
SANTA CRUZ CITY ..	SANTA CRUZ CITY IN SANTA CRUZ COUNTY.
BALANCE OF SANTA CRUZ COUNTY.	SANTA CRUZ COUNTY LESS SANTA CRUZ CITY.
	WATSONVILLE CITY.
SANTA MARIA CITY	SANTA MARIA CITY IN SANTA BARBARA COUNTY.
SANTA PAULA CITY	SANTA PAULA CITY IN VENTURA COUNTY.
SEASIDE CITY	SEASIDE CITY IN MONTEREY COUNTY.
BALANCE OF SHASTA COUNTY.	SHASTA COUNTY LESS REDDING CITY.
SIERRA COUNTY	SIERRA COUNTY.
SISKIYOU COUNTY	SISKIYOU COUNTY.
BALANCE OF SOLANO COUNTY.	SOLANO COUNTY LESS BENICIA CITY.
	FAIRFIELD CITY.
	SUISON CITY.
	VACAVILLE CITY.
	VALLEJO CITY.
SOUTH GATE CITY	SOUTH GATE CITY IN LOS ANGELES COUNTY.
BALANCE OF STANISLAUS COUNTY.	STANISLAUS COUNTY LESS CERES CITY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
	MODESTO CITY.
	TURLOCK CITY.
STANTON CITY	STANTON CITY IN ORANGE COUNTY.
STOCKTON CITY	STOCKTON CITY IN SAN JOAQUIN COUNTY.
SUISON CITY	SUISON CITY IN SOLANO COUNTY.
BALANCE OF SUTTER COUNTY.	SUTTER COUNTY LESS YUBA CITY.
TEHAMA COUNTY ...	TEHAMA COUNTY.
TRACEY CITY	TRACEY CITY IN SAN JOAQUIN COUNTY.
TRINITY COUNTY	TRINITY COUNTY.
TULARE CITY	TULARE CITY IN TULARE COUNTY.
BALANCE OF TULARE COUNTY.	TULARE COUNTY LESS PORTERVILLE CITY.
	TULARE CITY.
	VISALIA CITY.
TUOLUMNE COUNTY.	TUOLUMNE COUNTY.
TURLOCK CITY	TURLOCK CITY IN STANISLAUS COUNTY.
VALLEJO CITY	VALLEJO CITY IN SOLANO COUNTY.
BALANCE OF VENTURA COUNTY.	VENTURA COUNTY LESS CAMARILLO CITY.
	MOORPARK CITY.
	OXNARD CITY.
	SANTA PAULA CITY.
	SIMI VALLEY CITY.
	THOUSAND OAKS CITY.
	VENTURA CITY.
VICTORVILLE CITY ..	VICTORVILLE CITY IN SAN BERNARDINO COUNTY.
VISALIA CITY	VISALIA CITY IN TULARE COUNTY.
WATSONVILLE CITY	WATSONVILLE CITY IN SANTA CRUZ COUNTY.
WEST HOLLYWOOD CITY.	WEST HOLLYWOOD CITY IN LOS ANGELES COUNTY.
WEST SACRAMENTO CITY.	WEST SACRAMENTO CITY IN YOLO COUNTY.
WOODLAND CITY	WOODLAND CITY IN YOLO COUNTY.
BALANCE OF YOLO COUNTY.	YOLO COUNTY LESS DAVIS CITY.
	WEST SACRAMENTO CITY.
	WOODLAND CITY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
YUBA CITY	YUBA CITY IN SUTTER COUNTY.
YUBA COUNTY	YUBA COUNTY.
COLORADO	
CONEJOS COUNTY	CONEJOS COUNTY.
COSTILLA COUNTY	COSTILLA COUNTY.
DOLORES COUNTY	DOLORES COUNTY.
GRAND JUNCTION CITY.	GRAND JUNCTION CITY IN MESA COUNTY.
HUERFANO COUNTY.	HUERFANO COUNTY.
JACKSON COUNTY	JACKSON COUNTY.
LAS ANIMAS COUNTY.	LAS ANIMAS COUNTY.
MINERAL COUNTY ..	MINERAL COUNTY.
MONTEZUMA COUNTY.	MONTEZUMA COUNTY.
RIO GRANDE COUNTY.	RIO GRANDE COUNTY.
SAGUACHE COUNTY.	SAGUACHE COUNTY.
SAN JUAN COUNTY	SAN JUAN COUNTY.
CONNECTICUT	
ANSONIA TOWN	ANSONIA TOWN.
BRIDGEPORT CITY	BRIDGEPORT CITY.
DERBY TOWN	DERBY TOWN.
EAST HARTFORD CITY.	EAST HARTFORD CITY.
HARTFORD CITY	HARTFORD CITY.
KILLINGLY TOWN	KILLINGLY TOWN.
MERIDEN CITY	MERIDEN CITY.
MIDDLETOWN CITY	MIDDLETOWN CITY.
NEW BRITAIN CITY	NEW BRITAIN CITY.
NEW HAVEN CITY ...	NEW HAVEN CITY.
NEW LONDON CITY	NEW LONDON CITY.
NORWICH CITY	NORWICH CITY.
PLAINFIELD TOWN ..	PLAINFIELD TOWN.
PLYMOUTH TOWN ..	PLYMOUTH TOWN.
PUTNAM TOWN	PUTNAM TOWN.
SPRAGUE TOWN	SPRAGUE TOWN.
STERLING TOWN	STERLING TOWN.
VOLUNTOWN TOWN	VOLUNTOWN TOWN.
WATERBURY CITY ..	WATERBURY CITY.
WINCHESTER TOWN.	WINCHESTER TOWN.
WINDHAM TOWN	WINDHAM TOWN.
DISTRICT OF COLUMBIA	
WASHINGTON DC CITY.	WASHINGTON DC CITY IN DISTRICT OF COLUMBIA.
FLORIDA	
BOYNTON BEACH CITY.	BOYNTON BEACH CITY IN PALM BEACH COUNTY.
DE SOTO COUNTY ..	DE SOTO COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
DELRAY BEACH CITY.	DELRAY BEACH CITY IN PALM BEACH COUNTY.
DIXIE COUNTY	DIXIE COUNTY.
FORT PIERCE CITY	FORT PIERCE CITY IN ST. LUCIE COUNTY.
FT LAUDERDALE CITY.	FT LAUDERDALE CITY IN BROWARD COUNTY.
GLADES COUNTY	GLADES COUNTY.
HALLANDALE CITY	HALLANDALE CITY IN BROWARD COUNTY.
HAMILTON COUNTY	HAMILTON COUNTY.
HARDEE COUNTY	HARDEE COUNTY.
HENDRY COUNTY	HENDRY COUNTY.
HIALEAH CITY	HIALEAH CITY IN DADE COUNTY.
HIGHLANDS COUNTY.	HIGHLANDS COUNTY.
HOLMES COUNTY	HOLMES COUNTY.
HOMESTEAD CITY	HOMESTEAD CITY IN DADE COUNTY.
INDIAN RIVER COUNTY.	INDIAN RIVER COUNTY.
LAKE WORTH CITY	LAKE WORTH CITY IN PALM BEACH COUNTY.
LAUDERDALE LAKES CITY.	LAUDERDALE LAKES CITY IN BROWARD COUNTY.
MARTIN COUNTY	MARTIN COUNTY.
MELBOURNE CITY	MELBOURNE CITY IN BREVARD COUNTY.
MIAMI BEACH CITY	MIAMI BEACH CITY IN DADE COUNTY.
MIAMI CITY	MIAMI CITY IN DADE COUNTY.
NORTH MIAMI CITY	NORTH MIAMI CITY IN DADE COUNTY.
OKEECHOBEE COUNTY.	OKEECHOBEE COUNTY.
BALANCE OF PALM BEACH COUNTY.	PALM BEACH COUNTY LESS BOCA RATON CITY.
	BOYNTON BEACH CITY.
	DELRAY BEACH CITY.
	GREENACRES CITY.——
	JUPITER CITY.
	LAKE WORTH CITY.
	PALM BEACH GARDENS CITY.
	RIVIERA BEACH CITY.
	WEST PALM BEACH CITY.
PANAMA CITY	PANAMA CITY IN BAY COUNTY.
BALANCE OF POLK COUNTY.	POLK COUNTY LESS LAKELAND CITY.
PORT ST. LUCIE CITY.	PORT ST. LUCIE CITY IN ST. LUCIE COUNTY.
RIVIERA BEACH CITY.	RIVIERA BEACH CITY IN PALM BEACH COUNTY.
BALANCE OF ST. LUCIE COUNTY.	ST. LUCIE COUNTY LESS FORT PIERCE CITY.
	PORT ST. LUCIE CITY.
TAYLOR COUNTY	TAYLOR COUNTY.
WEST PALM BEACH CITY.	WEST PALM BEACH CITY IN PALM BEACH COUNTY.
GEORGIA	
ALBANY CITY	ALBANY CITY IN DOUGHERTY COUNTY.
APPLING COUNTY	APPLING COUNTY.
ATKINSON COUNTY	ATKINSON COUNTY.
ATLANTA CITY	ATLANTA CITY IN DE KALB COUNTY.
	FULTON COUNTY.
AUGUSTA CITY	AUGUSTA CITY IN RICHMOND COUNTY.
BAKER COUNTY	BAKER COUNTY.
BRANTLEY COUNTY	BRANTLEY COUNTY.
BURKE COUNTY	BURKE COUNTY.
CALHOUN COUNTY	CALHOUN COUNTY.
CHATTAHOOCHEE COUNTY.	CHATTAHOOCHEE COUNTY.
CLAY COUNTY	CLAY COUNTY.
DODGE COUNTY	DODGE COUNTY.
DOOLY COUNTY	DOOLY COUNTY.
EARLY COUNTY	EARLY COUNTY.
ELBERT COUNTY	ELBERT COUNTY.
EMANUEL COUNTY	EMANUEL COUNTY.
GLASCOCK COUNTY.	GLASCOCK COUNTY.
GREENE COUNTY	GREENE COUNTY.
HANCOCK COUNTY	HANCOCK COUNTY.
HARALSON COUNTY.	HARALSON COUNTY.
HART COUNTY	HART COUNTY.
HEARD COUNTY	HEARD COUNTY.
HINESVILLE CITY	HINESVILLE CITY IN LIBERTY COUNTY.
JEFF DAVIS COUNTY.	JEFF DAVIS COUNTY.
JEFFERSON COUNTY.	JEFFERSON COUNTY.
JOHNSON COUNTY	JOHNSON COUNTY.
LA GRANGE CITY	LA GRANGE CITY IN TROUP COUNTY.
BALANCE OF LIBERTY COUNTY.	LIBERTY COUNTY LESS HINESVILLE CITY.
LINCOLN COUNTY	LINCOLN COUNTY.
MACON COUNTY	MACON COUNTY.
MC DUFFIE COUNTY.	MC DUFFIE COUNTY.
MONTGOMERY COUNTY.	MONTGOMERY COUNTY.
PEACH COUNTY	PEACH COUNTY.
POLK COUNTY	POLK COUNTY.
QUITMAN COUNTY	QUITMAN COUNTY.
RANDOLPH COUNTY.	RANDOLPH COUNTY.
ROME CITY	ROME CITY IN FLOYD COUNTY.
SCREVEN COUNTY	SCREVEN COUNTY.
TALBOT COUNTY	TALBOT COUNTY.
TALIAFERRO COUNTY.	TALIAFERRO COUNTY.
TAYLOR COUNTY	TAYLOR COUNTY.
TELFAIR COUNTY	TELFAIR COUNTY.
TERRELL COUNTY	TERRELL COUNTY.
TOOMBS COUNTY	TOOMBS COUNTY.
TREUTLEN COUNTY	TREUTLEN COUNTY.
TURNER COUNTY	TURNER COUNTY.
WARREN COUNTY	WARREN COUNTY.
WAYNE COUNTY	WAYNE COUNTY.
WHEELER COUNTY	WHEELER COUNTY.
HAWAII	
HAWAII COUNTY	HAWAII COUNTY.
KAUAI COUNTY	KAUAI COUNTY.
MAUI COUNTY	MAUI COUNTY.
IDAHO	
ADAMS COUNTY	ADAMS COUNTY.
BENEWAH COUNTY	BENEWAH COUNTY.
BONNER COUNTY	BONNER COUNTY.
BOUNDARY COUNTY.	BOUNDARY COUNTY.
CARIBOU COUNTY	CARIBOU COUNTY.
CLEARWATER COUNTY.	CLEARWATER COUNTY.
FREMONT COUNTY	FREMONT COUNTY.
GEM COUNTY	GEM COUNTY.
IDAHO COUNTY	IDAHO COUNTY.
BALANCE OF KOOTENAI COUNTY.	KOOTENAI COUNTY LESS COEUR D ALENE CITY.
LEMHI COUNTY	LEMHI COUNTY.
LEWIS COUNTY	LEWIS COUNTY.
MINIDOKA COUNTY	MINIDOKA COUNTY.
PAYETTE COUNTY	PAYETTE COUNTY.
SHOSHONE COUNTY.	SHOSHONE COUNTY.
VALLEY COUNTY	VALLEY COUNTY.
WASHINGTON COUNTY.	WASHINGTON COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
ILLINOIS	
ALEXANDER COUNTY.	ALEXANDER COUNTY.
ALTON CITY	ALTON CITY IN MADISON COUNTY.
BELLEVILLE CITY	BELLEVILLE CITY IN ST. CLAIR COUNTY.
CARPENTERSVILLE CITY.	CARPENTERSVILLE CITY IN KANE COUNTY.
CHICAGO CITY	CHICAGO CITY IN COOK COUNTY.
CHRISTIAN COUNTY	CHRISTIAN COUNTY.
CICERO CITY	CICERO CITY IN COOK COUNTY.
CRAWFORD COUNTY.	CRAWFORD COUNTY.
DANVILLE CITY	DANVILLE CITY IN VERMILION COUNTY.
DECATUR CITY	DECATUR CITY IN MACON COUNTY.
DOLTON VILLAGE	DOLTON VILLAGE IN COOK COUNTY.
EAST ST. LOUIS CITY.	EAST ST. LOUIS CITY IN ST. CLAIR COUNTY.
FRANKLIN COUNTY	FRANKLIN COUNTY.
FULTON COUNTY	FULTON COUNTY.
GALLATIN COUNTY	GALLATIN COUNTY.
GRANITE CITY	GRANITE CITY IN MADISON COUNTY.
GRUNDY COUNTY	GRUNDY COUNTY.
HAMILTON COUNTY	HAMILTON COUNTY.
HARDIN COUNTY	HARDIN COUNTY.
HARVEY CITY	HARVEY CITY IN COOK COUNTY.
JEFFERSON COUNTY.	JEFFERSON COUNTY.
JOHNSON COUNTY	JOHNSON COUNTY.
JOLIET CITY	JOLIET CITY IN WILL COUNTY.
KANKAKEE CITY	KANKAKEE CITY IN KANKAKEE COUNTY.
LA SALLE COUNTY	LA SALLE COUNTY.
LAWRENCE COUNTY.	LAWRENCE COUNTY.
MARION COUNTY	MARION COUNTY.
MASON COUNTY	MASON COUNTY.
MAYWOOD VILLAGE	MAYWOOD VILLAGE IN COOK COUNTY.
MONTGOMERY COUNTY.	MONTGOMERY COUNTY.
NORTH CHICAGO CITY.	NORTH CHICAGO CITY IN LAKE COUNTY.
PEKIN CITY	PEKIN CITY IN TAZEWELL COUNTY.
PERRY COUNTY	PERRY COUNTY.
POPE COUNTY	POPE COUNTY.
PULASKI COUNTY	PULASKI COUNTY.
PUTNAM COUNTY	PUTNAM COUNTY.
RANDOLPH COUNTY.	RANDOLPH COUNTY.
SALINE COUNTY	SALINE COUNTY.
SCOTT COUNTY	SCOTT COUNTY.
STARK COUNTY	STARK COUNTY.
UNION COUNTY	UNION COUNTY.
WABASH COUNTY	WABASH COUNTY.
WAUKEGAN CITY	WAUKEGAN CITY IN LAKE COUNTY.
WHITE COUNTY	WHITE COUNTY.
WILLIAMSON COUNTY.	WILLIAMSON COUNTY.
INDIANA	
CRAWFORD COUNTY.	CRAWFORD COUNTY.
EAST CHICAGO CITY.	EAST CHICAGO CITY IN LAKE COUNTY.
FAYETTE COUNTY	FAYETTE COUNTY.
GARY CITY	GARY CITY IN LAKE COUNTY.
GREENE COUNTY	GREENE COUNTY.
LAWRENCE COUNTY.	LAWRENCE COUNTY.
MARION CITY	MARION CITY IN GRANT COUNTY.
MICHIGAN CITY	MICHIGAN CITY IN LA PORTE COUNTY.
ORANGE COUNTY	ORANGE COUNTY.
PERRY COUNTY	PERRY COUNTY.
RANDOLPH COUNTY.	RANDOLPH COUNTY.
SULLIVAN COUNTY	SULLIVAN COUNTY.
TERRE HAUTE CITY	TERRE HAUTE CITY IN VIGO COUNTY.
VERMILLION COUNTY.	VERMILLION COUNTY.
KANSAS	
ALLEN COUNTY	ALLEN COUNTY.
ATCHISON COUNTY	ATCHISON COUNTY.
CHEROKEE COUNTY.	CHEROKEE COUNTY.
DONIPHAN COUNTY	DONIPHAN COUNTY.
GEARY COUNTY	GEARY COUNTY.
KANSAS CITY KN	KANSAS CITY KN IN WYANDOTTE COUNTY.
LINN COUNTY	LINN COUNTY.
OSAGE COUNTY	OSAGE COUNTY.
WOODSON COUNTY	WOODSON COUNTY.
KENTUCKY	
ADAIR COUNTY	ADAIR COUNTY.
BALLARD COUNTY	BALLARD COUNTY.
BATH COUNTY	BATH COUNTY.
BELL COUNTY	BELL COUNTY.
BOYD COUNTY	BOYD COUNTY.
BREATHITT COUNTY.	BREATHITT COUNTY.
BUTLER COUNTY	BUTLER COUNTY.
CALDWELL COUNTY	CALDWELL COUNTY.
CARTER COUNTY	CARTER COUNTY.
CLAY COUNTY	CLAY COUNTY.
CLINTON COUNTY	CLINTON COUNTY.
CRITTENDEN COUNTY.	CRITTENDEN COUNTY.
CUMBERLAND COUNTY.	CUMBERLAND COUNTY.
EDMONSON COUNTY.	EDMONSON COUNTY.
ELLIOTT COUNTY	ELLIOTT COUNTY.
FLOYD COUNTY	FLOYD COUNTY.
FULTON COUNTY	FULTON COUNTY.
GRAVES COUNTY	GRAVES COUNTY.
GRAYSON COUNTY	GRAYSON COUNTY.
GREEN COUNTY	GREEN COUNTY.
GREENUP COUNTY	GREENUP COUNTY.
HANCOCK COUNTY	HANCOCK COUNTY.
HARLAN COUNTY	HARLAN COUNTY.
HENDERSON CITY	HENDERSON CITY IN HENDERSON COUNTY.
HICKMAN COUNTY	HICKMAN COUNTY.
HOPKINS COUNTY	HOPKINS COUNTY.
JACKSON COUNTY	JACKSON COUNTY.
JOHNSON COUNTY	JOHNSON COUNTY.
KNOTT COUNTY	KNOTT COUNTY.
KNOX COUNTY	KNOX COUNTY.
LAWRENCE COUNTY.	LAWRENCE COUNTY.
LEE COUNTY	LEE COUNTY.
LESLIE COUNTY	LESLIE COUNTY.
LETCHER COUNTY	LETCHER COUNTY.
LEWIS COUNTY	LEWIS COUNTY.
LYON COUNTY	LYON COUNTY.
MAGOFFIN COUNTY	MAGOFFIN COUNTY.
MARION COUNTY	MARION COUNTY.
MARTIN COUNTY	MARTIN COUNTY.
MC CREARY COUNTY.	MC CREARY COUNTY.
MC LEAN COUNTY	MC LEAN COUNTY.
MENIFEE COUNTY	MENIFEE COUNTY.
MORGAN COUNTY	MORGAN COUNTY.
MUHLENBERG COUNTY.	MUHLENBERG COUNTY.
NELSON COUNTY	NELSON COUNTY.
NICHOLAS COUNTY	NICHOLAS COUNTY.
OHIO COUNTY	OHIO COUNTY.
PERRY COUNTY	PERRY COUNTY.
PIKE COUNTY	PIKE COUNTY.
POWELL COUNTY	POWELL COUNTY.
ROCKCASTLE COUNTY.	ROCKCASTLE COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
RUSSELL COUNTY	RUSSELL COUNTY.
UNION COUNTY	UNION COUNTY.
BALANCE OF WARREN COUNTY.	WARREN COUNTY LESS BOWLING GREEN CITY.
WAYNE COUNTY	WAYNE COUNTY.
WEBSTER COUNTY	WEBSTER COUNTY.
WHITLEY COUNTY	WHITLEY COUNTY.
WOLFE COUNTY	WOLFE COUNTY.
LOUISIANA	
ACADIA PARISH	ACADIA PARISH.
ALEXANDRIA CITY	ALEXANDRIA CITY IN RAPIDES PARISH.
ALLEN PARISH	ALLEN PARISH.
ASCENSION PARISH	ASCENSION PARISH.
ASSUMPTION PARISH.	ASSUMPTION PARISH.
AVOYELLES PARISH	AVOYELLES PARISH.
BEAUREGARD PARISH.	BEAUREGARD PARISH.
BIENVILLE PARISH	BIENVILLE PARISH.
BALANCE OF BOSSIER PARISH.	BOSSIER PARISH LESS BOSSIER CITY. SHREVEPORT CITY.
CALDWELL PARISH	CALDWELL PARISH.
CATAHOULA PARISH.	CATAHOULA PARISH.
CLAIBORNE PARISH	CLAIBORNE PARISH.
CONCORDIA PARISH.	CONCORDIA PARISH.
DE SOTO PARISH	DE SOTO PARISH.
EAST CARROLL PARISH.	EAST CARROLL PARISH.
EAST FELICIANA PARISH.	EAST FELICIANA PARISH.
EVANGELINE PARISH.	EVANGELINE PARISH.
FRANKLIN PARISH	FRANKLIN PARISH.
GRANT PARISH	GRANT PARISH.
IBERVILLE PARISH	IBERVILLE PARISH.
JEFFERSON DAVIS PARISH.	JEFFERSON DAVIS PARISH.
LAKE CHARLES CITY.	LAKE CHARLES CITY IN CALCASIEU PARISH.
LIVINGSTON PARISH.	LIVINGSTON PARISH.
MADISON PARISH	MADISON PARISH.
MONROE CITY	MONROE CITY IN OUACHITA PARISH.
MOREHOUSE PARISH.	MOREHOUSE PARISH.
NATCHITOCHES PARISH.	NATCHITOCHES PARISH.
NEW IBERIA CITY	NEW IBERIA CITY IN IBERIA PARISH.
NEW ORLEANS CITY.	NEW ORLEANS CITY IN ORLEANS PARISH.
POINTE COUPEE PARISH.	POINTE COUPEE PARISH.
RED RIVER PARISH	RED RIVER PARISH.
RICHLAND PARISH	RICHLAND PARISH.
SABINE PARISH	SABINE PARISH.
SHREVEPORT CITY	SHREVEPORT CITY IN BOSSIER PARISH. CADDO PARISH.
ST. BERNARD PARISH.	ST. BERNARD PARISH.
ST. HELENA PARISH	ST. HELENA PARISH.
ST. JAMES PARISH	ST. JAMES PARISH.
ST. JOHN BAPTIST PARISH.	ST. JOHN BAPTIST PARISH.
ST. LANDRY PARISH	ST. LANDRY PARISH.
ST. MARTIN PARISH	ST. MARTIN PARISH.
ST. MARY PARISH	ST. MARY PARISH.
TANGIPAHOA PARISH.	TANGIPAHOA PARISH.
TENSAS PARISH	TENSAS PARISH.
VERNON PARISH	VERNON PARISH.
WASHINGTON PARISH.	WASHINGTON PARISH.
WEBSTER PARISH	WEBSTER PARISH.
WEST BATON ROUGE PARISH.	WEST BATON ROUGE PARISH.
WEST CARROLL PARISH.	WEST CARROLL PARISH.
WEST FELICIANA PARISH.	WEST FELICIANA PARISH.
WINN PARISH	WINN PARISH.
MAINE	
AROOSTOOK COUNTY.	AROOSTOOK COUNTY.
OXFORD COUNTY	OXFORD COUNTY.
PISCATAQUIS COUNTY.	PISCATAQUIS COUNTY.
SOMERSET COUNTY.	SOMERSET COUNTY.
WALDO COUNTY	WALDO COUNTY.
WASHINGTON COUNTY.	WASHINGTON COUNTY.
MARYLAND	
ALLEGANY COUNTY	ALLEGANY COUNTY.
ANNAPOLIS CITY	ANNAPOLIS CITY IN ANNE ARUNDEL COUNTY.
BALTIMORE CITY—	BALTIMORE CITY.
CECIL COUNTY	CECIL COUNTY.
DORCHESTER COUNTY.	DORCHESTER COUNTY.
GARRETT COUNTY	GARRETT COUNTY.
KENT COUNTY	KENT COUNTY.
SOMERSET COUNTY.	SOMERSET COUNTY.
WORCESTER COUNTY.	WORCESTER COUNTY.
MASSACHUSETTS	
ACUSHNET TOWN	ACUSHNET TOWN IN—BRISTOL COUNTY.
ADAMS TOWN	ADAMS TOWN IN—BERKSHIRE COUNTY.
ATHOL TOWN	ATHOL TOWN IN—WORCESTER COUNTY.
BROCKTON CITY	BROCKTON CITY IN—PLYMOUTH COUNTY.
CHELSEA CITY	CHELSEA CITY IN—SUFFOLK COUNTY.
CHESTER TOWN	CHESTER TOWN IN—HAMPDEN COUNTY.
DARTMOUTH TOWN	DARTMOUTH TOWN IN—BRISTOL COUNTY.
DENNIS TOWN	DENNIS TOWN IN—BARNSTABLE COUNTY.
EDGARTOWN TOWN	EDGARTOWN TOWN IN—DUKES COUNTY.
FAIRHAVEN TOWN	FAIRHAVEN TOWN IN—BRISTOL COUNTY.
FALL RIVER CITY	FALL RIVER CITY IN—BRISTOL COUNTY.
FREETOWN TOWN	FREETOWN TOWN IN—BRISTOL COUNTY.
GAY HEAD TOWN	GAY HEAD TOWN IN—DUKES COUNTY.
GLOUCESTER CITY	GLOUCESTER CITY IN—ESSEX COUNTY.
HINSDALE TOWN	HINSDALE TOWN IN—BERKSHIRE COUNTY.
HOLYOKE CITY	HOLYOKE CITY IN—HAMPDEN COUNTY.
HUBBARDSTON TOWN.	HUBBARDSTON TOWN IN—WORCESTER COUNTY.
LAWRENCE CITY	LAWRENCE CITY IN—ESSEX COUNTY.
NEW BEDFORD CITY.	NEW BEDFORD CITY IN—BRISTOL COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
NORTH ADAMS TOWN.	NORTH ADAMS TOWN IN—BERKSHIRE COUNTY.
PHILLIPSTON TOWN	PHILLIPSTON TOWN IN WORCESTER COUNTY.
PROVINCETOWN TOWN.	PROVINCETOWN TOWN IN BARNSTABLE COUNTY.
SHELBURNE TOWN	SHELBURNE TOWN IN FRANKLIN COUNTY.
SOMERSET TOWN ..	SOMERSET TOWN IN BRISTOL COUNTY.
SPRINGFIELD CITY	SPRINGFIELD CITY IN HAMPDEN COUNTY.
SWANSEA TOWN	SWANSEA TOWN IN BRISTOL COUNTY.
TOLLAND TOWN	TOLLAND TOWN IN HAMPDEN COUNTY.
TRURO TOWN	TRURO TOWN IN BARNSTABLE COUNTY.
WAREHAM TOWN ...	WAREHAM TOWN IN PLYMOUTH COUNTY.
WELLFLEET TOWN	WELLFLEET TOWN IN BARNSTABLE COUNTY.
WESTPORT TOWN ..	WESTPORT TOWN IN BRISTOL COUNTY.
MICHIGAN	
ALCONA COUNTY ...	ALCONA COUNTY.
ALGER COUNTY	ALGER COUNTY.
ALPENA COUNTY	ALPENA COUNTY.
ANTRIM COUNTY	ANTRIM COUNTY.
ARENAC COUNTY ...	ARENAC COUNTY.
BARAGA COUNTY ...	BARAGA COUNTY.
BAY CITY	BAY CITY IN BAY COUNTY.
BENZIE COUNTY	BENZIE COUNTY
BURTON CITY	BURTON CITY IN GENESEE COUNTY.
CHARLEVOIX COUNTY.	CHARLEVOIX COUNTY.
CHEBOYGAN COUNTY.	CHEBOYGAN COUNTY.
CHIPPEWA COUNTY	CHIPPEWA COUNTY.
CLARE COUNTY	CLARE COUNTY.
CRAWFORD COUNTY.	CRAWFORD COUNTY.
DELTA COUNTY	DELTA COUNTY.
DETROIT CITY	DETROIT CITY IN WAYNE COUNTY.
EMMET COUNTY	EMMET COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
FLINT CITY	FLINT CITY IN GENESEE COUNTY.
GLADWIN COUNTY	GLADWIN COUNTY.
GOGEBIC COUNTY	GOGEBIC COUNTY.
GRATIOT COUNTY ..	GRATIOT COUNTY.
HIGHLAND PARK CITY.	HIGHLAND PARK CITY IN WAYNE COUNTY.
HOUGHTON COUNTY.	HOUGHTON COUNTY.
HURON COUNTY	HURON COUNTY.
IOSCO COUNTY	IOSCO COUNTY.
IRON COUNTY	IRON COUNTY.
JACKSON CITY	JACKSON CITY IN JACKSON COUNTY.
KALKASKA COUNTY	KALKASKA COUNTY.
KEWEENAW COUNTY.	KEWEENAW COUNTY.
LAKE COUNTY	LAKE COUNTY.
LUCE COUNTY	LUCE COUNTY.
MACKINAC COUNTY	MACKINAC COUNTY.
MANISTEE COUNTY	MANISTEE COUNTY.
MARQUETTE COUNTY.	MARQUETTE COUNTY.
MASON COUNTY	MASON COUNTY.
MISSAUKEE COUNTY.	MISSAUKEE COUNTY.
MONTCALM COUNTY.	MONTCALM COUNTY.
MONTMORENCY COUNTY.	MONTMORENCY COUNTY.
MOUNT MORRIS TOWNSHIP.	MOUNT MORRIS TOWNSHIP IN GENESEE COUNTY.
MUSKEGON CITY	MUSKEGON CITY IN MUSKEGON COUNTY.
NEWAYGO COUNTY	NEWAYGO COUNTY.
OCEANA COUNTY ...	OCEANA COUNTY.
OGEMAW COUNTY	OGEMAW COUNTY.
ONTONAGON COUNTY.	ONTONAGON COUNTY.
OSCEOLA COUNTY	OSCEOLA COUNTY.
OSCODA COUNTY ..	OSCODA COUNTY.
PONTIAC CITY	PONTIAC CITY IN OAKLAND COUNTY.
PORT HURON CITY	PORT HURON CITY IN ST. CLAIR COUNTY.
PRESQUE ISLE COUNTY.	PRESQUE ISLE COUNTY.
ROSCOMMON COUNTY.	ROSCOMMON COUNTY.
SAGINAW CITY	SAGINAW CITY IN SAGINAW COUNTY.
SANILAC COUNTY ...	SANILAC COUNTY.
SCHOOLCRAFT COUNTY.	SCHOOLCRAFT COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
SHIAWASSEE COUNTY.	SHIAWASSEE COUNTY.
TUSCOLA COUNTY	TUSCOLA COUNTY.
WEXFORD COUNTY	WEXFORD COUNTY.
MINNESOTA	
AITKIN COUNTY	AITKIN COUNTY.
BECKER COUNTY ...	BECKER COUNTY.
BELTRAMI COUNTY	BELTRAMI COUNTY.
CARLTON COUNTY	CARLTON COUNTY.
CASS COUNTY	CASS COUNTY.
CLEARWATER COUNTY.	CLEARWATER COUNTY.
COTTONWOOD COUNTY.	COTTONWOOD COUNTY.
HUBBARD COUNTY	HUBBARD COUNTY.
ITASCA COUNTY	ITASCA COUNTY.
KANABEC COUNTY	KANABEC COUNTY.
KOOCHICHING COUNTY.	KOOCHICHING COUNTY.
MAHNOMEN COUNTY.	MAHNOMEN COUNTY.
MARSHALL COUNTY	MARSHALL COUNTY.
MILLE LACS COUNTY.	MILLE LACS COUNTY.
MORRISON COUNTY.	MORRISON COUNTY.
PINE COUNTY	PINE COUNTY.
RED LAKE COUNTY	RED LAKE COUNTY.
TODD COUNTY	TODD COUNTY.
MISSISSIPPI	
ADAMS COUNTY	ADAMS COUNTY.
ALCORN COUNTY ...	ALCORN COUNTY.
ATTALA COUNTY	ATTALA COUNTY.
BENTON COUNTY ...	BENTON COUNTY.
BILOXI CITY	BILOXI CITY IN HARRISON COUNTY.
BOLIVAR COUNTY ..	BOLIVAR COUNTY.
CHICKASAW COUNTY.	CHICKASAW COUNTY.
CHOCTAW COUNTY	CHOCTAW COUNTY.
CLAIBORNE COUNTY.	CLAIBORNE COUNTY.
CLAY COUNTY	CLAY COUNTY.
COAHOMA COUNTY	COAHOMA COUNTY.
COLUMBUS CITY	COLUMBUS CITY IN LOWNDES COUNTY.
COPIAH COUNTY	COPIAH COUNTY.
GEORGE COUNTY ..	GEORGE COUNTY.
GREENE COUNTY ...	GREENE COUNTY.
GREENVILLE CITY ..	GREENVILLE CITY IN WASHINGTON COUNTY.
GRENADA COUNTY	GRENADA COUNTY.
GULFPORT CITY	GULFPORT CITY IN HARRISON COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
HOLMES COUNTY	HOLMES COUNTY.
HUMPHREYS COUNTY.	HUMPHREYS COUNTY.
ISSAQUENA COUNTY.	ISSAQUENA COUNTY.
JEFFERSON COUNTY.	JEFFERSON COUNTY.
JEFFERSON DAVIS COUNTY.	JEFFERSON DAVIS COUNTY.
KEMPER COUNTY	KEMPER COUNTY.
LAWRENCE COUNTY.	LAWRENCE COUNTY.
LEFLORE COUNTY	LEFLORE COUNTY.
MARION COUNTY	MARION COUNTY.
MARSHALL COUNTY	MARSHALL COUNTY.
MONROE COUNTY	MONROE COUNTY.
MONTGOMERY COUNTY.	MONTGOMERY COUNTY.
NEWTON COUNTY	NEWTON COUNTY.
NOXUBEE COUNTY	NOXUBEE COUNTY.
PANOLA COUNTY	PANOLA COUNTY.
PERRY COUNTY	PERRY COUNTY.
PRENTISS COUNTY	PRENTISS COUNTY.
QUITMAN COUNTY	QUITMAN COUNTY.
SHARKEY COUNTY	SHARKEY COUNTY.
SUNFLOWER COUNTY.	SUNFLOWER COUNTY.
TALLAHATCHIE COUNTY.	TALLAHATCHIE COUNTY.
TISHOMINGO COUNTY.	TISHOMINGO COUNTY.
TUNICA COUNTY	TUNICA COUNTY.
BALANCE OF WASHINGTON COUNTY.	WASHINGTON COUNTY LESS GREENVILLE CITY.
WEBSTER COUNTY	WEBSTER COUNTY.
WILKINSON COUNTY.	WILKINSON COUNTY.
WINSTON COUNTY	WINSTON COUNTY.
YALOBUSHA COUNTY.	YALOBUSHA COUNTY.
YAZOO COUNTY	YAZOO COUNTY.
MISSOURI	
BENTON COUNTY	BENTON COUNTY.
BOLLINGER COUNTY.	BOLLINGER COUNTY.
CARTER COUNTY	CARTER COUNTY.
CRAWFORD COUNTY.	CRAWFORD COUNTY.
DALLAS COUNTY	DALLAS COUNTY.
DOUGLAS COUNTY	DOUGLAS COUNTY.
DUNKLIN COUNTY	DUNKLIN COUNTY.
HICKORY COUNTY	HICKORY COUNTY.
HOWELL COUNTY	HOWELL COUNTY.
IRON COUNTY	IRON COUNTY.
LACLEDE COUNTY	LACLEDE COUNTY.
LINN COUNTY	LINN COUNTY.
MADISON COUNTY	MADISON COUNTY.
MILLER COUNTY	MILLER COUNTY.
MISSISSIPPI COUNTY.	MISSISSIPPI COUNTY.
NEW MADRID COUNTY.	NEW MADRID COUNTY.
PEMISCOT COUNTY	PEMISCOT COUNTY.
PIKE COUNTY	PIKE COUNTY.
PULASKI COUNTY	PULASKI COUNTY.
RIPLEY COUNTY	RIPLEY COUNTY.
SHANNON COUNTY	SHANNON COUNTY.
ST JOSEPH CITY	ST JOSEPH CITY IN BUCHANAN COUNTY.
ST LOUIS CITY	ST LOUIS CITY.
ST. CLAIR COUNTY	ST. CLAIR COUNTY.
ST. FRANCOIS COUNTY.	ST. FRANCOIS COUNTY.
STODDARD COUNTY.	STODDARD COUNTY.
STONE COUNTY	STONE COUNTY.
TANEY COUNTY	TANEY COUNTY.
TEXAS COUNTY	TEXAS COUNTY.
WASHINGTON COUNTY.	WASHINGTON COUNTY.
WAYNE COUNTY	WAYNE COUNTY.
WRIGHT COUNTY	WRIGHT COUNTY.
MONTANA	
ANACONDA-DEER LODGE COUNTY.	ANACONDA-DEER LODGE COUNTY.
BIG HORN COUNTY	BIG HORN COUNTY.
BLAINE COUNTY	BLAINE COUNTY.
FLATHEAD COUNTY	FLATHEAD COUNTY.
GLACIER COUNTY	GLACIER COUNTY.
GOLDEN VALLEY COUNTY.	GOLDEN VALLEY COUNTY.
LAKE COUNTY	LAKE COUNTY.
LINCOLN COUNTY	LINCOLN COUNTY.
MINERAL COUNTY	MINERAL COUNTY.
MUSSELSHELL COUNTY.	MUSSELSHELL COUNTY.
PHILLIPS COUNTY	PHILLIPS COUNTY.
POWELL COUNTY	POWELL COUNTY.
ROOSEVELT COUNTY.	ROOSEVELT COUNTY.
ROSEBUD COUNTY	ROSEBUD COUNTY.
SANDERS COUNTY	SANDERS COUNTY.
BALANCE OF SILVER BOW COUNTY.	SILVER BOW COUNTY LESS BUTTE-SILVER BOW CITY.
NEBRASKA	
THOMAS COUNTY	THOMAS COUNTY.
THURSTON COUNTY.	THURSTON COUNTY.
NEVADA	
CARSON CITY	CARSON CITY.
CHURCHILL COUNTY.	CHURCHILL COUNTY.
ESMERALDA COUNTY.	ESMERALDA COUNTY.
EUREKA COUNTY	EUREKA COUNTY.
LANDER COUNTY	LANDER COUNTY.
LINCOLN COUNTY	LINCOLN COUNTY.
LYON COUNTY	LYON COUNTY.
MINERAL COUNTY	MINERAL COUNTY.
NORTH LAS VEGAS CITY.	NORTH LAS VEGAS CITY IN CLARK COUNTY.
WHITE PINE COUNTY.	WHITE PINE COUNTY.
NEW HAMPSHIRE	
COOS COUNTY	COOS COUNTY.
NEW JERSEY	
ATLANTIC CITY	ATLANTIC CITY IN ATLANTIC COUNTY.
BALANCE OF ATLANTIC COUNTY.	ATLANTIC COUNTY LESS ATLANTIC CITY. EGG HARBOR TOWNSHIP.
BERKELEY TOWNSHIP.	BERKELEY TOWNSHIP IN OCEAN COUNTY.
CAMDEN CITY	CAMDEN CITY IN CAMDEN COUNTY.
CAPE MAY COUNTY	CAPE MAY COUNTY.
CITY OF ORANGE TOWNSHIP.	CITY OF ORANGE TOWNSHIP IN ESSEX COUNTY.
BALANCE OF CUMBERLAND COUNTY.	CUMBERLAND COUNTY LESS MILLVILLE CITY. VINELAND CITY.
EAST ORANGE CITY	EAST ORANGE CITY IN ESSEX COUNTY.
EGG HARBOR TOWNSHIP.	EGG HARBOR TOWNSHIP IN ATLANTIC COUNTY.
ELIZABETH CITY	ELIZABETH CITY IN UNION COUNTY.
GARFIELD CITY	GARFIELD CITY IN BERGEN COUNTY.
BALANCE OF GLOUCESTER COUNTY.	GLOUCESTER COUNTY LESS MONROE TOWNSHIP. WASHINGTON TOWNSHIP.
HACKENSACK CITY	HACKENSACK CITY IN BERGEN COUNTY.
IRVINGTON TOWNSHIP.	IRVINGTON TOWNSHIP IN ESSEX COUNTY.
JERSEY CITY	JERSEY CITY IN HUDSON COUNTY.
LAKEWOOD TOWNSHIP.	LAKEWOOD TOWNSHIP IN OCEAN COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
LINDEN CITY	LINDEN CITY IN UNION COUNTY.
LONG BRANCH CITY	LONG BRANCH CITY IN MONMOUTH COUNTY.
MANCHESTER TOWNSHIP.	MANCHESTER TOWNSHIP IN OCEAN COUNTY.
MILLVILLE CITY	MILLVILLE CITY IN CUMBERLAND COUNTY.
NEW BRUNSWICK CITY.	NEW BRUNSWICK CITY IN MIDDLESEX COUNTY.
NEWARK CITY	NEWARK CITY IN ESSEX COUNTY.
NORTH BERGEN TOWNSHIP.	NORTH BERGEN TOWNSHIP IN HUDSON COUNTY.
PASSAIC CITY	PASSAIC CITY IN PASSAIC COUNTY.
PATERSON CITY	PATERSON CITY IN PASSAIC COUNTY.
PEMBERTON TOWNSHIP.	PEMBERTON TOWNSHIP IN BURLINGTON COUNTY.
PERTH AMBOY CITY	PERTH AMBOY CITY IN MIDDLESEX COUNTY.
PLAINFIELD CITY	PLAINFIELD CITY IN UNION COUNTY.
SALEM COUNTY	SALEM COUNTY.
TRENTON CITY	TRENTON CITY IN MERCER COUNTY.
UNION CITY	UNION CITY IN HUDSON COUNTY.
VINELAND CITY	VINELAND CITY IN CUMBERLAND COUNTY.
WEST NEW YORK TOWN.	WEST NEW YORK TOWN IN HUDSON COUNTY.
NEW MEXICO	
CARLSBAD CITY	CARLSBAD CITY IN EDDY COUNTY.
CATRON COUNTY	CATRON COUNTY.
BALANCE OF CHAVES COUNTY.	CHAVES COUNTY LESS ROSWELL CITY.
CIBOLA COUNTY	CIBOLA COUNTY.
COLFAX COUNTY	COLFAX COUNTY.
BALANCE OF DONA ANA COUNTY.	DONA ANA COUNTY LESS LAS CRUCES CITY.
BALANCE OF EDDY COUNTY.	EDDY COUNTY LESS CARLSBAD CITY.
FARMINGTON CITY	FARMINGTON CITY IN SAN JUAN COUNTY.
GRANT COUNTY	GRANT COUNTY.
GUADALUPE COUNTY.	GUADALUPE COUNTY.
LAS CRUCES CITY	LAS CRUCES CITY IN DONA ANA COUNTY.
LINCOLN COUNTY	LINCOLN COUNTY.
LUNA COUNTY	LUNA COUNTY.
MC KINLEY COUNTY	MC KINLEY COUNTY.
MORA COUNTY	MORA COUNTY.
BALANCE OF OTERO COUNTY.	OTERO COUNTY LESS ALAMOGORDO CITY.
RIO ARRIBA COUNTY.	RIO ARRIBA COUNTY.
ROSWELL CITY	ROSWELL CITY IN CHAVES COUNTY.
BALANCE OF SAN JUAN COUNTY.	SAN JUAN COUNTY LESS FARMINGTON CITY.
SAN MIGUEL COUNTY.	SAN MIGUEL COUNTY.
SOCORRO COUNTY	SOCORRO COUNTY.
TAOS COUNTY	TAOS COUNTY.
TORRANCE COUNTY.	TORRANCE COUNTY.
NEW YORK	
ALLEGANY COUNTY	ALLEGANY COUNTY.
AUBURN CITY	AUBURN CITY IN CAYUGA COUNTY.
BINGHAMTON CITY	BINGHAMTON CITY IN BROOME COUNTY.
BRONX COUNTY	BRONX COUNTY.
BUFFALO CITY	BUFFALO CITY IN ERIE COUNTY.
CATTARAUGUS COUNTY.	CATTARAUGUS COUNTY.
CHENANGO COUNTY.	CHENANGO COUNTY.
CLINTON COUNTY	CLINTON COUNTY.
ELMIRA CITY	ELMIRA CITY IN CHEMUNG COUNTY.
ESSEX COUNTY	ESSEX COUNTY.
FRANKLIN COUNTY	FRANKLIN COUNTY.
FULTON COUNTY	FULTON COUNTY.
GREENE COUNTY	GREENE COUNTY.
HAMILTON COUNTY	HAMILTON COUNTY.
HEMPSTEAD VILLAGE.	HEMPSTEAD VILLAGE IN NASSAU COUNTY.
HERKIMER COUNTY	HERKIMER COUNTY.
BALANCE OF JEFFERSON COUNTY.	JEFFERSON COUNTY LESS WATERTOWN CITY.
KINGS COUNTY	KINGS COUNTY.
LEWIS COUNTY	LEWIS COUNTY.
MONTGOMERY COUNTY.	MONTGOMERY COUNTY.
NEW YORK COUNTY.	NEW YORK COUNTY.
NEWBURGH CITY	NEWBURGH CITY IN ORANGE COUNTY.
NIAGARA FALLS CITY.	NIAGARA FALLS CITY IN NIAGARA COUNTY.
ORLEANS COUNTY	ORLEANS COUNTY.
OSWEGO COUNTY	OSWEGO COUNTY.
POUGHKEEPSIE CITY.	POUGHKEEPSIE CITY IN DUTCHESS COUNTY.
QUEENS COUNTY	QUEENS COUNTY.
RICHMOND COUNTY.	RICHMOND COUNTY.
SCHENECTADY CITY.	SCHENECTADY CITY IN SCHENECTADY COUNTY.
ST. LAWRENCE COUNTY.	ST. LAWRENCE COUNTY.
SYRACUSE CITY	SYRACUSE CITY IN ONONDAGA COUNTY.
TROY CITY	TROY CITY IN RENSSELAER COUNTY.
UTICA CITY	UTICA CITY IN ONEIDA COUNTY.
BALANCE OF WARREN COUNTY.	WARREN COUNTY LESS QUEENSBURY TOWN.—
WATERTOWN CITY	WATERTOWN CITY IN JEFFERSON COUNTY.
WYOMING COUNTY	WYOMING COUNTY.
NORTH CAROLINA	
ALLEGHANY COUNTY.	ALLEGHANY COUNTY.
ANSON COUNTY	ANSON COUNTY.
ASHE COUNTY	ASHE COUNTY.
BEAUFORT COUNTY	BEAUFORT COUNTY.
BERTIE COUNTY	BERTIE COUNTY.
BRUNSWICK COUNTY.	BRUNSWICK COUNTY.
COLUMBUS COUNTY.	COLUMBUS COUNTY.
BALANCE OF EDGECOMBE COUNTY.	EDGECOMBE COUNTY LESS ROCKY MOUNT CITY.
GRAHAM COUNTY	GRAHAM COUNTY.
HALIFAX COUNTY	HALIFAX COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
HYDE COUNTY	HYDE COUNTY.
KINSTON CITY	KINSTON CITY IN LENOIR COUNTY.
MARTIN COUNTY	MARTIN COUNTY.
MITCHELL COUNTY	MITCHELL COUNTY.
MONTGOMERY COUNTY.	MONTGOMERY COUNTY.
NORTHAMPTON COUNTY.	NORTHAMPTON COUNTY.
RICHMOND COUNTY.	RICHMOND COUNTY.
ROBESON COUNTY	ROBESON COUNTY.
ROCKY MOUNT CITY.	ROCKY MOUNT CITY IN EDGECOMBE COUNTY.
	NASH COUNTY.
SCOTLAND COUNTY	SCOTLAND COUNTY.
SWAIN COUNTY	SWAIN COUNTY.
TYRRELL COUNTY	TYRRELL COUNTY.
VANCE COUNTY	VANCE COUNTY.
WARREN COUNTY	WARREN COUNTY.
WASHINGTON COUNTY.	WASHINGTON COUNTY.
WILSON CITY	WILSON CITY IN WILSON COUNTY.
NORTH DAKOTA	
BENSON COUNTY	BENSON COUNTY.
MOUNTRAIL COUNTY.	MOUNTRAIL COUNTY.
ROLETTE COUNTY	ROLETTE COUNTY.
OHIO	
ADAMS COUNTY	ADAMS COUNTY.
ASHTABULA COUNTY.	ASHTABULA COUNTY.
CANTON CITY	CANTON CITY IN STARK COUNTY.
CLEVELAND CITY	CLEVELAND CITY IN CUYAHOGA COUNTY.
DAYTON CITY	DAYTON CITY IN MONTGOMERY COUNTY.
EAST CLEVELAND CITY.	EAST CLEVELAND CITY IN CUYAHOGA COUNTY.
ELYRIA CITY	ELYRIA CITY IN LORAIN COUNTY.
GALLIA COUNTY	GALLIA COUNTY.
GUERNSEY COUNTY.	GUERNSEY COUNTY.
HARRISON COUNTY	HARRISON COUNTY.
HOCKING COUNTY	HOCKING COUNTY.
HURON COUNTY	HURON COUNTY.
JACKSON COUNTY	JACKSON COUNTY.
JEFFERSON COUNTY.	JEFFERSON COUNTY.
LIMA CITY	LIMA CITY IN ALLEN COUNTY.
LORAIN CITY	LORAIN CITY IN LORAIN COUNTY.
MANSFIELD CITY	MANSFIELD CITY IN RICHLAND COUNTY.
MARION CITY	MARION CITY IN MARION COUNTY.
MEIGS COUNTY	MEIGS COUNTY.
MERCER COUNTY	MERCER COUNTY.
MONROE COUNTY	MONROE COUNTY.
MORGAN COUNTY	MORGAN COUNTY.
NOBLE COUNTY	NOBLE COUNTY.
OTTAWA COUNTY	OTTAWA COUNTY.
PERRY COUNTY	PERRY COUNTY.
PIKE COUNTY	PIKE COUNTY.
SANDUSKY CITY	SANDUSKY CITY IN ERIE COUNTY.
SCIOTO COUNTY	SCIOTO COUNTY.
VINTON COUNTY	VINTON COUNTY.
WARREN CITY	WARREN CITY IN TRUMBULL COUNTY.
YOUNGSTOWN CITY	YOUNGSTOWN CITY IN MAHONING COUNTY.
ZANESVILLE CITY	ZANESVILLE CITY IN MUSKINGUM COUNTY.
OKLAHOMA	
CHOCTAW COUNTY	CHOCTAW COUNTY.
COAL COUNTY	COAL COUNTY.
HASKELL COUNTY	HASKELL COUNTY.
HUGHES COUNTY	HUGHES COUNTY.
BALANCE OF KAY COUNTY.	KAY COUNTY LESS PONCA CITY.
LATIMER COUNTY	LATIMER COUNTY.
LE FLORE COUNTY	LE FLORE COUNTY.
MC CURTAIN COUNTY.	MC CURTAIN COUNTY.
MC INTOSH COUNTY.	MC INTOSH COUNTY.
BALANCE OF MUSKOGEE COUNTY.	MUSKOGEE COUNTY LESS MUSKOGEE CITY.
NOWATA COUNTY	NOWATA COUNTY.
OKMULGEE COUNTY.	OKMULGEE COUNTY.
PAWNEE COUNTY	PAWNEE COUNTY.
PITTSBURG COUNTY.	PITTSBURG COUNTY.
PUSHMATAHA COUNTY.	PUSHMATAHA COUNTY.
SEMINOLE COUNTY	SEMINOLE COUNTY.
SEQUOYAH COUNTY.	SEQUOYAH COUNTY.
OREGON	
BAKER COUNTY	BAKER COUNTY.
COOS COUNTY	COOS COUNTY.
CROOK COUNTY	CROOK COUNTY.
CURRY COUNTY	CURRY COUNTY.
DESCHUTES COUNTY.	DESCHUTES COUNTY.
DOUGLAS COUNTY	DOUGLAS COUNTY.
GRANT COUNTY	GRANT COUNTY.
HARNEY COUNTY	HARNEY COUNTY.
HOOD RIVER COUNTY.	HOOD RIVER COUNTY.
BALANCE OF JACKSON COUNTY.	JACKSON COUNTY LESS MEDFORD CITY.
JEFFERSON COUNTY.	JEFFERSON COUNTY.
JOSEPHINE COUNTY.	JOSEPHINE COUNTY.
KLAMATH COUNTY	KLAMATH COUNTY.
LAKE COUNTY	LAKE COUNTY.
LINCOLN COUNTY	LINCOLN COUNTY.
BALANCE OF LINN COUNTY.	LINN COUNTY LESS ALBANY CITY.
MALHEUR COUNTY	MALHEUR COUNTY.
MEDFORD CITY	MEDFORD CITY IN JACKSON COUNTY.
MORROW COUNTY	MORROW COUNTY.
SHERMAN COUNTY	SHERMAN COUNTY.
UMATILLA COUNTY	UMATILLA COUNTY.
UNION COUNTY	UNION COUNTY.
WALLOWA COUNTY	WALLOWA COUNTY.
WASCO COUNTY	WASCO COUNTY.
WHEELER COUNTY	WHEELER COUNTY.
PENNSYLVANIA	
ALLENTOWN CITY	ALLENTOWN CITY IN LEHIGH COUNTY.
ALTOONA CITY	ALTOONA CITY IN BLAIR COUNTY.
ARMSTRONG COUNTY.	ARMSTRONG COUNTY.
BEDFORD COUNTY	BEDFORD COUNTY.
BALANCE OF CAMBRIA COUNTY.	CAMBRIA COUNTY LESS JOHNSTOWN CITY.
CAMERON COUNTY	CAMERON COUNTY.
CARBON COUNTY	CARBON COUNTY.
CHESTER CITY	CHESTER CITY IN DELAWARE COUNTY.
CLARION COUNTY	CLARION COUNTY.
CLEARFIELD COUNTY.	CLEARFIELD COUNTY.
CLINTON COUNTY	CLINTON COUNTY.
COLUMBIA COUNTY	COLUMBIA COUNTY.
ERIE CITY	ERIE CITY IN ERIE COUNTY.
FAYETTE COUNTY	FAYETTE COUNTY.
FOREST COUNTY	FOREST COUNTY.
GREENE COUNTY	GREENE COUNTY.
HAZLETON CITY	HAZLETON CITY IN LUZERNE COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
HUNTINGDON COUNTY.	HUNTINGDON COUNTY.
INDIANA COUNTY ...	INDIANA COUNTY.
JEFFERSON COUNTY.	JEFFERSON COUNTY.
JOHNSTOWN CITY ..	JOHNSTOWN CITY IN CAMBRIA COUNTY.
JUNIATA COUNTY ...	JUNIATA COUNTY.
BALANCE OF LACKAWANNA COUNTY.	LACKAWANNA COUNTY LESS SCRANTON CITY.
BALANCE OF LUZERNE COUNTY.	LUZERNE COUNTY LESS HAZLETON CITY. WILKES-BARRE CITY.
BALANCE OF LYCOMING COUNTY.	LYCOMING COUNTY LESS WILLIAMSPORT CITY.
MCKEESPORT CITY	MCKEESPORT CITY IN ALLEGHENY COUNTY.
MIFFLIN COUNTY	MIFFLIN COUNTY.
MONROE COUNTY ..	MONROE COUNTY.
NEW CASTLE CITY	NEW CASTLE CITY IN LAWRENCE COUNTY.
NORTHUMBERLAND COUNTY.	NORTHUMBERLAND COUNTY.
PHILADELPHIA CITY	PHILADELPHIA CITY IN PHILADELPHIA COUNTY.
POTTER COUNTY ...	POTTER COUNTY.
SCHUYLKILL COUNTY.	SCHUYLKILL COUNTY.
SCRANTON CITY	SCRANTON CITY IN LACKAWANNA COUNTY.
SOMERSET COUNTY.	SOMERSET COUNTY.
SUSQUEHANNA COUNTY.	SUSQUEHANNA COUNTY.
TIOGA COUNTY	TIOGA COUNTY.
VENANGO COUNTY	VENANGO COUNTY.
WAYNE COUNTY	WAYNE COUNTY.
WILKES-BARRE CITY.	WILKES-BARRE CITY IN LUZERNE COUNTY.
WILLIAMSPORT CITY.	WILLIAMSPORT CITY IN LYCOMING COUNTY.
WYOMING COUNTY	WYOMING COUNTY.
PUERTO RICO	
ADJUNTAS MUNICIPIO.	ADJUNTAS MUNICIPIO.
AGUADA MUNICIPIO	AGUADA MUNICIPIO.
AGUADILLA MUNICIPIO.	AGUADILLA MUNICIPIO.
AGUAS BUENAS MUNICIPIO.	AGUAS BUENAS MUNICIPIO.
AIBONITO MUNICIPIO.	AIBONITO MUNICIPIO.
ANASCO MUNICIPIO	ANASCO MUNICIPIO.
ARECIBO MUNICIPIO.	ARECIBO MUNICIPIO.
ARROYO MUNICIPIO	ARROYO MUNICIPIO.
BARCELONETA MUNICIPIO.	BARCELONETA MUNICIPIO.
BARRANQUITAS MUNICIPIO.	BARRANQUITAS MUNICIPIO.
BAYAMON MUNICIPIO.	BAYAMON MUNICIPIO.
CABO ROJO MUNICIPIO.	CABO ROJO MUNICIPIO.
CAGUAS MUNICIPIO	CAGUAS MUNICIPIO.
CAMUY MUNICIPIO	CAMUY MUNICIPIO.
CANOVANAS MUNICIPIO.	CANOVANAS MUNICIPIO.
CAROLINA MUNICIPIO.	CAROLINA MUNICIPIO.
CATANO MUNICIPIO	CATANO MUNICIPIO.
CAYEY MUNICIPIO ..	CAYEY MUNICIPIO.
CEIBA MUNICIPIO ...	CEIBA MUNICIPIO.
CIALES MUNICIPIO	CIALES MUNICIPIO.
CIDRA MUNICIPIO ...	CIDRA MUNICIPIO.
COAMO MUNICIPIO	COAMO MUNICIPIO.
COMERIO MUNICIPIO.	COMERIO MUNICIPIO.
COROZAL MUNICIPIO.	COROZAL MUNICIPIO.
DORADO MUNICIPIO	DORADO MUNICIPIO.
FAJARDO MUNICIPIO.	FAJARDO MUNICIPIO.
FLORIDA MUNICIPIO	FLORIDA MUNICIPIO.
GUANICA MUNICIPIO.	GUANICA MUNICIPIO.
GUAYAMA MUNICIPIO.	GUAYAMA MUNICIPIO.
GUAYANILLA MUNICIPIO.	GUAYANILLA MUNICIPIO.
GURABO MUNICIPIO	GURABO MUNICIPIO.
HATILLO MUNICIPIO	HATILLO MUNICIPIO.
HORMIGUEROS MUNICIPIO.	HORMIGUEROS MUNICIPIO.
HUMACAO MUNICIPIO.	HUMACAO MUNICIPIO.
ISABELA MUNICIPIO	ISABELA MUNICIPIO.
JAYUYA MUNICIPIO	JAYUYA MUNICIPIO.
JUANA DIAZ MUNICIPIO.	JUANA DIAZ MUNICIPIO.
JUNCOS MUNICIPIO	JUNCOS MUNICIPIO.
LAJAS MUNICIPIO ...	LAJAS MUNICIPIO.
LARES MUNICIPIO ..	LARES MUNICIPIO
LAS MARIAS MUNICIPIO.	LAS MARIAS MUNICIPIO.
LAS PIEDRAS MUNICIPIO.	LAS PIEDRAS MUNICIPIO.
LOIZA MUNICIPIO	LOIZA MUNICIPIO.
LUQUILLO MUNICIPIO.	LUQUILLO MUNICIPIO.
MANATI MUNICIPIO	MANATI MUNICIPIO.
MARICAO MUNICIPIO.	MARICAO MUNICIPIO.
MAUNABO MUNICIPIO.	MAUNABO MUNICIPIO.
MAYAGUEZ MUNICIPIO.	MAYAGUEZ MUNICIPIO.
MOCA MUNICIPIO ...	MOCA MUNICIPIO.
MOROVIS MUNICIPIO.	MOROVIS MUNICIPIO.
NAGUABO MUNICIPIO.	NAGUABO MUNICIPIO.
NARANJITO MUNICIPIO.	NARANJITO MUNICIPIO.
OROCOVIS MUNICIPIO.	OROCOVIS MUNICIPIO.
PATILLAS MUNICIPIO.	PATILLAS MUNICIPIO.
PENUELAS MUNICIPIO.	PENUELAS MUNICIPIO.
PONCE MUNICIPIO	PONCE MUNICIPIO.
QUEBRADILLAS MUNICIPIO.	QUEBRADILLAS MUNICIPIO.
RINCON MUNICIPIO	RINCON MUNICIPIO.
RIO GRANDE MUNICIPIO.	RIO GRANDE MUNICIPIO.
SABANA GRANDE MUNICIPIO.	SABANA GRANDE MUNICIPIO.
SALINAS MUNICIPIO	SALINAS MUNICIPIO.
SAN GERMAN MUNICIPIO.	SAN GERMAN MUNICIPIO.
SAN JUAN MUNICIPIO.	SAN JUAN MUNICIPIO.
SAN LORENZO MUNICIPIO.	SAN LORENZO MUNICIPIO.
SAN SEBASTIAN MUNICIPIO.	SAN SEBASTIAN MUNICIPIO.
SANTA ISABEL MUNICIPIO.	SANTA ISABEL MUNICIPIO.
TOA ALTA MUNICIPIO.	TOA ALTA MUNICIPIO.
TOA BAJA MUNICIPIO.	TOA BAJA MUNICIPIO.
TRUJILLO ALTO MUNICIPIO.	TRUJILLO ALTO MUNICIPIO.
UTUADO MUNICIPIO	UTUADO MUNICIPIO.
VEGA ALTA MUNICIPIO.	VEGA ALTA MUNICIPIO.
VEGA BAJA MUNICIPIO.	VEGA BAJA MUNICIPIO.
VIEQUES MUNICIPIO.	VIEQUES MUNICIPIO.
VILLALBA MUNICIPIO.	VILLALBA MUNICIPIO.
YABUCOA MUNICIPIO.	YABUCOA MUNICIPIO.
YAUCO MUNICIPIO	YAUCO MUNICIPIO.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
RHODE ISLAND	
CENTRAL FALLS CITY.	CENTRAL FALLS CITY.
CHARLESTOWN TOWN.	CHARLESTOWN TOWN.
JOHNSTON TOWN ..	JOHNSTON TOWN.
NEW SHOREHAM TOWN.	NEW SHOREHAM TOWN.
PAWTUCKET CITY ..	PAWTUCKET CITY.
PROVIDENCE CITY	PROVIDENCE CITY.
WEST WARWICK TOWN.	WEST WARWICK TOWN.
WOONSOCKET CITY	WOONSOCKET CITY.
SOUTH CAROLINA	
AIKEN COUNTY	AIKEN COUNTY.
ALLENDALE COUNTY.	ALLENDALE COUNTY.
BAMBERG COUNTY	BAMBERG COUNTY.
BARNWELL COUNTY.	BARNWELL COUNTY.
CALHOUN COUNTY	CALHOUN COUNTY.
CHESTER COUNTY	CHESTER COUNTY.
CHESTERFIELD COUNTY.	CHESTERFIELD COUNTY.
CLARENDON COUNTY.	CLARENDON COUNTY.
COLLETON COUNTY	COLLETON COUNTY.
DARLINGTON COUNTY.	DARLINGTON COUNTY.
DILLON COUNTY	DILLON COUNTY.
EDGEFIELD COUNTY.	EDGEFIELD COUNTY.
FAIRFIELD COUNTY	FAIRFIELD COUNTY.
FLORENCE CITY	FLORENCE CITY IN FLORENCE COUNTY.
BALANCE OF FLORENCE COUNTY.	FLORENCE COUNTY LESS FLORENCE CITY.
GEORGETOWN COUNTY.	GEORGETOWN COUNTY.
HAMPTON COUNTY	HAMPTON COUNTY.
LEE COUNTY	LEE COUNTY.
MARION COUNTY	MARION COUNTY.
MARLBORO COUNTY.	MARLBORO COUNTY.
MC CORMICK COUNTY.	MC CORMICK COUNTY.
NORTH CHARLESTON CITY.	NORTH CHARLESTON CITY IN CHARLESTON COUNTY.
ORANGEBURG COUNTY.	ORANGEBURG COUNTY.
UNION COUNTY	UNION COUNTY.
WILLIAMSBURG COUNTY.	WILLIAMSBURG COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
SOUTH DAKOTA	
BUFFALO COUNTY	BUFFALO COUNTY.
CORSON COUNTY ..	CORSON COUNTY.
DEWEY COUNTY	DEWEY COUNTY.
SHANNON COUNTY	SHANNON COUNTY.
TODD COUNTY	TODD COUNTY.
ZIEBACH COUNTY ..	ZIEBACH COUNTY.
TENNESSEE	
BENTON COUNTY ...	BENTON COUNTY.
CAMPBELL COUNTY	CAMPBELL COUNTY.
CARROLL COUNTY	CARROLL COUNTY.
CLAY COUNTY	CLAY COUNTY.
COCKE COUNTY	COCKE COUNTY.
CROCKETT COUNTY.	CROCKETT COUNTY.
CUMBERLAND COUNTY.	CUMBERLAND COUNTY.
DE KALB COUNTY ...	DE KALB COUNTY.
DECATUR COUNTY	DECATUR COUNTY.
FENTRESS COUNTY	FENTRESS COUNTY.
GIBSON COUNTY	GIBSON COUNTY.
GREENE COUNTY ...	GREENE COUNTY.
GRUNDY COUNTY ..	GRUNDY COUNTY.
HARDEMAN COUNTY.	HARDEMAN COUNTY.
HARDIN COUNTY	HARDIN COUNTY.
HAYWOOD COUNTY	HAYWOOD COUNTY.
HENDERSON COUNTY.	HENDERSON COUNTY.
HOUSTON COUNTY	HOUSTON COUNTY.
HUMPHREYS COUNTY.	HUMPHREYS COUNTY.
JOHNSON COUNTY	JOHNSON COUNTY.
LAKE COUNTY	LAKE COUNTY.
LAUDERDALE COUNTY.	LAUDERDALE COUNTY.
LAWRENCE COUNTY.	LAWRENCE COUNTY.
LEWIS COUNTY	LEWIS COUNTY.
LINCOLN COUNTY ..	LINCOLN COUNTY.
MACON COUNTY	MACON COUNTY.
Mc MINN COUNTY ...	Mc MINN COUNTY.
Mc NAIRY COUNTY	Mc NAIRY COUNTY.
MEIGS COUNTY	MEIGS COUNTY.
MONROE COUNTY ..	MONROE COUNTY.
MORGAN COUNTY ..	MORGAN COUNTY.
OBION COUNTY	OBION COUNTY.
OVERTON COUNTY	OVERTON COUNTY.
PICKETT COUNTY ...	PICKETT COUNTY.
POLK COUNTY	POLK COUNTY.
RHEA COUNTY	RHEA COUNTY.
SCOTT COUNTY	SCOTT COUNTY.
SEVIER COUNTY	SEVIER COUNTY.
STEWART COUNTY	STEWART COUNTY.
TROUSDALE COUNTY.	TROUSDALE COUNTY.
UNICOI COUNTY	UNICOI COUNTY.
VAN BUREN COUNTY.	VAN BUREN COUNTY.
WAYNE COUNTY	WAYNE COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
WHITE COUNTY	WHITE COUNTY.
TEXAS	
BEAUMONT CITY	BEAUMONT CITY IN JEFFERSON COUNTY.
BEE COUNTY	BEE COUNTY.
BALANCE OF BOWIE COUNTY.	BOWIE COUNTY LESS TEXARKANA CITY TEX.
BALANCE OF BRAZORIA COUNTY.	BRAZORIA COUNTY LESS LAKE JACKSON CITY.
BROOKS COUNTY ...	BROOKS COUNTY.
BROWNSVILLE CITY	BROWNSVILLE CITY IN CAMERON COUNTY.
CALHOUN COUNTY	CALHOUN COUNTY.
BALANCE OF CAMERON COUNTY.	CAMERON COUNTY LESS BROWNSVILLE CITY. HARLINGEN CITY.
CAMP COUNTY	CAMP COUNTY.
CASS COUNTY	CASS COUNTY.
COLEMAN COUNTY	COLEMAN COUNTY.
CORPUS CHRISTI CITY.	CORPUS CHRISTI CITY IN NUECES COUNTY.
COTTLE COUNTY	COTTLE COUNTY.
CROSBY COUNTY ...	CROSBY COUNTY.
CULBERSON COUNTY.	CULBERSON COUNTY.
DAWSON COUNTY ..	DAWSON COUNTY.
DEAF SMITH COUNTY.	DEAF SMITH COUNTY.
DEL RIO CITY	DEL RIO CITY IN VAL VERDE COUNTY.
DICKENS COUNTY ..	DICKENS COUNTY.
DIMMIT COUNTY	DIMMIT COUNTY.
DUVAL COUNTY	DUVAL COUNTY.
BALANCE OF ECTOR COUNTY.	ECTOR COUNTY LESS ODESSA CITY.
EDINBURG CITY	EDINBURG CITY IN HIDALGO COUNTY.
EL PASO CITY	EL PASO CITY IN EL PASO COUNTY.
BALANCE OF EL PASO COUNTY.	EL PASO COUNTY LESS EL PASO CITY.
—	SOCORRO CITY.
FLOYD COUNTY	FLOYD COUNTY.
FRIO COUNTY	FRIO COUNTY.
GALVESTON CITY ...	GALVESTON CITY IN GALVESTON COUNTY.
BALANCE OF GALVESTON COUNTY.	GALVESTON COUNTY LESS FRIENDSWOOD CITY. GALVESTON CITY. LEAGUE CITY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
	TEXAS CITY.
BALANCE OF GREGG COUNTY.	GREGG COUNTY LESS LONGVIEW CITY.
HALL COUNTY	HALL COUNTY.
HARDIN COUNTY	HARDIN COUNTY.
HARLINGEN CITY	HARLINGEN CITY IN CAMERON COUNTY.
BALANCE OF HARRISON COUNTY.	HARRISON COUNTY LESS LONGVIEW CITY.
BALANCE OF HIDALGO COUNTY.	HIDALGO COUNTY LESS EDINBURG CITY.
	MC ALLEN CITY.
	MISSION CITY.
	PHARR CITY.
HOUSTON CITY	HOUSTON CITY IN FORT BEND COUNTY.
	HARRIS COUNTY.
HUTCHINSON COUNTY.	HUTCHINSON COUNTY.
JASPER COUNTY	JASPER COUNTY.
JIM HOGG COUNTY	JIM HOGG COUNTY.
JIM WELLS COUNTY	JIM WELLS COUNTY.
KILLEEN CITY	KILLEEN CITY IN BELL COUNTY.
KINGSVILLE CITY	KINGSVILLE CITY IN KLEBERG COUNTY.
KINNEY COUNTY	KINNEY COUNTY.
BALANCE OF KLEBERG COUNTY.	KLEBERG COUNTY LESS KINGSVILLE CITY.
LA SALLE COUNTY	LA SALLE COUNTY.
LAMAR COUNTY	LAMAR COUNTY.
LAREDO CITY	LAREDO CITY IN WEBB COUNTY.
LEON COUNTY	LEON COUNTY.
LIBERTY COUNTY	LIBERTY COUNTY.
LONGVIEW CITY	LONGVIEW CITY IN GREGG COUNTY.
	HARRISON COUNTY.
LOVING COUNTY	LOVING COUNTY.
MARION COUNTY	MARION COUNTY.
MATAGORDA COUNTY.	MATAGORDA COUNTY.
MAVERICK COUNTY	MAVERICK COUNTY.
MC ALLEN CITY	MC ALLEN CITY IN HIDALGO COUNTY.
MISSION CITY	MISSION CITY IN HIDALGO COUNTY.
MORRIS COUNTY	MORRIS COUNTY.
NEWTON COUNTY	NEWTON COUNTY.
NOLAN COUNTY	NOLAN COUNTY.
BALANCE OF NUECES COUNTY.	NUECES COUNTY LESS CORPUS CHRISTI CITY.
ODESSA CITY	ODESSA CITY IN ECTOR COUNTY.
ORANGE COUNTY	ORANGE COUNTY.
PALO PINTO COUNTY.	PALO PINTO COUNTY.
PANOLA COUNTY	PANOLA COUNTY.
PHARR CITY	PHARR CITY IN HIDALGO COUNTY.
PORT ARTHUR CITY	PORT ARTHUR CITY IN JEFFERSON COUNTY.
PRESIDIO COUNTY	PRESIDIO COUNTY.
RED RIVER COUNTY.	RED RIVER COUNTY.
REEVES COUNTY	REEVES COUNTY.
RUSK COUNTY	RUSK COUNTY.
SABINE COUNTY	SABINE COUNTY.
SAN PATRICIO COUNTY.	SAN PATRICIO COUNTY.
SHELBY COUNTY	SHELBY COUNTY.
SOCORRO CITY	SOCORRO CITY IN EL PASO COUNTY.
SOMERVELL COUNTY.	SOMERVELL COUNTY.
STARR COUNTY	STARR COUNTY.
TEXARKANA CITY TEX.	TEXARKANA CITY TEX IN BOWIE COUNTY.
TEXAS CITY	TEXAS CITY IN GALVESTON COUNTY.
TITUS COUNTY	TITUS COUNTY.
TYLER CITY	TYLER CITY IN SMITH COUNTY.
TYLER COUNTY	TYLER COUNTY.
UVALDE COUNTY	UVALDE COUNTY.
BALANCE OF VAL VERDE COUNTY.	VAL VERDE COUNTY LESS DEL RIO CITY.
BALANCE OF WEBB COUNTY.	WEBB COUNTY LESS LAREDO CITY.
WILLACY COUNTY	WILLACY COUNTY.
WINKLER COUNTY	WINKLER COUNTY.
YOUNG COUNTY	YOUNG COUNTY.
ZAPATA COUNTY	ZAPATA COUNTY.
ZAVALA COUNTY	ZAVALA COUNTY.
UTAH	
DUCHESNE COUNTY.	DUCHESNE COUNTY.
EMERY COUNTY	EMERY COUNTY.
GARFIELD COUNTY	GARFIELD COUNTY.
GRAND COUNTY	GRAND COUNTY.
KANE COUNTY	KANE COUNTY.
SAN JUAN COUNTY	SAN JUAN COUNTY.
UINTAH COUNTY	UINTAH COUNTY.
VERMONT	
ESSEX COUNTY	ESSEX COUNTY.
GRAND ISLE COUNTY.	GRAND ISLE COUNTY.
ORLEANS COUNTY	ORLEANS COUNTY.
VIRGINIA	
ACCOMACK COUNTY.	ACCOMACK COUNTY.
BATH COUNTY	BATH COUNTY.
BLAND COUNTY	BLAND COUNTY.
BRUNSWICK COUNTY.	BRUNSWICK COUNTY.
BUCHANAN COUNTY.	BUCHANAN COUNTY.
CAROLINE COUNTY	CAROLINE COUNTY.
CHARLOTTE COUNTY.	CHARLOTTE COUNTY.
CLIFTON FORGE CITY.	CLIFTON FORGE CITY.
COVINGTON CITY	COVINGTON CITY.
DANVILLE CITY	DANVILLE CITY.
DICKENSON COUNTY.	DICKENSON COUNTY.
EMPORIA CITY	EMPORIA CITY.
ESSEX COUNTY	ESSEX COUNTY.
GILES COUNTY	GILES COUNTY.
HALIFAX COUNTY	HALIFAX COUNTY.
HENRY COUNTY	HENRY COUNTY.
HIGHLAND COUNTY	HIGHLAND COUNTY.
LANCASTER COUNTY.	LANCASTER COUNTY.
LEE COUNTY	LEE COUNTY.
LOUISA COUNTY	LOUISA COUNTY.
LUNENBURG COUNTY.	LUNENBURG COUNTY.
MARTINSVILLE CITY	MARTINSVILLE CITY.
MECKLENBURG COUNTY.	MECKLENBURG COUNTY.
NORTHAMPTON COUNTY.	NORTHAMPTON COUNTY.
NORTHUMBERLAND COUNTY.	NORTHUMBERLAND COUNTY.
NORTON CITY	NORTON CITY.
PAGE COUNTY	PAGE COUNTY.
PETERSBURG CITY	PETERSBURG CITY.
PITTSYLVANIA COUNTY.	PITTSYLVANIA COUNTY.
PORTSMOUTH CITY	PORTSMOUTH CITY.
PULASKI COUNTY	PULASKI COUNTY.
RICHMOND COUNTY.	RICHMOND COUNTY.
RUSSELL COUNTY	RUSSELL COUNTY.
SCOTT COUNTY	SCOTT COUNTY.
SMYTH COUNTY	SMYTH COUNTY.
SURRY COUNTY	SURRY COUNTY.
SUSSEX COUNTY	SUSSEX COUNTY.
TAZEWELL COUNTY	TAZEWELL COUNTY.
WASHINGTON COUNTY.	WASHINGTON COUNTY.
WESTMORELAND COUNTY.	WESTMORELAND COUNTY.
WILLIAMSBURG CITY.	WILLIAMSBURG CITY.
WISE COUNTY	WISE COUNTY.

LABOR SURPLUS AREAS ELIGIBLE FOR FEDERAL PROCUREMENT PREFERENCE OCTOBER 1, 1997 THROUGH SEPTEMBER 30, 1998—Continued

Eligible labor surplus areas	Civil jurisdictions included
WYTHE COUNTY	WYTHE COUNTY.
WASHINGTON	
ADAMS COUNTY	ADAMS COUNTY.
BELLINGHAM CITY	BELLINGHAM CITY IN WHATCOM COUNTY.
BALANCE OF BENTON COUNTY.	BENTON COUNTY LESS KENNEWICK CITY.
	RICHLAND CITY.
BREMERTON CITY	BREMERTON CITY IN KITSAP COUNTY.
CHELAN COUNTY	CHELAN COUNTY.
CLALLAM COUNTY	CLALLAM COUNTY.
COLUMBIA COUNTY.	COLUMBIA COUNTY.
BALANCE OF COWLITZ COUNTY.	COWLITZ COUNTY LESS LONGVIEW CITY.
DOUGLAS COUNTY	DOUGLAS COUNTY.
EVERETT CITY	EVERETT CITY IN SNOHOMISH COUNTY.
FERRY COUNTY	FERRY COUNTY.
FRANKLIN COUNTY	FRANKLIN COUNTY.
GRANT COUNTY	GRANT COUNTY.
GRAYS HARBOR COUNTY.	GRAYS HARBOR COUNTY.
JEFFERSON COUNTY.	JEFFERSON COUNTY.
KENNEWICK CITY	KENNEWICK CITY IN BENTON COUNTY.
KITTITAS COUNTY	KITTITAS COUNTY.
KLICKITAT COUNTY	KLICKITAT COUNTY.
LEWIS COUNTY	LEWIS COUNTY.
LONGVIEW CITY	LONGVIEW CITY IN COWLITZ COUNTY.
MASON COUNTY	MASON COUNTY.
OKANOGAN COUNTY.	OKANOGAN COUNTY.
PACIFIC COUNTY	PACIFIC COUNTY.
PEND OREILLE COUNTY.	PEND OREILLE COUNTY.
SAN JUAN COUNTY	SAN JUAN COUNTY.
SKAGIT COUNTY	SKAGIT COUNTY.
SKAMANIA COUNTY	SKAMANIA COUNTY.
STEVENS COUNTY	STEVENS COUNTY.
TACOMA CITY	TACOMA CITY IN PIERCE COUNTY.
WAHKIAKUM COUNTY.	WAHKIAKUM COUNTY.
WALLA WALLA CITY	WALLA WALLA CITY IN WALLA WALLA COUNTY.
BALANCE OF WHATCOM COUNTY.	WHATCOM COUNTY LESS BELLINGHAM CITY.
YAKIMA CITY	YAKIMA CITY IN YAKIMA COUNTY.
BALANCE OF YAKIMA COUNTY.	YAKIMA COUNTY LESS YAKIMA CITY.
WEST VIRGINIA	
BARBOUR COUNTY	BARBOUR COUNTY.
BOONE COUNTY	BOONE COUNTY.
BRAXTON COUNTY	BRAXTON COUNTY.
CALHOUN COUNTY	CALHOUN COUNTY.
CLAY COUNTY	CLAY COUNTY.
DODDRIDGE COUNTY.	DODDRIDGE COUNTY.
FAYETTE COUNTY	FAYETTE COUNTY.
GILMER COUNTY	GILMER COUNTY.
GRANT COUNTY	GRANT COUNTY.
GREENBRIER COUNTY.	GREENBRIER COUNTY.
HARRISON COUNTY	HARRISON COUNTY.
HUNTINGTON CITY	HUNTINGTON CITY IN CABELL COUNTY.
	WAYNE COUNTY.
JACKSON COUNTY	JACKSON COUNTY.
LEWIS COUNTY	LEWIS COUNTY.
LINCOLN COUNTY	LINCOLN COUNTY.
LOGAN COUNTY	LOGAN COUNTY.
MARION COUNTY	MARION COUNTY.
BALANCE OF MARSHALL COUNTY.	MARSHALL COUNTY LESS WHEELING CITY.
MASON COUNTY	MASON COUNTY.
Mc DOWELL COUNTY.	Mc DOWELL COUNTY.
MINGO COUNTY	MINGO COUNTY.
NICHOLAS COUNTY	NICHOLAS COUNTY.
PARKERSBURG CITY.	PARKERSBURG CITY IN WOOD COUNTY.
PLEASANTS COUNTY.	PLEASANTS COUNTY.
POCAHONTAS COUNTY.	POCAHONTAS COUNTY.
PRESTON COUNTY	PRESTON COUNTY.
RALEIGH COUNTY	RALEIGH COUNTY.
RANDOLPH COUNTY.	RANDOLPH COUNTY.
RITCHIE COUNTY	RITCHIE COUNTY.
ROANE COUNTY	ROANE COUNTY.
SUMMERS COUNTY	SUMMERS COUNTY.
TAYLOR COUNTY	TAYLOR COUNTY.
TUCKER COUNTY	TUCKER COUNTY.
TYLER COUNTY	TYLER COUNTY.
UPSHUR COUNTY	UPSHUR COUNTY.
BALANCE OF WAYNE COUNTY.	WAYNE COUNTY LESS HUNTINGTON CITY.
WEBSTER COUNTY	WEBSTER COUNTY.
WETZEL COUNTY	WETZEL COUNTY.
WIRT COUNTY	WIRT COUNTY.
WYOMING COUNTY	WYOMING COUNTY.
WISCONSIN	
ASHLAND COUNTY	ASHLAND COUNTY.
IRON COUNTY	IRON COUNTY.
MARQUETTE COUNTY.	MARQUETTE COUNTY.
MENOMINEE COUNTY.	MENOMINEE COUNTY.
RUSK COUNTY	RUSK COUNTY.
WYOMING	
FREMONT COUNTY	FREMONT COUNTY.
LINCOLN COUNTY	LINCOLN COUNTY.
BALANCE OF NATRONA COUNTY.	NATRONA COUNTY LESS CASPER CITY.
UINTA COUNTY	UINTA COUNTY.

[FR Doc. 97–26829 Filed 10–8–97; 8:45 am]

BILLING CODE 4510–30–U

LEGAL SERVICES CORPORATION

Notice of Availability of 1998 Competitive Grant Funds for Native Americans, Service Area NCT–1 in Connecticut

AGENCY: Legal Services Corporation.

ACTION: Solicitation of Proposals for the Provision of Civil Legal Services for Native Americans in the state of Connecticut.

SUMMARY: The Legal Services Corporation (LSC or Corporation) is the national organization charged with administering federal funds provided for civil legal services to the poor.

The Corporation hereby announces a competition for 1998 grant funds and is soliciting grant proposals from interested parties who are qualified to provide effective, efficient, and high quality civil legal services to the LSC-eligible Native American client population in the state of Connecticut. Two grant terms may be funded. The first grant term will begin January 1, 1998 and end December 31, 1998. The second term will be for calendar year 1999. The exact amount of congressionally appropriated funds and the date, terms and conditions of their availability for calendar years 1998 and 1999 have not been determined. It is anticipated that the funding for calendar year 1998 will be similar to calendar year 1997 which was $12,550.

DATES: Request for Proposals (RFP) are currently available. A Notice of Intent to Compete is due by October 27, 1997. Grant proposals must be received at LSC offices by 5:00 p.m. EDT, November 3, 1997.

ADDRESSES: Legal Services Corporation—Competitive Grants, 750 First Street N.E., 10th Floor, Washington, DC 20002–4250.

FOR FURTHER INFORMATION CONTACT: Office of Program Operations—Service Desk, (202) 336–8865; FAX (202) 336–8854.

SUPPLEMENTARY INFORMATION: LSC is seeking proposals from recipients, other non-profit organizations that have as a purpose the furnishing of legal assistance to eligible clients, private attorneys, groups of private attorneys or law firms, State or local governments, and substate regional planning and coordination agencies which are composed of substate areas and whose governing boards are controlled by locally elected officials.

The solicitation package, containing the grant application, guidelines, proposal content requirements and specific selection criteria, is available by contacting the Corporation by letter, phone or FAX. LSC will not FAX the solicitation package to interested parties; however, solicitation packages may be requested by FAX.

Issue Date: October 3, 1997.

John Tull,

Director, Office of Program Operations.

[FR Doc. 97–26727 Filed 10–8–97; 8:45 am]

BILLING CODE 7050–01–P

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Museums and Visual Arts Section (Planning & Stabilization category) to the National Council on the Arts will be held on October 28–29, 1997. The panel will meet from 9:00 a.m. to 7:00 p.m. on October 28 and from 9:00 a.m. to 5:00 p.m. on October 29, 1997, in Room 716 an the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506. A portion of this meeting, from 1:30 p.m. to 3:30 p.m. on October 29, will be open to the public for a policy discussion of guidelines, planning, Leadership Initiatives, and field needs and trends.

The remaining portions of this meeting, from 9:00 a.m. to 7:00 p.m. on October 28, and from 9:00 a.m. to 1:30 p.m. and 3:30 p.m. to 5:00 p.m. on October 29, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: October 3, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–26760 Filed 10–8–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering & Environmental Systems; 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 Bioengineering & Environmental Systems (1189)

Date and Time: November 4, 1997; 8:00 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 360, Arlington, VA

Contact Person: Dr. A. Fred Thompson, Program Director, Environmental Technology Program, Division of Bioengineering & Environmental Systems, Room 565, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Environmental Technology CAREER 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 Sunshine Act.

Dated: October 6, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26843 Filed 10–8–97; 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 A)

Date and Time: Wednesday, Thursday, Friday, October 29–31, 1997, 8:30 A.M. to 6:00 P.M.

Place: National Science Foundation, 4201 Wilson Blvd., Room 340, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Drs. Marcia Steinberg and P.C. Huang, Program Directors for Molecular Biochemistry, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306–1443)

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 Biochemistry 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: October 6, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26842 Filed 10–8–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Cross Disciplinary Activities; 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 Cross Disciplinary Activities (1193).

Date and Time: October 28, 1997; 8:30 am to 5:00 pm.

Place: Rooms 950, 970 NSF, 4201 Wilson Boulevard, Arlington, VA 22230.

Contact Person(s): Dr. Rita Rodriguez, Program Director, CISE/OCDA, Room 1160, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Telephone: (703) 306–1980.

Type of Meeting: Closed.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate CISE Research Instrumentation 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: October 6, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26846 Filed 10–8–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture & Industrial Innovation; Notice of Meetings

This notice is being published in accord with the Federal Advisory Committee Act (Pub. L. 92–463, as amended). The Special Emphasis Panel in Design Manufacturing and Industrial Innovation (1194) will be holding panel meetings to review and evaluate research proposals. The dates and types of proposals being reviewed are:

Dates of Meetings

10–30–97—10–31–97
10–30–97—10–31–97

Types of Proposal

PhaseII—GEO Review Panel
Phase II—Manufacturing Review Panel

Times: 8:30 to 5:00 p.m. each day.

Place: Rooms 1235, and 310, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meetings: Closed.

Contact Person: Dr. Richie Coryell, Program Manager, Small Business Office, DMII, Room 545, National Science Foundation, 4201 Wilson Blvd., Arlington, Va. 22230, telephone (703) 306–1391.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the Small business Innovative Research (SBIR) Phase II 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: October 6, 1997.

M. Rebecca Winlker,

Committee Management Officer.

[FR Doc. 97–26845 Filed 10–8–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Microelectronic Information Processing Systems; 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 Microelectronic Information Processing Systems (1206).

Date and Time: November 5, 1997; 8:30 a.m. to 5;00 p.m.

Place: Room 340, National Science Foundation, 4201 Wilson Blvd., Arlington, VA.

Type of Meeting: Closed.

Contact Person: Dr. Michael Foster, Program Director, Microelectronic Information Processing Systems Division, National Science Foundation, Rm. 1155, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1936.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate proposals submitted to the NSF CAREER program in the area of microelectronic information processing systems.

Reason for Closing: the meeting is closed to the public because the Committee is reviewing proposals 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: October 6, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–26844 Filed 10–8–97; 8:45 am]

BILLING CODE 7555–01–M

OFFICE OF MANAGEMENT AND BUDGET

Interpretation Number 3 Related to Statement of Federal Financial Accounting Standards Number 5

AGENCY: Office of Management and Budget.

ACTION: Notice of interpretation.

SUMMARY: This notice includes an interpretation of Statement of Federal Financial Accounting Standards (SFFAS), adopted by the Office of Management and Budget (OMB). This interpretation was recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in its entirety by OMB.

FOR FURTHER INFORMATION CONTACT: James Short (telephone: 202–395–3124), Office of Federal Financial Management, Office of Management and Budget.

SUPPLEMENTARY INFORMATION: This notice includes an interpretation of Statement of Federal Financial Accounting Standards (SFFAS) Number 5, adopted by the Office of Management and Budget (OMB). This interpretation was recommended by the Federal Accounting Standards Advisory Board (FASAB) and adopted in its entirety by OMB.

Under a Memorandum of Understanding among the General Accounting Office, the Department of the Treasury, and OMB on Federal Government Accounting Standards, the Comptroller General, the Secretary of the Treasury, and the Director of OMB (the Principals) decide upon standards and concepts after considering the recommendations of FASAB. After agreement to specific standards and concepts, they are published by OMB in the **Federal Register** and distributed throughout the Federal Government.

An Interpretation is a document, originally developed by FASAB, of narrow scope which provides clarification of the meaning of a standard, concept or other related guidance. Once approved by the designated representatives of the Principals, they are published by OMB in the Federal Register.

This notice, including the third interpretation of SFFAS, is available on the OMB home page on the Internet

which is currently located at http://www.whitehouse.gov/WH/EOP/omb, under the caption ''**Federal Register** Submissions.''

G. Edward DeSeve,

Controller.

Interpretation Number 3 of Statement of Federal Financial Accounting Standards Number 5

Measurement Date for Pension and Retirement Health Care Liabilities: An Interpretation of SFFAS No. 5

Introduction

1. The Federal Accounting Standards Advisory Board (FASAB) was asked to endorse use of an actuarial valuation as of the beginning of the fiscal year to measure the pension and retirement health care liabilities in general purpose financial reports prepared pursuant to Statement of Federal Financial Accounting Standards Number 5 (SFFAS 5).[1] This has been the practice in some of the special purpose financial reports on pension plans that are prepared pursuant to Pub. L. 95–595.[2] OMB and GAO issue instructions for preparing the reports required by P.L. 95–595.

2. The plan reports called for by P.L. 95–595 receive scrutiny from Congressional staff. Based on past experience, some actuaries were concerned that differences between actuarial measurements used in different reports would cause problems and confusion.

Some people who support using a beginning-of-year valuation also were concerned about the potential for disagreements between auditors and preparers if projections or estimates were used instead of a full actuarial valuation.

Other people, on the other hand, believed that measurements for recognizing liabilities in financial statements prepared pursuant to SFFAS 5 should be as of the end of the reporting period, and that a measurement based on a projection or ''roll forward'' of a full actuarial valuation would be appropriate if it were not feasible to perform a full actuarial valuation as of year end.

Interpretation

3. Pension and retirement health care liabilities in general purpose Federal financial reports prepared pursuant to SFFAS 5 shall be measured as of the end of the fiscal year (or other reporting period if applicable). This measurement shall be performed following the end of the period reported, but does not have to be based on a full actuarial valuation as of the end of the reporting period. The measurement shall, however, reflect the best available estimates of the major factors that would be reflected in a full actuarial valuation, such as the actual pay raise, the actual cost of living adjustment, and known material changes in the number of employees covered (enrollment) that cause a change in the liability.

4. This measurement may be based on an actuarial valuation performed as of an earlier date during the fiscal year, including a beginning-of-year actuarial valuation, with suitable adjustments for the effects of changes during the year in major factors, such as the pay raise, cost of living adjustment, etc. This is sometimes referred to as a measurement based on a ''projection'' or ''roll-forward'' of the most recent available actuarial valuation. In evaluating the effect on the liability caused by changes in enrollment for plans that cover employees of more than one reporting entity (e.g., CSRS, FERS), materiality shall be assessed at the plan level. In evaluating the effect on the liability caused by changes in enrollment for plans that cover employees of only one reporting entity (e.g., Coast Guard, Department of State), materiality shall be assessed at the reporting entity level.

Scope of Interpretation

5. This interpretation applies to pension and retirement health care liabilities recognized in accordance with SFFAS 5 in general purpose Federal financial reports, such as financial statements prepared pursuant to the Chief Financial Officers Act of 1990, as amended. It does not apply to reports on pension plans pursuant to the requirements of P.L. 95–595.

Effective Date

6. This interpretation shall be applied for reporting periods that end on or after September 30, 1997.

Appendix: Basis for Conclusions

7. SFFAS 5 defines standards for recognition and measurement of pension and retirement health care liabilities, which are reported as of the balance sheet date. Although SFFAS 5 does not explicitly discuss the measurement date, its provisions implicitly call for measurement at year end. ''Measurement'' implies estimation based on the best available information at the time, but does not necessarily require a full actuarial ''valuation'' as that term is used by actuaries.

8. To avoid potential confusion, ambiguity, or conflict with auditors, some people would prefer to use a beginning-of-year valuation (which is permitted by private sector standards for plan reporting pursuant to SFAS 35[3]), or at least would prefer to use beginning-of-year enrollment while updating the valuation for other changes during the year (e.g., interest rate assumptions, COLAs, salary increases), which generally are more significant.

9. Changes in enrollment during the year will rarely lead to a material change in the liability, and that such changes will, therefore, not be a factor in some years. Nevertheless, in those years when a material change in the liability does arise because of a change in enrollment during the year, that change should be reflected in the measurement. Conceptually there is no reason to treat enrollment differently from other factors used in the measurement. Precise enrollment data may not be readily available soon after year end, when the measurement is to be performed. However, this should not normally present a problem because absolute precision regarding enrollment should not be necessary, given a reasonable definition of materiality.

[FR Doc. 97–26869 Filed 10–8–97; 8:45 am]

BILLING CODE 3110–01–P

[1] Statement of Federal Financial Accounting Standard Number 5, ''*Accounting for Liabilities of the Federal Government.*''

[2] Pub. L. 95–595, ''*Federal Government Pension Plans.*''

[3] Statement of Financial Accounting Standard No. 35 (SFAS 35), ''*Accounting and Reporting by Defined Benefit Pension Plans.*''

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Reclearance of an Information Collection: Form RI 30–1

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for reclearance of an information collection. RI 30–1, Request to Disability Annuitant for Information on Physical Condition and Employment, is used by retirees who are not age 60 and who are receiving disability annuity. These retirees must provide information about their medical condition as OPM deems necessary to continue their benefit. RI 30–1 requests

information about changes in the work disabling condition.

Approximately 8000 RI 30–1 forms will be completed annually. We estimate it takes approximately 60 minutes to complete the form. The annual burden is 8000 hours.

Comments are particularly invited on:

—Whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—Whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—Ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov

DATES: Comments on this proposal should be received on or before December 8, 1997.

ADDRESSES: Send or deliver comments to— Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION—CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–26820 Filed 10–8–97; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Reclearance of an Information Collection: Form OPM 1536

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for reclearance of an information collection. Form OPM 1536, Former Spouse's Application for Survivor Annuity Under the Civil Service Retirement System, is designed for use by former spouses of Federal employees and annuitants who are applying for a monthly Civil Service Retirement System benefit. This application collects information about whether the applicant is covered by the Federal Employees Health Benefits Program and about any court order which awards the applicant retirement benefits.

Approximately 500 OPM Forms 1536 will be completed annually. We estimate it takes approximately 30 minutes to complete the form. The annual burden is 250 hours.

Comments are particularly invited on:

—whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received on or before December 8, 1997.

ADDRESSES: Send or deliver comments to—Lorraine E. Dettman, Chief Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–26821 Filed 10–8–97; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Form RI 94–7

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 94–7, Death Benefit Payment Rollover Election for Federal Employees Retirement System (FERS), provides FERS surviving spouses and former spouses with the means to elect payment of the FERS rollover-eligible benefits directly or to an Individual Retirement Account.

Approximately 700 RI 94–7 forms will be completed annually. We estimate it takes approximately 60 minutes to complete the form. The annual burden is 700 hours.

Comments are particularly invited on:

—whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov

DATES: Comments on this proposal should be received on or before December 8, 1997.

ADDRESS: Send or deliver comments to—John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–26822 Filed 10–8–97; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request For Reclearance of an Information Collection: Standard Form 2808

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management intends to submit to the Office of Management and Budget a request for reclearance of an information collection. Standard Form 2808, Designation of Beneficiary (CSRS), is used by persons covered under the Civil Service Retirement System to designate a beneficiary to receive the lump sum payment due from the Civil Service Retirement and Disability Fund in the event of their death.

Approximately 2,000 SF 2808 forms are completed annually. We estimate it takes approximately 15 minutes to complete the form. The annual burden is 500 hours.

Comments are particularly invited on:

—whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov

DATES: Comments on this proposal should be received on or before December 8, 1997.

ADDRESS: Send or deliver comments to—Lorraine E. Dettman, Chief, Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–26824 Filed 10–8–97; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Form RI 38–31

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 38–31, Request for Information About Your Missing Payment, is sent in response to a notification by an individual of the loss or non-receipt of a payment from the Civil Service Retirement and Disability Fund. The form requests the information needed to enable the OPM to trace and or reissue payment.

Approximately 998 RI 38–31 forms will be completed annually. We estimate it takes approximately 11 minutes to complete the form. The annual burden is 183 hours.

Comments are particularly invited on:

—whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—Lorraine E. Dettman, Chief,Operations Support Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3349 Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–26825 Filed 10–8–97; 8:45 am]

BILLING CODE 6325–01–P

OFFICE OF PERSONNEL MANAGEMENT

Proposed Collection; Comment Request for Review of a Revised Information Collection: Form RI 98–7

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Public Law 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) intends to submit to the Office of Management and Budget a request for review of a revised information collection. RI 98–7, Eligibility for Social Security Administration (SSA) Disability Benefits, is used to verify receipt of SSA disability benefits, make necessary adjustments to the Federal Employees Retirement System (FERS) disability benefit, and to notify the retiree of any overpayment amount payable to OPM. It also specifically notifies the retiree of his or her responsibility to notify OPM of his or her Social Security status and the consequences of non-notification.

Approximately 2000 RI 98–7 forms will be completed annually. We estimate it takes approximately 5 minutes to complete the form. The annual burden is 166 hours.

Comments are particularly invited on:

—whether this collection of information is necessary for the proper performance of functions of the Office of Personnel Management, and whether it will have practical utility;

—whether our estimate of the public burden of this collection is accurate, and based on valid assumptions and methodology; and

—ways in which we can minimize the burden of the collection of information on those who are to respond, through use of the appropriate technological collection techniques or other forms of information technology.

For copies of this proposal, contact Jim Farron on (202) 418–3208, or E-mail to jmfarron@opm.gov.

DATES: Comments on this proposal should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to—John C. Crawford, Chief, FERS Division, Retirement and Insurance Service, U.S. Office of Personnel Management, 1900 E Street, NW, Room 3313, Washington, DC 20415.

FOR INFORMATION REGARDING ADMINISTRATIVE COORDINATION CONTACT: Mary Beth Smith-Toomey, Management Services Division, (202) 606–0623.

U.S. Office of Personnel Management.

Janice R. Lachance,

Acting Director.

[FR Doc. 97–26826 Filed 10–8–97; 8:45 am]

BILLING CODE 6325–01–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title*: Statement of Claimant or Other Person.

(2) *Form(s) submitted*: G–93.

(3) *OMB Number*: 3220–0183.

(4) *Expiration date of current OMB clearance*: 12/31/97.

(5) *Type of request*: Revision of a currently approved collection.

(6) *Respondents*: Individuals or households, business or other for profit.

(7) *Estimated annual number of respondents*: 900.

(8) *Total annual responses*: 225.

(9) *Total annual reporting hours:* 225.

(10) *Collection description*: Under Section 2 of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, pertinent information and proofs must be submitted by an applicant so that the Railroad Retirement Board can determine his or her entitlement to benefits. The collection obtains information supplementing or changing information previously provided by an applicant.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, D.C. 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–26806 Filed 10–8–97; 8:45 am]

BILLING CODE 7905–01–M

SECURITIES AND EXCHANGE COMMISSION

Proposed Collection; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549.

Extension:

Rule 17Ad–2 (c), (d), and (h) SEC File No. 270–149 OMB Control No. 3235–0130

Rule 17Ad–10 SEC File No. 270–265 OMB Control No. 3235–0273

Notice is hereby given that pursuant to the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 et seq.) the Securities and Exchange Commission (''Commission'') is soliciting comments on the collections of information summarized below. The Commission plans to submit these existing collections of information to the Office of Management and Budget for extension and approval.

• Rule 17Ad–2(c), (d) and (h) Transfer Agent Turnaround, Processing and Forwarding Requirements

Rule 17Ad–2(c), (d), and (h), under the Securities Exchange Act of 1934, enumerate the requirements with which transfer agents must comply to inform the Commission or the appropriate regulator of a transfer agent's failure to meet the minimum performance standards set by the Commission rule by filing a notice.

While it is estimated there are 1,326 transfer agents, approximately ten notices pursuant to 17Ad–2(c), (d), and (h) are filed annually. In view of: (a) the readily available nature of most of the information required to be included in the notice (since that information must be compiled and retained pursuant to other Commission rules); (b) the summary fashion that such information must be presented in the notice (most notices are one page or less in length); and (c) the experience of the staff regarding the notices, the Commission staff estimates that, on the average, most Notices require approximately one-half hour to prepare. The Commission staff estimates a cost of approximately $30.00 for each half hour spent preparing the notices per year, transfer agents spend an average of five hours per year complying with the rule at a cost of $300.

• Rule 17Ad–10 Prompt Posting of Certificate Detail to Master Securityholder Files; Maintenance of Accurate Securityholder Files and Control Book; and Retention of Certificate Detail

Rule 17Ad–10, under the Securities Exchange Act of 1934, requires approximately 1,326 registered transfer agents to create and maintain minimum information on securityholders' ownership of an issue of securities for which it performs transfer agent functions, including the purchase, transfer and redemptions of securities. In addition, the rule also requires transfer agents that maintain securityholder records to keep certificate detail that has been cancelled from those records for a minimum of six years and to maintain and keep current an accurate record of the number of shares or principal dollar amount of debt securities that the issuer has authorized to be outstanding (a ''control book''). These recordkeeping requirements assist in the creation and maintenance of accurate securityholder records, the ability to research errors, and ensure the transfer agent is aware of the number of securities that are properly authorized by the issuer, thereby avoiding overissuance.

The staff estimates that the average number of hours necessary for each transfer agent to comply with Rule 17Ad–10 is approximately 20 hours per year, totalling 26,520 hours industry-wide. The average cost is approximately $20 hour, with the industry-wide cost estimated at approximately $530,400. However, the information required by Rule 17Ad–10 generally already is maintained by registered transfer agents. The amount of time devoted to compliance with Rule 17Ad–10 varies according to differences in business activity.

Written comments are invited on: (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information

technology. Consideration will be given to comments and suggestions submitted in writing within 60 days of this publication.

Please direct your written comments to Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 5th Street, N.W., Washington, DC 20549.

Dated: September 30, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26725 Filed 10–8–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39189; File No. SR–CBOE–97–38]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Chicago Board Options Exchange, Relating to Listing and Trading of IPRs

October 2, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 14, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The CBOE proposes to amend its rules to permit the listing and trading of index portfolio receipts (''IPRs'')[2] of one of more series. IPRs of each series represent interests in a unit investment trust (each a ''Trust'' and collectively the ''Trusts'') operating on an open-end basis and holding a portfolio of securities that mirrors the securities in a published index of securities.[3] Amendments are proposed to Rules 1.1, 30.10, 30.20, 30.33, 30.36, 31.5 and 31.94. Also, the Exchange proposes to adopt two new rules—Rule 30.54 applicable only to IPRs, and Rule 30.55 applicable to all securities governed by the rules of CBOE's Chapter XXX.

The text of the proposed rule change is available at the Office of the Secretary, CBOE and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The proposed rules[4] are substantially similar to existing rules of the American Stock Exchange (''AMEX'') applicable to Portfolio Depositary Receipts (''PDRs''), which are substantively very similar to IPRs.[5] IPRs will be issued by one or more Trusts to be formed by an entity serving as the sponsor for the Trusts (the ''Sponsor'').[6] Upon receipts of securities and cash in payment for a creation order placed through the Distributor as described below, the Trustee will issue a specified number of IPRs referred to as a ''Creation Unit.''

Each series of IPRs will be based on a published index of securities. IPRs of each such series are intended to produce investment results that generally correspond to the price and yield performance of the component common stocks of the selected index. Each Trust will provide investors with an interest in a portfolio of securities that is intended to closely track the value of the index on which it is based. IPRs will trade like shares of common stock and will pay periodic dividends proportionate to those paid with respect to the underlying portfolio of securities, less certain expenses, as described in the prospectus for each series of IPRs. The Exchange expects that the Trusts will terminate 125 years from the initial date of deposit of the trust corpus into each respective Trust or on such earlier date as may be required in order to permit such Trust to comply with the rule against perpetuities, in the event that the Trust is governed by the law of a state in which the rule against perpetuities remains in effect.[7]

The Sponsor will enter into a trust agreement with a trustee in accordance with Section 26 of the ICA. CBOE will establish a relationship with an entity

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[1] 15 U.S.C. 78s(b)(1).

[2] IPRs have special characteristics, as described in this rule filing, that distinguish them from unit investment trust interests that can be listed under Rule 31.5G. Accordingly, CBOE is proposing separate listing standards for IPRs.

[3] In connection with its plans to list and trade IPRs, the CBOE will request exemptive, interpretative or no-action relief from Rules 10a–1, 10b–7, 10b–10, 10b–13, 10b–17, 11d1–2, 15c1–5, 15c1–6 and Rules 101, 102 and 104 of Regulation M under the Act and Section 16 of the Act.

[4] The Commission notes that CBOE has not identified a particular trading product that it seeks to list pursuant to the proposed listing standards. Prior to trading a particular , CBOE may have to submit an additional Section 19(b) filing that more specifically addresses potential issues associated with items such as the composition, calculation and dissemination of the applicable index. A particular proposal may also involve issues relating to product disclosure, market impact, and applicable trading rules. The Commission also notes that approval of the proposed listing standards would likely provide CBOE with a basis for concluding that it has rules providing for transactions in products such as AMEX SPDRs and MidCap SPDRs, thereby satisfying rule 12f–5 of the Act and allowing CBOE's unlisted trading of such products.

[5] See File No. SR–AMEX–92–18 (adopting new rules related to the listing and trading of PDRs); SR–AMEX–95–16 (providing that the minimum tick applicable to the MidCap SPDR, a PDR product, will be 1/64 of $1.00); SR–AMEX–94–52 (listing and trading of MidCap 400 SPDRs under the rules originally adopted to trade PDRs); SR–AMEX–93–41 (limiting the AMEX's liability in connection with its administration of proprietary indices and products); and SR–AMEX–92–45 (providing that the minimum tick applicable to SPDRs will be 1/32 of $1.00).

[6] CBOE anticipates that all of the Trusts will be governed by a master trust agreement providing for the issuance, in series, of IPRs based on different underlying indices. The Sponsor will file (i) a registration statement under the Investment Company Act of 1940 (the ''ICA'') registering the trust (consisting of such series of Trusts) as an investment company under the ICA, and (ii) a separate registration statement under the Securities Act of 1933 (the ''Securities Act'') registering the offer and sale of each series of IPRs. The Sponsor will also file an application under Section 6(c) of the ICA requesting exemption of the Trusts and the Sponsor from certain provisions of the ICA and permitting the Trusts and the Sponsor to engage in certain affiliated transactions otherwise prohibited by Section 17(d) of the ICA and Rule 17d–1 thereunder.

[7] Each Trust, however, may be terminated earlier under the following circumstances: (1) delisting of the IPRs issued by such Trust by the primary market on which the IPRs are traded; (2) termination of the license agreement with the owner of the index on which the Trust is based; or (3) if either the Trustee, Sponsor, Distributor, Depository Trust Company (''DTC'') or the National Securities Clearing Corporation (''NSCC'') is unable to perform its functions or duties with respect to operation of a Trust and a suitable successor entity is unavailable. In addition, the Sponsor may also terminate a Trust if, after six months from inception, the Trust net asset value falls below $150 million or such other amount as may be specified in the prospectus, or if, after three years from inception, the Trust net asset value falls below $350 million or such other amount as may be specified in the prospectus. IPRs cannot be traded after the termination of a Trust. However, on termination the Trust will be liquidated, and IPR holders at that time will receive a distribution equal to their pro rata share of the assets of the Trust, net of certain fees and expenses.

that will act as the underwriter of IPRs on an agency basis (''Distributor''). All orders to create IPRs in Creation Units will be required to be placed with the Distributor, and it will be the responsibility of the Distributor to transmit such orders to the Trustee. The Distributor will be a registered broker-dealer and a member of the National Association of Securities Dealers, Inc. (''NASD'').

Payment with respect to creation orders for a Trust placed through the Distributor will be made by (1) the ''in-kind'' deposit with the Trustee of a specified portfolio of securities that contains substantially the same securities in substantially the same proportions or ''weighting'' as the component securities of the index on which the Trust is based and (2) a cash payment sufficient to enable the Trustee to make a distribution (''Division Equivalent Payment'') to the holders of beneficial interests in the Trust on the next dividend payment date as if all the securities had been held for the entire accumulation period for the distribution, subject to certain specified adjustments (see ''Distributions'' below) plus or minus a ''Balancing Amount'' to compensate for any differences between the market value of the securities paid and the net asset value of a Creation Unit of such Trust. The Dividend Equivalent Payment and the Balancing Amount are collectively referred to as the ''Cash Component.'' The portfolio of securities and the Cash Component accepted by the Trustee are referred to as the ''Portfolio Deposit.''

Issuance of IPRs

Upon receipt of a Portfolio Deposit for a Trust in payment for a creation order placed through the Distributor as described above, the Trustee will issue a specified number of IPRs of that Trust equal to the Creation Unit. IPRs may be created only in a Creation Unit or multiples thereof. The Exchange anticipates that a Creation Unit for a series of IPRs will consist of 50,000 IPRs of such other number as the Exchange may designate taking into account the value of individual IPRs of that particular series and such other factors as the Exchange deems to be relevant. Individual IPRs can then be traded in the secondary market like any other equity security.[8] It is expected that Portfolio Deposits will be made by institutional investors and arbitragers as well as Market-Makers and Designated Primary Market-Makers as defined in the CBOE's rules.

To maintain the correlation between the portfolio of securities held in a Trust and that of the underlying index, the Trustee will adjust the composition of the Portfolio Deposits from time to time to conform to changes to the index made by the organization that compiles and maintains such index. The Trustee will aggregate certain of these adjustments and make periodic conforming changes to the Trust portfolio.

It is expected that the Trustee or Sponsor will make available (a) on a daily basis, a list of the names and required number of shares for each of the securities in the then current Portfolio Deposit for each of the Trusts; (b) on at least a minute-by-minute basis throughout the day, a number representing the value (on a per IPR basis) of the securities portion of each Portfolio Deposit; and (c) on a daily basis, the accumulated dividends, less expenses, per each outstanding IPR unit.

Transactions in IPRs may be effected on the Exchange until 3:15 p.m. Chicago time each business day.[9] IPRs will trade in round lots of 100.

Redemption

IPRs will be redeemable in kind by tendering them to the Trustee, but only in Creation Unit aggregations. While holders may sell any number of IPRs in the secondary market at any time, they must accumulate a minimum number of IPRs equal to a Creation Unit in order to redeem through a Trust. IPRs will remain outstanding until redeemed or until termination of the Trust by which they were issued. Creation Units of a Trust will be redeemable on any business day in exchange for a portfolio of the securities held by the Trust substantially identical in weighting and composition to the securities portion of the Portfolio Deposit for such Trust in effect on the date request is made for redemption, together with the Cash Component. The number of shares of each of the securities transferred to the redeeming holder will be the number of shares of each of the component stocks in such a Portfolio Deposit on the day the redemption notice is received by the Trustee, multiplied by the number of Creation Units being redeemed. Nominal service fees will be charged in connection with the creation and redemption of Creations Units. The Trustee will cancel all tendered Creation Units upon redemption.

Distributions

The Trust will pay dividends quarterly. It is expected that the regular quarterly ex-dividend dates for an underlying index of securities traded on the New York Stock Exchange, Inc. (''NYSE'') will be the third Friday in March, June, September and December, unless such day is an NYSE holiday, in which case the ex-dividend date will be the preceding Thursday. Holders of IPRs on the business day preceding the ex-dividend date will be entitled to receive an amount representing dividends accumulated through the quarterly dividend period preceding such ex-dividend date net of fees and expenses for such period. The payment of dividends will be made on the last Exchange business day in the calendar month following the ex-dividend date (''Dividend Payment Date''). On the Dividend Payment Date, dividends payable will be distributed for those securities with ex-dividend dates falling within the period from the ex-dividend date most recently preceding the current ex-dividend date through the business day preceding the current ex-dividend date.[10] The Trustee will compute on a daily basis the dividends accumulated for each Trust within each quarterly dividend period. Dividend payments will be made through DTC and its participants to all such holders with funds received from the Trustee. IPRs will be registered in book entry form only, which records will be kept by DTC.

Criteria for Initial and Continued Listing

CBOE's proposed standards for listing and delisting of IPRs allow some flexibility in listing each series of IPRs.

[8] At such time as the Exchange seeks to list series of IPRs, the Sponsor and the Trusts will file with the Commission an application seeking, among other things, an order: (1) permitting secondary market transactions in IPRs at negotiated prices, rather than at a current public offering price described in the prospectus for the applicable series of IPRs as required by Section 22(d) of the ICA and Rule 22c–1 thereunder; and (2) permitting the sale of IPRs to purchasers in the secondary market unaccompanied by a prospectus, when prospectus delivery is not required by Section 4(3) of the Securities Act but may be required according to Section 24(d) of the ICA for redeemable securities issued by a unit investment trust. These exemptions, if granted, will permit IPRs to be traded in secondary market transactions just as interests in a closed-end investment company are traded.

[9] See CBOE Rule 30.4(c) which provides that the ''hours during which transactions in . . . UIT interest may be made on the Exchange shall be as provided in Rule 24.6 in respect of index options.'' Rule 24.6 provides a 3:15 p.m. closing time.

[10] Because the Trusts intend to qualify for and elect tax treatment as regulated investment companies under the Internal Revenue Code, the Trustee will also be required to make additional distributions to the minimum extent necessary (i) to distribute the entire annual taxable income of each Trust, including any net capital gains from sales of securities in connection with adjustments to the portfolio of securities held by such Trust, or to generate cash for distributions, and (ii) to avoid imposition of the excise tax imposed by section 4982 of the Internal Revenue Code.

With respect to initial listing, the Exchange proposes that, for each series, the Exchange will establish a minimum number of IPRs required to be outstanding at the time of commencement of Exchange trading. For IPRs having a Creation Unit size of 50,000 IPRs, a minimum of 150,000 IPRs of each such series (*i.e.*, three Creation Units) will be required to be outstanding when trading in such series of IPRs begins.

Because the Trusts operate on an open-end basis, and because the number of holders of IPRs of each Trust is subject to substantial fluctuation depending on market conditions, the Exchange believes it would be inappropriate and burdensome on IPR holders to consider suspending trading in or delisting a series of IPRs, with the consequent termination of the Trust by which they were issued, unless the number of holders remains severely depressed during an extended time period. Therefore, following twelve months from the formation of a Trust and commencement of Exchange trading, the Exchange will consider suspension of trading in, or removal from listing of, IPRs of any series when, in its opinion, further dealing in such securities appears unwarranted under the following circumstances:

(a) the Trust by which IPRs of such series are issued has more than 60 days remaining until termination and there have been fewer than 50 record and/or beneficial holders of IPRs of such series for 30 or more consecutive trading days; or

(b) the index on which the Trust is based is no longer calculated or available; or

(c) such other event shall occur or condition exist which, in the opinion of the Exchange, makes further dealings on the Exchange inadvisable.

A Trust shall terminate upon removal from Exchange listing, and the series of IPRs representing interests in such Trust will be redeemed as described in the prospectus for such series. A Trust may also terminate under such other conditions as may be described in the prospectus for such series. For example, the Sponsor, following notice to IPR holders, will have discretion to direct that a Trust be terminated if the value of securities held by such Trust falls below a specified amount. A Trust based on an index licensed to the Exchange by a third party will also terminate if the required license terminates.[11]

[11] *See supra* note 7.

Trading Halts

Prior to commencement of trading in IPRs, the Exchange will issue a circular to members informing them of Exchange policies regarding trading halts in such securities. The circular will make clear that, in addition to other factors that may be relevant, the Exchange may consider factors such as those set forth in Exchange Rule 24.7 in exercising its discretion to halt or suspend trading. These factors would include whether trading has been halted or suspended in the primary market(s) for any combination of underlying stocks accounting for 20% or more of the value of the applicable current index group or whether other unusual conditions or circumstances detrimental to the maintenance of a fair and orderly market are present. Also, IPR trading would be halted (along with trading in other securities on the Exchange) if the circuit breaker parameters under Exchange Rule 6.3B are reached.

Terms and Characteristics

The Exchange proposes to require that members and member organizations provide to all purchasers of each series of IPRs a written description of the terms and characteristics of such securities, in a form prepared by the Exchange, not later than the time a confirmation of the first transaction in each series is delivered to such purchaser. The Exchange also proposes to require that such description be included with any sales material on that series of IPRs that is provided to customers or the public. In addition, the Exchange proposes to require that any other written materials provided by a member or member organization to customers or the public making reference to a specific series of IPRs as an investment vehicle must include a statement in substantially the following form: ''A circular describing the terms and characteristics of [the series of IPRs] is available from your broker or the Exchange. It is recommended that you obtain and review such circular before purchasing [the series of IPRs]. In addition, upon request you may obtain from your broker a prospectus for [the series of IPRs].'' Finally, as noted above, the Exchange requires that members and member organizations provide the prospectus for a series of IPRs to customers upon request.

A member or member organization carrying an omnibus account for a non-member broker-dealer is required to inform such non-member that execution of an order to purchase IPRs for such omnibus account will be deemed to constitute an agreement by the non-member to make such written description available to its customers on the same terms as are applicable to members and member organizations.

2. Statutory Basis

The proposed rule change is consistent with Section 6(b) of the Act[12] in general and furthers the objectives of Section 6(b)(5)[13] in particular in that the rules that are proposed to apply to the trading of IPRs are designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which CBOE consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule

[12] 15 U.S.C. 78f(b).

[13] 15 U.S.C. 78f(b)(5).

change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the CBOE. All submissions should refer to File No. SR–CBOE–97–38 and should be submitted by October 30, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[14]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26724 Filed 10–8–97; 8:45 am]

BILLING CODE 8010–01–M

[14] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39190; File No. SR–NYSE–96–27]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by New York Stock Exchange, Inc. Relating to an Interpretation of Rule 409 (''Statements of Accounts to Customers'')

October 2, 1997.

I. Introduction

On December 5, 1996,[1] the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[2] and Rule 19b–4 thereunder,[3] a proposed rule change interpreting Exchange Rule 409. A notice of the proposed rule change appeared in the **Federal Register** on January 9, 1997.[4]

The Commission received five comment letters addressing the proposed rule change.[5] One commenter endorsed the proposed amendments,[6] while the remaining commenters opposed the proposal.[7] This order approves the proposed rule change.

The proposed rule change sets forth an interpretation of Exchange Rule 409 with respect to the establishment of standards regarding the distribution of ''summary statements'' and the use of ''third party agents'' to prepare or distribute customer account statements. The proposed interpretation also codifies existing Exchange policy as to certain information that must be disclosed on account statements. Other items addressed in the proposed interpretation include account statements that reflect assets not in the possession or control of a member organization and the use of logos and trademarks on account statements by an entity other than the carrying or introducing organization.

II. Description of the Proposal

Exchange Rule 409 addresses the responsibility of member organizations carrying customer accounts to send statements of these accounts to their customers. Currently, the rule requires member organizations to send their customers account statements showing security and money positions and entries at least quarterly to all accounts having an entry, money or security position during the preceding quarter. As amended, the rule will allow Exchange member organizations, jointly with other financial institutions (*e.g.*, banks and investment companies), to formulate and distribute to common customers a ''summary statement'' of the customers' accounts with the respective institutions. These consolidated statements will reflect information from entities that are part of a financial services ''group'' or ''family,'' which could include an Exchange member organization that carries accounts for another broker-dealer.

Specifically, the Exchange will require that the summary statement: indicate that the statement is informational and includes assets held at different entities; identify each entity, their relationship to each other and their respective functions; distinguish clearly between assets held by each entity;[8] identify the customer's account numbers at each entity and provide a customer service telephone number at each;[9] disclose which entity holds each of the different assets on the summary; and identify each entity that is a member of the Securities Investor Protection Corporation (''SIPC'').[10] Additionally, any aggregation of account values must be recognizable as having been derived from the separately stated totals; the beginning and end of each separate underlying statement must be clearly distinguishable; and there must be a written agreement between the parties jointly distributing the statements that each has developed procedures and controls for testing the accuracy of its own information on the summary statement. Furthermore, the member organization must indicate on the summary statement that it is not responsible for any information derived from the customer or other external source relating to externally-held assets.

The proposed interpretation also clarifies that certain information must be disclosed on the front of account statement, *i.e.*, the identity of the introducing and carrying organizations, where customer assets included on the statement are held, whether such customer assets are covered by SIPC, and the opening and closing account balances. Moreover, the interpretation requires that where the account statement includes assets not within the possession or control of the member

[1] In response to comment letters and membership concerns, the NYSE has submitted three amendments to this proposed rule change. *See* letter from James E. Buck, Senior Vice President and Secretary, NYSE, Inc., to Ms. Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated April 24, 1997 (responding to comment letters)(''Amendment No. 1''); Letter from James E. Buck, Senior Vice President and Secretary, NYSE, Inc., to Ms. Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated June 9, 1997 (amending the rule language to clarify the proposed interpretation and stipulating to a one year phase-in period for implementation of the Rule's requirements)(''Amendment No. 2''); Letter from James E. Buck, Senior Vice President and Secretary, NYSE, Inc., to Ms. Katherine A. England, Assistant Director, Division of Market Regulation, SEC, dated September 18, 1997 (eliminating redundant provisions in the interpretation)(''Amendment No. 3''). These amendments are technical in nature and do not need to be published for comment.

[2] 15 U.S.C. § 78s(b)(1).

[3] 17 CFR 240.19b–4.

[4] Securities Exchange Act Release No. 38106 (December 31, 1996), 62 FR 1353 (January 9, 1997).

[5] Letter from Sarah A. Miller, Senior Government Relations Counsel, Trust and Securities, American Bankers Association, to Jonathan G. Katz, Secretary, SEC, dated January 30, 1997 (''ABA Letter''); Letter from Deborah H. Kaye, Vice President and Assistant General Counsel, Retail Banking and Securities, The Chase Manhattan Bank, to Jonathan G. Katz, Secretary, SEC, dated January 28, 1997 (''Chase Letter''); Letter from Thomas W. Evans, Vice President, Citibank, to Secretary, SEC, dated January 29, 1997 (''Citibank Letter''); Letter from Steven J. Freiberg, Chairman and Chief Executive Officer, Citicorp Investment Services, to Secretary, SEC, dated January 29, 1997 (''CIS Letter''); Letter from Monica M. Barbour, Vice President and Legal Counsel, First Chicago NBD, to Margaret H. McFarland, Deputy Secretary, SEC, dated January 31, 1997 (''First Chicago Letter'').

[6] *See* First Chicago Letter.

[7] *See* ABA Letter, Chase Letter, Citibank Letter, and CIS Letter.

[8] Columns, coloring or other distinct forms of demarcation may be used to clearly distinguish assets. The Interpretation requires only that a physical distinction of assets be made on the summary page. It was not intended to mandate the manner in which such identification is made. *see infra* note 13, at pg. 4.

[9] Where the customer account number and telephone number for customer service at each entity are included on each entity's respective customer account statement, such account and telephone numbers need not be included on the summary statement. *See also* note 26, *infra.*

[10] *See supra* note 1, Amendment No. 2.

organization, such assets must be clearly separated on the statement. In addition, the statement must clearly indicate that such externally held assets: are not within the possession or control of the member organization and are included on the statement solely as a service to the customer; and are not covered by SIPC.

Concerning the use of logos and trademarks, the proposed interpretation provides that where the logo, trademark or other identification of an entity (other than that of the carrying or introducing organization) appears on an account statement, the identity of such entity and the relationship to the introducing, carrying or other organization must be provided on the statement. With respect to the summary statement, the location of the name of the entity may not be misleading or cause customer confusion. The proposed interpretation codifies that carrying firms are responsible for sending statements to customers and for ensuring the accuracy of such statements. However, because in many cases ''third party agents'' (*e.g.*, service bureaus or other independent entities) prepare or transmit customer account statements, the proposed interpretation to Rule 409 would also establish Exchange policy regarding use of ''third party agents'' to prepare or transmit statements of accounts and to set forth certain representations which must be made in writing by the member organization to the Exchange when employing their party agents.

Specifically, the member organization must represent that the third party is acting as agent for the member organization, that the member organization retains responsibility for compliance with Rule 409(a), that the member organization has developed procedures and implemented controls for reviewing and testing the accuracy of statements, and that it will retain copies of all such statements. In addition, the interpretation states that an introducing organization that is a provider of services included in a member organization's statements of accounts may not function as a ''third party agent'' and may neither prepare nor transmit such statements itself.

III. Summary of Comments

The Commission received five comment letters in response to the proposed rule change.[11] The First Chicago Letter generally endorsed the proposed rule change as a ''significant step in meeting customer needs by creating a more efficient and less costly delivery system of customer statements.[12] The remaining letters, however, raised several issues that the Commission believes should be addressed. The Exchange, at the Commission's request, has proffered a response.[13]

The remaining commenters argued that the Exchange lacked the authority to regulate how non-Exchange members communicate with their customers and the type of information disseminated to their customers.[14] One commenter, Chase, noted that if the NYSE member firm must develop procedures and controls for reviewing the accuracy of statements of accounts prepared by third party agents then this implies that the Exchange member must have access to bank records and statements.[15] Chase questioned whether the NYSE has the authority to require NYSE member firms to review bank statements.[16] Another commenter suggested that requiring banks (or other financial entities) to possibly establish and make accessible a customer service department was an indirect attempt by the Exchange to regulate banking activity and as such, was beyond the Exchange's purview.[17]

The NYSE states that its proposed Interpretation is directed only to those persons or entities that themselves are subject to the jurisdiction of the Exchange.[18] The Exchange believes that its interpretation will apply generically to the practice of formulating and disseminating summary statements together with combined statements of various entities, regardless of whether these entities are members.[19] The Exchange states that it is not seeking to directly impose regulation on third parties; however, to the extent that member organizations enter into contractual arrangements with third parties, these relationships will necessarily be affected by Exchange regulation.[20]

In its response, the NYSE has clarified its intent concerning specific jurisdictional issues raised by several commenters. First, the requirement that a member firm develop procedures and controls for reviewing the accuracy of statements of accounts prepared by third party agents only applies to the customer account statement of a member organization.[21] For example, ''if a third party agent prepares account statements which include assets held at the member organization broker-dealer, there must be a system in place to ensure the accurate receipt by the third party agent of such information and the transmission of accurate information to customers.'' [22] The Interpretation does not seek to address the responsibility for the preparation of statements or accuracy of information related to assets not held at the broker-dealer.[23] Thus, concerning customer information provided by non-member entities, the responsibility of ensuring the accuracy and transmission of their information lies solely with them.

Another concern most commonly raised addressed the requirement that each entity provide a customer service number on its respective customer account statement. In its response, the NYSE stated that the summary page must also identify the relevant customers' account numbers at each entity and provide a customer service number for each such entity, ''but *only* if such information is *not* included on each entity's underlying customer account statement.'' [24] According to the Exchange, indicating the customer service telephone numbers will allow customers to contact the appropriate entity for assistance in regard to the information presented on the summary page or any of the attached statements.[25]

The Commission believes the requirement that a customer service number be provided from each entity will ensure that inquiries concerning an asset or account are directed to the entity controlling the same. If a subsidiary does not have a customer service number, it may use the customer service number of its parent company or other affiliate.[26] With respect to the jurisdictional issues, the Commission recognizes that the development and distribution of these joint customer account statements would be a voluntary undertaking between the parties involved. If a broker-dealer affiliate chooses not to distribute joint account statements with the broker-dealer, then it would not be subject to the Interpretation.

Several comments took exception to the requirement that the summary

[11] *See supra* note 5.

[12] First Chicago Letter at pg. 2.

[13] *See supra* note 1, Amendment No. 1.

[14] Chase Letter, pp. 2–3, Citibank Letter, p. 3, and CIS Letter p. 4.

[15] Chase Letter, p. 3.

[16] *Id. See also* Citibank Letter, (stating that the NYSE has no authority to access customer account numbers or information or to require customer service numbers at a bank or other financial entity), p. 3.

[17] CIS Letter, pp. 3–4.

[18] Amendment No. 1, p. 2.

[19] *Id.*

[20] *Id.*

[21] Amendment No. 1, p. 5.

[22] *Id.*

[23] *Id.*

[24] Amendment No. 1, p. 4.

[25] *Id.*

[26] If an alternate number is used, the customer must be able to receive assistance concerning his inquiries or be directed to the appropriate person or department for assistance.

statement identify and distinguish between those accounts and assets covered and not covered by SIPC.[27] According to these commenters, most financial entities have already addressed insurance disclosure and have established procedures to comply with the banking regulators' requirements.[28] Thus, requiring banks to specifically disclose to customers that deposit accounts, insured by the Federal Deposit Insurance Corporation (''FDIC''), are not insured by SIPC would create unnecessary customer confusion [29] and may create the illusion that the two types of coverage are comparable.[30] One commenter noted that this requirement imposes a disproportionate impact [31] on financial entities because they would be burdened with distinguishing between FDIC and SIPC coverage and educating the customer about the differences.[32]

In its response, the NYSE notes that it intended that member organizations be required to make the standard SIPC disclosures on their customer account statements and on summary statements where brokerage assets are included.[33] The NYSE understands that if read literally, the proposal could be construed as requiring summary statement participants to make ''negative'' disclosures (*i.e.*, specific identification of account assets or accounts *not* covered by SIPC); however, this was not its intent. Thus, with respect to SIPC disclosures on the summary statement, the Exchange has amended the proposed Interpretation to require that an entity disclose its membership status, not the status of the accounts or assets.[34]

Finally, most commenters expressed concern about the additional costs and burdens financial institutions will incur in attempting to comply with the summary statement aspect of this proposal.[35] These commenters contend that expanding the disclosure requirements to include, among other things, identifying each entity from which information is provided or where the assets are held and explaining the relationship between the various entities on the summary statement, would not only increase the cost of producing the statement,[36] but would defeat the purpose of a statement summary by increasing its length.[37] If the proposal is approved, the commenters suggest that those entities currently disseminating summary statements pursuant to NYSE rules either be grandfathered [38] or provided with a grace period to implement the changes.[39]

The NYSE has agreed that some flexibility in implementation is warranted. Thus, the Exchange has agreed to a one year phase-in period, commencing with Commission approval.[40]

IV. Discussion

The Commission believes that the proposed rule change is consistent with the Act and the rules and regulations promulgated thereunder. Specifically, the Commission believes that approval of the proposed rule change is consistent with section 6(b)(5) [4] of the Act. Pursuant to Section 6(b)(5), the proposed rule change benefits the public [42] by codifying the information to be disclosed and delineating the criteria for the use of third party agents in formulating and disseminating statements of accounts to customers. Exchange Rule 409 also benefits the public by establishing requirements for related financial entities to consolidate account information and distribute this information in a ''summary statement'' to their common customers. These summary statements will provide customers not only with an overview of their accounts at the separate entities, but with concise, detailed information that is easily accessible.[43]

Codifying the information to be disclosed on statements of accounts assures customers of consistency in the type of information received on their statements. It also establishes uniform standards which will be applicable to all Exchange members. The rule language establishes adequate procedures for members to follow if they chose to use third party agents to disseminate statements of accounts to their customers. The rule safeguards against possible conflicts of interest and requires that members who exercise this option, monitor the activity of the third party agents, to ensure accuracy of the information transmitted. Having members develop the requisite procedures and controls to monitor their agents' compliance with this rule should prevent the misuse of customer information.

A summary statement consolidating a customer's accounts from various related financial entities will provide the customer with convenient access to the information in a single document. The Commission agrees that if these statements are currently being produced and disseminated, then uniform requirements need to be established for member and non-member participants to follow. The Commission applauds the Exchange's efforts in establishing requirements that attempt to provide the customer with as much information as possible. However, the Commission believes there is a fine line between a useful summary statement and one that could prove misleading and could cause customer confusion. Consequently, we urge the Exchange to be sensitive to any concerns that may arise after the proposal is implemented.

The Commission also believes that allowing a one year phase-in period for implementation of the Interpretation will provide entities adequate time to comply with the requirements of the rule. Once the Interpretation is fully implemented, the resulting summary statement should achieve the Exchange's objectives while benefiting the customer through increased disclosure.

V. Conclusion

For the above reasons, the Commission believes that the proposed rule change is consistent with the

[27] Chase Letter, p. 4, Citibank Letter, pp. 1–2, CIS Letter, p. 2, and ABA Letter, p. 4.

[28] *Id.* The banking regulators' requirements are outlined in the Interagency Statement on Retail Sales of Non-deposit Investment Products, dated February 15, 1997 (''Interagency Statement''). *See also* Joint Interpretations of the Interagency Statement, dated September 12, 1995, (indicating that the banking agencies may seek to apply the Interagency Statement more broadly outside the bank than they do within the bank).

[29] Chase Letter, p. 4, Citibank, p. 1, and ABA Letter, p. 4.

[30] Citibank Letter, pp. 1–2.

[31] CIS Letter, (requiring additional disclosures will have an anti-competitive effect because NYSE Rule 409 will disproportionately affect banks, thus disadvantaging a class of NYSE competitors) at p. 2.

[32] ABA Letter, pp. 3–4.

[33] Amendment No. 1, p. 4.

[34] Amendment No. 2, p. 2.

[35] Chase Letter, p. 1, Citibank Letter, p. 3, CIS Letter, p. 2, and ABA Letter, p. 3.

[36] Chase Letter, p. 3, Citibank Letter, p. 3, CIS Letter, p. 3 and ABA Letter, p. 3.

[37] Chase Letter, p. 5 and Citibank Letter, pp. 3–4.

[38] Citbank Letter, p. 4.

[39] Chase Letter, p. 6 and Citibank Letter, p. 4.

[40] Amendment No. 1, p. 3.

[41] Section 6(b)(5) requires the Commission to determine that a registered national securities exchange's rules are designed to promote just and equitable principles of trade, and, in general, to protect investors and the public interest.

[42] Pursuant to Section 3(f) of the Act, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[43] The Commission notes that this approval order addresses the procedures that members and associated persons must follow to disseminate this customer information. The Commission, however, is not addressing the various entities' legal status or rights concerning this information.

provisions of the Act, and in particular with Section 6(b)(5).

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[44] that the proposed rule change (SR–NYSE–96–27) be, and hereby is approved, as amended.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[45]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26723 Filed 10–8–97; 8:45 am]

BILLING CODE 8010–01–M

[44] 15 U.S.C. 78s(b)(2).

[45] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39178; File No. SR–PHLX–97–39]

Self-Regulatory Organizations; Notice of Filing of Proposed Rule Change by the Philadelphia Stock Exchange, Inc. Regarding ITSFEA Supervisory Procedures

October 1, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 18, 1997, the Philadelphia Stock Exchange, Inc. (''PHLX'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit 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

PHLX, pursuant to Rule 19b–4[2] of the Act, proposes to amend Exchange Rule 761, Supervisory Procedures Relating to the Insider Trading and Securities Fraud Enforcement Act of 1988 (''ITSFEA''), and Floor Procedure Advice F–13, in order to broaden the scope of their applicability. The text of the proposed rule change may be examined at the places specified in Item IV below.

II. Self-Regulatory Organization's Statement of, the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of, the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

On April 16, 1992, the Exchange received approval to implement Exchange Rule 761[3] which imposed supervisory procedures on its floor units respecting ITSFEA. In 1993, the Exchange revised the rule in order to make minor changes for the sake of clarity.[4] The rule currently requires PHLX floor units to have every employee sign an attestation that he or she has read the most current version of the Exchange's ''Notice of Insider Trading'' and will ensure that the employer firm directly receives a duplicate account statement for all accounts in which the employee maintains a beneficial interest. Further, the rule requires all floor units to make and keep current an ''ITSFEA Account List'' and review all accounts listed with a view towards identifying possible misuse of material non-public information.

Currently, the rule only applies to PHLX floor units. Now, however, the PHLX has become the designated examining authority (''DEA'') for approximately eighteen firms over the past few years which do not have a floor presence. These firms are not now subject to the rule, and because no other self regulatory organization (''SRO'') is their DEA, they are exempt from these requirements entirely. In order to rectify this situation, the Exchange is proposing to change the phrase ''PHLX floor unit'' to ''PHLX member organization'' in the rule. That way, the rule will apply to all PHLX member organizations, with the caveat that any member organization which is required to have ITSFEA supervisory procedures pursuant to rules of another SRO which is its DEA, will not also be subject to PHLX Rule 761. Thus, all PHLX member firms for which the Exchange is the DEA will be subject to this rule, regardless of whether they conduct business on the floor of the Exchange or not.

The second purpose of this rule change is to add commentary .01, which will provide that for the purpose of the rule, an employee will include ''every person who is compensated directly or indirectly by the member organization for the solicitation or handling of business in securities, including trading securities for the account of the member organization, whether such securities are those dealt in on the Exchange or those dealt over-the-counter.'' Thus, independent contractors as well as actual ''employees'' will be subject to the requirements of the rule. This language is similar to the language in Exchange Rule 604(d).

Finally, Floor Procedure Advice F–13, which mirrors the language of Rule 761, with the addition of a fine schedule under the Exchange's minor rule plan, also will be revised in the same manner as Rule 761.

2. Statutory Basis

The proposed rule change is consistent with Section 6 of the Act in general,[5] and particular, with Section 6(b)(5),[6] in that it is designed to promote just and equitable principles of trade, prevent fraudulent and manipulative acts and practices, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, as well as to protect investors and the public interest by assuring that the requirements of the ITSFEA rule are equally applied to all broker dealers and all persons who conduct a securities business for such broker dealers whether they are considered employees or independent contractors.

B. Self-Regulatory Organization's Statement on Burden on Competition

The PHLX does not believe that the proposed rule change will impose any inappropriate burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal**

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Securities Exchange Act Release No. 30597 (April 16, 1992), 57 FR 14855.

[4] Securities Exchange Act Release No. 33008 (October 4, 1993), 58 FR 52518.

[5] 15 U.S.C. 78f.

[6] 15 U.S.C. 78f(b)(5).

Register or within such longer period (i) as the Commission may designate, up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding; or (ii) as to which the PHLX consents, the Commission will:

A. by order approve such proposed rule change, or

B. institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW, Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW, Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PHLX. All submissions should refer to File No. SR–PHLX–97–39 and should be submitted by October 30, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[7]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–26722 Filed 10–8–97; 8:45 am]

BILLING CODE 8010–01–M

[7] 17 CFR 200.30–3(a)(12).

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Request of the Government of Suriname to be Designated a Beneficiary of the Caribbean Basin Economic Recovery Act; Request for Public Comment

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for public comment.

SUMMARY: Suriname has requested designation as a beneficiary country under the Caribbean Basin Economic Recovery Act. Interested parties are invited to submit comments relevant to the criteria to be examined in determining Suriname's eligibility for such designation.

DATES: Comments are due at USTR by October 30, 1997.

ADDRESSES: Comments should be addressed to: Susan Cronin, Director for Caribbean and Central American Affairs, Office of U.S. Trade Representative, 600 17th Street, N.W., Room 523, Washington, D.C. 20506.

FOR FURTHER INFORMATION CONTACT: Susan Cronin, Director for Caribbean and Central American Affairs, Office of United States Trade Representative, 600 17th Street, N.W., Room 523, Washington, D.C. 20506; (202) 395–5190.

SUPPLEMENTARY INFORMATION: The Caribbean Basin Economic Recovery Act (the ''CBERA'') (Title II, Pub. L. 98–67, as amended (19 U.S.C. 2701 et seq.)) authorizes the President to proclaim duty-free treatment for eligible articles from designated beneficiary countries in the Caribbean Basin. Suriname has requested designation as a beneficiary country under the CBERA.

Section 212(b) of the CBERA provides that the President shall not designate any country a CBERA beneficiary country—

(1) If such country is a Communist country;

(2) If such country

(A) Has nationalized, expropriated or otherwise seized ownership or control of property owned by a United States citizen or by a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens,

(B) Has taken steps to repudiate or nullify—

(i) Any existing contract or agreement with, or

(ii) Any patent, trademark, or other intellectual property of, a United States citizen or a corporation, partnership, or association which is 50 per centum or more beneficially owned by United States citizens, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of propriety so owned, or

(C) Has imposed or enforced taxes or other exactions, restrictive maintenance or operational conditions, or other measures with respect to property so owned, the effect of which is to nationalize, expropriate, or otherwise seize ownership or control of such property, unless the President determines that—

(i) Prompt, adequate, and effective compensation has been or is being made to such citizen, corporation, partnership, or association.

(ii) Good-faith negotiations to provide prompt, adequate, and effective compensation under the applicable provisions of international law are in progress, or such country is otherwise taking steps to discharge its obligations under international law with respect to such citizen, corporation, partnership, or association, or

(iii) A dispute involving such citizen, corporation, partnership, or association, over compensation for such a seizure has been submitted to arbitration under the provisions of the Convention for the Settlement of Investment Disputes, or in another mutually agreed upon forum, and promptly furnishes a copy of such determination to the Senate and House of Representatives;

(3) If such country fails to act in good faith in recognizing as binding or in enforcing arbitral awards in favor of United States citizens or a corporation, partnership or association which is 50 per centum or more beneficially owned by United States citizens, which have been made by arbitrators appointed for each case or by permanent arbitral bodies to which the parties involved have submitted their dispute;

(4) If such country affords preferential treatment to the products of a developed country, other than the United States, which has, or is likely to have, a significant adverse effect on United States commerce, unless the President has received assurances satisfactory to him that such preferential treatment will be eliminated or that action will be taken to assure that there will be no such significant adverse effect, and he reports those assurances to the Congress;

(5) If a government-owned entity in such country engages in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent;

(6) Unless such country is a signatory to a treaty, convention, protocol, or other agreement regarding the extradition of United States citizens; and

(7) If such country has not or is not taking steps to afford internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974) to workers in the country (including any designated zone in that country).

Paragraphs (1), (2), (3), (5), and (7) shall not prevent the designation of any

country as a beneficiary country under this Act if the President determines that such designation will be in the national economic or security interest of the United States and reports such determination to the Congress with his reasons therefor.

Section 212(c) of the CBERA provides that the President, in determining whether to designate any country a CBERA beneficiary country, shall take into account—

(1) An expression by such country of its desire to be so designated;

(2) The economic conditions in such country, the living standards of its inhabitants, and any other economic factors which he deems appropriate;

(3) The extent to which such country has assured the United States it will provide equitable and reasonable access to the markets and basic commodity resources of such country;

(4) The degree to which such country follows the accepted rules of international trade provided for under the General Agreement on Tariffs and Trade, as well as applicable trade agreements approved under section 2(a) of the Trade Agreements Act of 1979;

(5) The degree to which such country uses export subsidies or imposes export performance requirements or local content requirements which distort international trade;

(6) The degree to which the trade policies of such country as they relate to other beneficiary countries are contributing to the revitalization of the region;

(7) The degree to which such country is undertaking self-help measures to promote its own economic development;

(8) Whether or not such country has taken or is taking steps to afford to workers in that country (including any designated zone in that country) internationally recognized worker rights.

(9) The extent to which such country provides under its law adequate and effective means for foreign nationals to secure, exercise, and enforce exclusive rights in intellectual property, including patent, trademark, and copyright rights;

(10) The extent to which such country prohibits its nationals from engaging in the broadcast of copyrighted material, including films or television material, belonging to United States copyright owners without their express consent; and

(11) The extent to which such country is prepared to cooperate with the United States in the administration of the provisions of this title.

Interested parties are invited to submit comments on the application to Suriname of some or all of these criteria for designation.

Public Comments

Interested parties must provide twelve copies of any comments, which must be in English and which must be received at USTR no later than 5 p.m., Thursday, October 30, 1997. If the comments contain business confidential information, ten copies of a non-confidential version must also be submitted. A justification as to why the information contained in the comments should be treated confidentially must be included in the comments. In addition, comments containing confidential information should be clearly marked ''confidential'' at the top of each page. The version that does not contain confidential information should be clearly marked ''public version'' or ''non-confidential'' at the top of each page.

Comments submitted in response to this notice, except for information granted ''business confidential'' status pursuant to 15 CFR 2007.7, will be available for public inspection shortly after the filing deadline, by appointment with the staff of the USTR Public Reading Room (202 395–6186).

Frederick L. Montgomery,

Chairman, Trade Policy Staff Committee.

[FR Doc. 97–26783 Filed 10–8–97; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Trade and Environment Policy Advisory Committee

AGENCY: Office of the United States Trade Representative.

ACTION: Notice that the October 21, 1997, meeting of the Trade and Environment Policy Advisory Committee will be held from 2:00 p.m. to 5:30 p.m. The meeting will be closed to the public from 2:00 p.m. to 5:00 p.m. The meeting will be open to the public from 5:00 p.m. to 5:30 p.m.

SUMMARY: The Trade and Environment Policy Advisory Committee will hold a meeting on October 21, 1996, from 2:00 p.m. to 5:30 p.m. The meeting will be closed to the public from 2:00 p.m. to 5:00 p.m. The meeting will include a review and discussion of current issues affecting U.S. trade policy. Pursuant to Section 2155(f)(2) of Title 19 of the United States Code, I have determined that this portion of the meeting will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of Trade policy, priorities, negotiating objectives or bargaining positions with respect to the operation of any trade agreement and other matters arising in connection with the development, implementation and administration of the trade policy of the United States. Those wishing to submit written comments on the meeting may submit them to Bill Daley, Jr., Office of the U.S. Trade Representative, 600 Seventeenth Street, N.W., Washington, D.C. 20508.

DATES: The meeting is scheduled for October 21, 1997, unless otherwise notified.

ADDRESSES: The meeting will be held at the Jefferson Hotel, 16th and M Streets, Washington, D.C., unless otherwise notified.

FOR FURTHER INFORMATION CONTACT: Bill Daley, Jr., Office of Intergovernmental Affairs and Public Liaison, Office of the United States Trade Representative, (202) 395–6120.

Charlene Barshefsky,

United States Trade Representative.

[FR Doc. 97–26847 Filed 10–8–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33470]

Central Kansas Railway, L.L.C.—Lease Exemption—Union Pacific Railroad Company

Central Kansas Railway, L.L.C. (CKR), a Class III rail common carrier, has filed a notice of exemption under 49 CFR 1150.41 to lease from Union Pacific Railroad Company (UP) and operate two rail lines totaling approximately 170.7 miles: (1) Between milepost 747.5, at Towner, CO, and milepost 491.20, at Bridgeport, KS; and

(2) Between milepost 530.6, at Lindsborg, KS, and milepost 545.0, at Sid, KS.

In conjunction with the lease of these lines, CKR will acquire incidental overhead trackage rights over UP's 6.30-mile rail line between milepost 545.0, at Sid, KS, and milepost 551.30, at Salina, KS.

The transaction is expected to be consummated on or after October 3, 1997.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of

a petition to revoke does not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33470, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Karl Morell, Esq., Ball Janik LLP, 1455 F Street, N.W., Suite 225, Washington, DC 20005.

Decided: October 1, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26837 Filed 10–8–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33465]

CSX Transportation, Inc.—Trackage Rights Exemption—East Tennessee Railway, L.P.

East Tennessee Railway, L.P. (ETRY), has agreed to grant overhead trackage rights to CSX Transportation, Inc. (CSXT), over main line trackage of ETRY between turnouts to be constructed at a point approximately 39 feet west of derail located on ETRY's #2 track and a point approximately 80 feet west of the west line of Buffalo Street in Johnson City, TN, a total distance of approximately 1,900 feet, exclusive of turnouts.[1] The transaction is expected to be consummated after completion of the construction of two connection tracks between CSXT and ETRY, but not earlier than October 2, 1997, the effective date of the exemption.

The purpose of the proposed trackage rights is to allow CSXT to rationalize approximately 1,900 feet of its trackage through Cherry Street in downtown Johnson City, TN, which is a high maintenance and high risk area in the City.

As a condition to this exemption, any employees affected by the trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

This notice is filed under 49 CFR 1180.2(d)(7). If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33465, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 and served on: Charles M. Rosenberger, Senior Counsel, CSX Transportation, Inc., 500 Water Street, J–150, Jacksonville, FL 32202.

Decided: October 2, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26836 Filed 10–8–97; 8:45 am]

BILLING CODE 4915–00–P

[1] CSXT is acquiring overhead trackage rights only and will not be allowed to perform any local freight service of any kind to ETRY's patrons at any point located on the joint trackage.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33388 (Sub=No. 2)] [1]1

CSX Transportation, Inc.—Construction and Operation Exemption—Connection Track at Willow Creek, IN

AGENCY: Surface Transportation Board (Board).

ACTION: Notice of exemptions.

SUMMARY: The Board, under 49 U.S.C. 10502, conditionally exempts from the prior approval requirements of 49 U.S.C. 10901 the construction by CSX Transportation, Inc., (CSX), Norfolk and Western Railway Company (NW), and Consolidated Rail Corporation (Conrail) of six connection track projects at Sidney, IL, Willow Creek and Alexandria, IN, and Greenwich, Sidney Junction, and Bucyrus, OH, subject to the results of the Board's environmental review and further decision.[2]

DATES: The exemptions cannot become effective until after the environmental process has been completed. At that time, the Board will issue a further decision or decisions addressing the environmental matters and establishing exemption effective dates, if appropriate. Petitions to reopen must be filed by October 29, 1997.

ADDRESSES: An original and 25 copies of all documents must be sent to the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, N.W., Washington, DC 20423–0001 ATTN: STB Finance Docket No. 33388 (Sub-Nos. 2–7). In addition, one copy of all documents in this proceeding must be sent to Administrative Law Judge Jacob Leventhal, Federal Energy Regulatory Commission, 888 First Street, N.E., Suite 11F, Washington, DC 20426 [(202) 219–2538; FAX: (202) 219–3289] and to petitioners' representatives: Charles M. Rosenberger, 500 Water Street-J150, Jacksonville, FL 32202; James R. Paschall, Norfolk Southern Corporation, Three Commercial Place, Norfolk, VA 23510–2191; and John J. Paylor, 2001 Market Street-16A, Philadelphia, PA 19101.

FOR FURTHER INFORMATION CONTACT: Julia M. Farr, (202) 565–1613. [TDD for the hearing impaired: (202) 565–1695.]

SUPPLEMENTARY INFORMATION: Additional information is contained in the Board's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: DC News & Data, Inc., 1925 K Street, N.W., Suite 210, Washington, DC 20006. Telephone (202) 289–4357.

Decided: October 1, 1997.

By the Board, Chairman Morgan and Vice Chairman Owen.

Vernon A. Williams,

Secretary.

[FR Doc. 97–26838 Filed 10–8–97; 8:45 am]

BILLING CODE 4915–00–P

[1] This proceeding also embraces the following: STB Finance Docket No. 33388 (Sub-No. 3), *CSX Transportation, Inc.—Construction and Operation Exemption—Connection Tracks at Greenwich, OH;* STB Finance Docket No. 33388 (Sub-No. 4), *CSX Transportation, Inc.—Construction and Operation Exemption—Connection Track at Sidney Junction, OH;* STB Finance Docket No. 33388 (Sub-No. 5), *Norfolk and Western Railway Company—Construction and Operation Exemption—Connecting Track with Union Pacific Railroad Company at Sidney, IL;* STB Finance Docket No. 33388 (Sub-No. 6), *Norfolk and Western Railway Company—Construction and Operation Exemption—Connecting Track with Consolidated Rail Corporation at Alexandria, IN;* and STB Finance Docket No. 33388 (Sub-No. 7), *Norfolk and Western Railway Company— Construction and Operation Exemption—Connecting Track with Consolidated Rail Corporation at Bucyrus, OH.*

[2] These proceedings are related to STB Finance Docket No. 33388, *CSX Corporation and CSX Transportation, Inc., Norfolk Southern Corporation and Norfolk Southern Railway Company—Control and Operating Leases/Agreements—Conrail Inc. and Consolidated Rail Corporation* (*CSX/NS/CR*). In *CSX/NS/CR*, Decision No. 9, served June 12, 1997, we granted petitions for waiver that would allow CSX, NW, and Conrail to seek approval for construction of seven connection projects, including the connections proposed here, following the completion of our environmental review of the construction projects, and our issuance of further decisions exempting or approving the proposals, but prior to our approval of the primary application.

federal register

Thursday
October 9, 1997

Part II

Federal Deposit Insurance Corporation

12 CFR Parts 303, 337, et al.

Practice and Procedure: Golden Parachute and Indemnification Payments; Proposed Rule

Deposit Insurance Applications; Notice

Bank Merger Transactions; Notice

Domestic Branch Establishment Applications; Notice

Main Office or Branch Relocation Applications; Notice

Liability of Commonly Controlled Depository Institutions; Notice

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Parts 303, 337, 341, 346, 348, and 359

RIN 3064–AC02

Applications, Requests, Submittals, Delegations of Authority, and Notices Required To Be Filed by Statute or Regulation; Unsafe and Unsound Banking Practices; Registration of Transfer Agents; Foreign Banks; Management Official Interlocks; Golden Parachute and Indemnification Payments

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rule.

SUMMARY: The FDIC is proposing to amend its regulations governing application, notice and request procedures and delegations of authority by streamlining, modernizing and clarifying current policies and practices. Specifically, the FDIC proposes to offer qualifying well-capitalized and well-managed insured depository institutions and their holding companies expedited review procedures for several major types of filings, including deposit insurance, merger and branch applications. The agency also proposes to centralize substantially all filing procedures found throughout its rules within the regulation for ease of reference. Furthermore, the FDIC proposes to reorganize the requirements for each major application or notice type into a separate regulatory subpart that will contain all information necessary to submit a filing to the agency, as well as any relevant internal agency delegations of authority to approve or deny submissions. In addition, the agency is incorporating statutory changes to its application procedures made by the Economic Growth and Regulatory Paperwork Reduction Act of 1996. Finally, the FDIC is proposing technical amendments to related regulations to conform these changes.

This action is being taken in accordance with section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 which requires the federal banking agencies to review and streamline their regulations and policies in order to improve efficiency, reduce unnecessary costs, eliminate unwarranted constraints on credit availability, and remove inconsistencies and outmoded and duplicative requirements.

The proposal seeks to reduce burden on insured depository institutions by imposing regulatory requirements only where needed to address safety and soundness concerns or accomplish other statutory responsibilities of the FDIC. The proposed rule also strives to more closely align the FDIC's application processing regulations with those of the other federal banking agencies.

DATES: Comments must be received by January 7, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street), on business days between 7 a.m. and 5 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, NW., Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: *Division of Supervision:* Cary H. Hiner, Associate Director, (202) 898–6814; Jesse G. Snyder, Assistant Director, (202) 898–6915; Mark S. Schmidt, Assistant Director, (202) 898–6918. *Division of Compliance and Consumer Affairs:* Steven D. Fritts, Associate Director, (202) 942–3454, and Louise N. Kotoshirodo, Review Examiner, (202) 942–3599. *Legal Division:* Susan van den Toorn, Counsel, Regulation and Legislation Section, (202) 898–8707, and Nancy Schucker Recchia, Counsel, Regulation and Legislation Section, (202) 898–8885. *For administrative enforcement issues:* Grovetta N. Gardineer, Counsel, Compliance and Enforcement Section, (202) 736–0665, and Philip P. Houle, Counsel, Compliance and Enforcement Section, (202) 736–0758. *For foreign bank activities (Subpart J):* Jamey G. Basham, Counsel, Regulation and Legislation Section, Legal Division (202) 898–7265, and Christie A. Sciacca, Assistant Director, Division of Supervision (202) 898–3671, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION:

I. Background

Part 303 of the FDIC's regulations (12 CFR part 303) generally describes the procedures to be followed by both the FDIC and applicants with respect to applications, notices, or requests required to be filed by statute or regulation. Additional information concerning processing is contained in related FDIC statements of policy. Part 303 also sets forth delegations of authority from the FDIC's Board of Directors to the Directors of the Division of Supervision (DOS), the Division of Compliance and Consumer Affairs (DCA), the General Counsel of the Legal Division, the Executive Secretary, and, in some cases, their designees to act on certain applications, notices, requests, and enforcement matters.

The FDIC is proposing comprehensive revisions to part 303 as part of a systematic review of its regulations and policy statements undertaken in accordance with section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA) (12 U.S.C. 4803(a)). Section 303(a) of CDRIA requires the FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Office of Thrift Supervision (federal banking agencies) to streamline and modify their regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. The statute also requires each of the federal banking agencies to remove inconsistencies and outmoded and duplicative requirements from their regulations and written policies.

To initiate its CDRIA review, the FDIC published in the **Federal Register** a notice soliciting comment on its regulations and written policies. 60 FR 62345, December 6, 1995. In response to that request, the FDIC received four comments regarding part 303 and one comment concerning a related policy statement.

One commenter wrote that electronic filing of various reports and documents has the potential to reduce burden arising from compliance with filing requirements. In particular, the commenter noted that other governmental agencies already have recognized the benefits of electronic filing and that certain application procedures, such as applications to establish or relocate an office and applications relating to mergers are well-suited for electronic filing. The FDIC is working the other federal banking agencies in an attempt to adopt uniform filing forms for common applications and to have such forms filed electronically where possible.

Another commenter suggested that with regard to applications by insured state nonmember banks to establish a branch, move its main office, or relocate a branch pursuant to § 303.2(c), the regulations should reduce the regulatory burden of setting up shared automated teller machines (ATMs). Applications are no longer required for ATMs and

remote service units (RSUs) as a result of section 2205 of the Economic Growth and Regulatory Paperwork Reduction Act of 1996 (EGRPRA) (Pub. L. 104–208, 110 Stat. 3009), which excluded ATMs and RSUs from the definition of a ''domestic branch'' under section 3(o) of the FDI Act (12 U.S.C. 1831(o)). Therefore, the definition of ''branch'' in proposed § 303.41 excludes ATMs and RSUs.

With regard to section 32 notices (change in director or senior executive officer), a commenter suggested that exceptions be carved out for two of the three statutory triggering events. Section 32 of the Federal Deposit Insurance Act (FDI Act) required prior notice from a depository institution or holding company that (1) was chartered less than two years; (2) had undergone a change in control within the preceding two years; or (3) was not in compliance with minimum capital requirements or was otherwise in ''troubled condition.'' Section 2209 of EGRPRA subsequently amended section 32 by eliminating the prior notice requirement for institutions and holding companies that are chartered for less than two years or that have undergone a change in control within the preceding two years. However, institutions and holding companies that are not in compliance with minimum capital requirements or are otherwise in ''troubled condition'' remain subject to the prior notice requirement. As a result, this comment has been rendered moot.

One commenter questioned why current § 303.2(a)(4) includes a requirement that an application by an insured state nonmember bank to establish a branch, move its main office or relocate a branch contain a statement as to whether or not the site is included in or is eligible for inclusion in the National Register of Historic Places, including evidence that clearance has been obtained from the State Historic Preservation Officer (SHPO). As a federal agency, the FDIC is subject to the National Historic Preservation Act (NHPA) (16 U.S.C. 470 *et seq.*) which creates a mandatory review and consultation process for Federal undertakings that may affect properties included in or eligible for inclusion in the National Register of Historic Places maintained by the Secretary of the Interior. In order to comply with NHPA, the FDIC currently requests applicants to state whether the site is included in, or eligible for inclusion in the National Register and to provide evidence that clearance has been obtained from the SHPO. *See* 12 CFR § 303.2(a)(4). However, the proposed filing procedures at § 303.42(b)(5) modify the current requirements to provide that applicants submit a statement that clearance has been or will be obtained from the SHPO. In addition, the FDIC is undertaking a review of its statement of policy on the National Historic Preservation Act of 1966 as part of the CDRIA review process and is exploring the possibility of entering into a programmatic agreement with the Advisory Council on Historic Preservation which would greatly streamline the historic preservation review process, especially for those applications which do not involve a historic site. The FDIC expects to issue a revised statement of policy on NHPA in 1998.

Finally, the comment received on the FDIC's written policies concerned the statement of policy on Applications for Deposit Insurance. Discussion of the comment is contained in the revised statement of policy on Applications for Deposit Insurance published elsewhere in today's **Federal Register**.

The proposed revisions to part 303 seek to reduce regulatory burden on insured depository institutions, particularly upon state nonmember banks supervised by the FDIC. The proposed rule also strives to more closely align the FDIC's application processing regulations with those of the other federal banking agencies. Furthermore, the proposal reflects changes to the FDIC's application procedures made by EGRPRA.

II. Discussion

The proposed regulation meets the goals of section 303(a) of CDRIA in several important ways.

- New expedited processing procedures have been introduced for six application types which represent the majority of all filings (applications for deposit insurance, mergers, branches, consent to exercise trust powers, retirement of capital, and certain foreign banking activities).

During the first six months of 1997, the FDIC acted on 1615 applications, notices and requests. Approximately 1500 or 93 percent of these filings were of the type for which expedited processing or notice procedures would be available under this proposal. Under present regulations, only 130 of the filings acted upon during the first six months of 1997 actually took the form of notices with clear time frames for regulatory action. In addition to reducing processing time for filings submitted by well managed and well capitalized banks, the proposed expedited procedures will add more certainty to the timing of regulatory decision. This new approach will allow the FDIC to focus its resources on applications that do not fall within the new expedited review procedure and are therefore more likely to present safety and soundness risks or raise CRA or compliance concerns.

- The processing of some applications has been structured to act like notices. For example, applications to establish a branch or to relocate a main office or branch processed under expedited procedures will generally be deemed approved 21 days after receipt of a substantially complete application. Branch related applications represented more than 50 percent of all applications acted upon by the FDIC in the first six months of 1997.
- Regulations and guidelines issued by the federal banking agencies implementing common statutes have been made more uniform. This is particularly true for filings regarding mergers, changes in bank control, and changes in director or senior executive officer.
- Filing contents have been clarified and streamlined wherever practical. Examples include applications for a merger which qualifies as a corporate reorganization, a temporary office in an emergency or disaster situation, applications for deposit insurance for an interim institution in connection with a related merger transaction, and applications for continuation for deposit insurance by a state bank withdrawing from the Federal Reserve System.
- The procedural requirements for virtually all applications and notices have been centralized in part 303. Subpart A of the proposed regulation contains the general rules applicable to all filings. Each subpart that follows contains all of the procedural requirements for a particular application type. For example, subpart C on branching contains definitions applicable to that subpart, filing procedures, processing procedures, public notice provisions and delegations of authority. Subpart M contains miscellaneous filings that do not merit separate subparts. Subpart N contains all administrative enforcement action delegations.
- Delegations of authority from the FDIC's Board of Directors to the Directors of DOS, DCA, the General Counsel of the Legal Division, and the Executive Secretary to act on certain applications, notices, requests, and enforcement matters have been reviewed and updated.
- Duplicative and outdated material has been deleted from existing part 303. An example is eliminating application procedures for the establishment or relocation of a remote service facility,

which is no longer required pursuant to section 2205 of EGRPRA.

Concurrently with this proposal to amend part 303, the FDIC is publishing elsewhere in today's **Federal Register** two revised statements of policy on Applications for Deposit Insurance and Bank Merger Transactions for comment. The FDIC is also proposing elsewhere in today's **Federal Register** to rescind its statements of policy on Applications to Establish a Domestic Branch and Applications to Relocate Main Office or Branch, and to amend its statement of policy on Liability of Commonly Controlled Depository Institutions. The latter policy statement is being amended to move the application procedures to request a waiver of cross-guaranty liability from the policy statement to proposed part 303. It is recommended that interested parties read those policy statements in conjunction with the proposed regulatory text of part 303 and submit combined comments to the agency, if practicable.

In addition, the FDIC has already rescinded the following policy statements related to part 303 as unnecessary or duplicative:

- Changes in Control in Insured State Nonmember Banks (62 FR 24927, May 7, 1997)
- Applications, Legal Fees, and Other Expenses (62 FR 15479, April 1, 1997)
- Eligibility to Make Application to Become an Insured Bank Under Section 5 of the Federal Deposit Insurance Act (62 FR 15706, April 2, 1997)

The FDIC rescinded the first two statements of policy because any necessary substantive information contained in them has been moved to the proposed regulation or other policy statements. The third statement of policy was rescinded because the analysis was based on a provision of the FDI Act that was repealed by the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236).

III. Proposed Rule

The discussion below identifies and explains significant proposed changes to part 303. The FDIC requests general comments on all aspects of the proposed regulation as well as specific comments on certain issues as noted throughout the preamble. To aid the reader, a derivation table follows the preamble which relates the sections of proposed part 303 to current part 303, as well as other sections of the FDIC regulations which are being relocated to part 303.

A. Subpart A—Rules of General Applicability

Subpart A of part 303 clarifies and simplifies the rules generally applicable to processing of applications, notices and requests (filings) required by regulation or statute by reorganizing the definitions and general rules of procedure currently found in § 303.0 and § 303.6, respectively, into one subpart. Subpart A also explains the availability of expedited processing for an ''eligible depository institution'' (defined in proposed § 303.2(r)) and the criteria under which the FDIC may remove a filing from expedited processing. Further, subpart A contains general principles governing delegations of authority from the Board of Directors to certain FDIC officials, most of which are currently contained in § 303.10(a) and § 303.11 (a) and (b).

The availability of expedited procedures for several major types of filings (deposit insurance, branches, and mergers) as well as some other filings (for example, consent to exercise trust powers and reduce/retire capital stock or capital debt instruments) will reduce burden upon the banking industry by enabling banks and thrifts to undertake corporate activities more quickly. Expedited processing will also introduce more certainty into the application process for both applicants and interested parties by establishing fixed timeframes for decision and receipt of comment letters. Furthermore, centralizing in one subpart general information that was previously scattered throughout part 303 will make part 303 much easier to use for the public, bankers, attorneys and regulators.

In addition to reorganizing existing regulatory text into one subpart, subpart A also updates terminology, streamlines procedures, and reflects current FDIC policies and practices.

Definitions. Subpart A alphabetizes the definitions currently set forth in § 303.0 and adds several new definitions.

New definitions of ''applicant'' and ''filing'' were added for ease of drafting regulatory text and to add clarity and consistency. ''Applicant'' is intended to replace the terms ''insured depository institution,'' ''state nonmember bank'' or ''individual'' where they appear throughout part 303. The scope section of each subpart will explain whether particular filing procedures are applicable to all insured depository institutions or only to state nonmember banks. The term ''filing'' is intended to provide a convenient way to collectively refer to applications, notices, or requests, where appropriate throughout part 303. New definitions were also added for ''application'' and ''notice'' to clarify the distinctions between those types of filings.

A definition of ''insider'' was added to avoid duplication in several subparts. The current definition of ''protest'' found in § 303.0(b)(30) has been replaced with three terms (''comment,'' ''adverse comment,'' and ''CRA protest'') to distinguish among the types of comments that DOS and DCA may receive in connection with a pending filing. The term ''deputy director'' has been defined to include deputy directors of both DOS and DCA to reflect those positions. Also, a definition has been added for ''General Counsel'' of the FDIC. Further, the various types of Section 8 enforcement orders have been grouped under one category ''Section 8 orders''.

A new definition of ''eligible depository institution'' has been added to establish criteria that institutions must meet to qualify for expedited processing, as discussed below.

Definitions of ''Associate General Counsel for Compliance and Enforcement,'' ''regional manager,'' and ''remote service facility'' are being removed as obsolete or no longer necessary.

Expedited processing. Subpart A sets forth the general procedures for expedited processing, for which only an eligible depository institution qualifies. Proposed § 303.2(r) of subpart A defines the term ''eligible depository institution'' as a depository institution that meets the following five criteria: (1) Received an FDIC-assigned composite Uniform Financial Institutions Rating System (UFIRS) rating of 1 or 2 as a result of its most recent federal or state examination; [1] (2) received at least a satisfactory CRA rating from its primary federal regulator at its last examination; (3) received a compliance rating of 1 or 2 from its primary federal regulator at its last examination; (4) is well-capitalized; and (5) is not subject to any corrective or supervisory order or agreement. Although an institution must have a satisfactory or better CRA rating in order to qualify for expedited processing for any filing, the CRA performance of an institution will serve as a basis for decision only in connection with ''applications for a deposit facility'' as required by section 2903(2) of the Community Reinvestment Act (12 U.S.C. 2903(2)). Proposed § 303.5 sets

[1] An FDIC-assigned composite UFIRS rating may be based on the FDIC's own examination, or based on the review of examination reports prepared by state banking authorities or the other federal banking agencies.

forth those relevant filings for which an institution's CRA record will be taken into account (deposit insurance, mergers, and establishment or relocation of a branch or main office, including the relocation of an insured branch of a foreign bank). The FDIC believes that these five criteria for eligibility are appropriate to ensure that only well-capitalized, well-managed institutions that do not present any supervisory, compliance or CRA concerns receive expedited processing. The FDIC specifically requests comment on whether these standards for eligibility are appropriate.

It should be noted that the FDIC recently issued two proposed rules for comment which would revise and consolidate its international banking regulations (12 CFR part 347) and regulations governing the activities and investments of insured state banks and savings associations (12 CFR part 362). 62 FR 37748, July 16, 1997; 62 FR 47969, Sept. 12, 1997. These proposals also contain expedited procedures and definitions of an ''eligible'' type of institution which generally parallel proposed § 303.2(r) of subpart A, but add two additional criteria: (1) That the institution has been chartered and operating for at least three years; and (2) that the institution received a rating of 1 or 2 under the ''management'' component rating of the UFIRS at its most recent examination. The additional criteria may be appropriate in connection with the part 347 and 362 proposals to the extent that the eligibility criteria govern substantive issues beyond the question of whether an application should receive expedited processing. The FDIC will evaluate the necessity of the additional criteria in the context of parts 347 and 362 as it goes forward with those rulemakings.

Under § 303.11(c) of the proposed rule, expedited processing will be automatically given to institutions meeting the definition of an ''eligible depository institution'' (with a few exceptions where other conditions apply) upon determination by the appropriate regional director (DOS). Therefore, an applicant need not request expedited processing or even identify itself as an eligible institution. A filing may be removed from expedited processing pursuant to proposed § 303.11(c)(2) if: (1) For filings subject to public notice, an adverse comment is received that warrants additional investigation or review; (2) for filings subject to evaluation of CRA performance, a CRA protest is received that warrants additional investigation or review, or the appropriate regional director (DCA) determines that the filing presents a significant CRA or compliance concern; (3) for any filing, the appropriate regional director (DOS) determines that the filing presents a significant supervisory concern, or raises a significant legal or policy issue; or (4) for any filing, the appropriate regional director (DOS) determines that other good cause exists for removal. If a filing is removed from expedited processing, the applicant will be promptly informed in writing of the reason. For filings which the appropriate regional director has not been delegated authority to approve, the filing will generally be removed from expedited processing.

Computation of time. Previously, part 303 simply contained a cross-reference to § 308.12, which governs computation of time for purposes of the FDIC's rules of administrative procedure. The proposed rule clarifies that the FDIC uses a calendar day rule and begins computing the relevant period on the day after an event occurs (for example, the day after receipt of a filing or newspaper publication).

Effect of CRA performance on filings. This new section clearly states that CRA performance will be considered in connection with applications to establish a domestic branch or relocate a domestic branch or main office, merger applications, and deposit insurance applications, and clarifies that CRA applies to applications to relocate an insured branch of a foreign bank. Although this information is currently contained in part 345 (Community Reinvestment Act), the FDIC believes that an explicit statement concerning the filings covered by CRA better serves the public and the banking industry than providing a cross-reference.

Public notice. Current § 303.6(f)(4) reproduces a notice that institutions are required to use when publishing notice of a filing in a local newspaper. Under § 303.7(c) of the proposed rule, applicants are offered the choice of a sample notice or a list of contents which may be used to draft a notice tailored to the needs of the institution. This choice is designed to reduce burden on the banking industry by providing more flexibility.

Proposed § 303.7(b) adds a new provision requiring confirmation of publication. Promptly after publication, the applicant must mail or otherwise deliver a copy of the newspaper notice to the appropriate regional director (DOS). This is designed to avoid possible delays in processing if a defective notice is discovered.

Proposed § 303.7(d) reduces burden by providing that an applicant may publish a single public notice for multiple transactions provided that the notice includes an explanation of how the transactions are related and states the closing date of the longest public comment period that will apply. Further, § 303.7(e) of the proposed rule states that the FDIC may accept the publication of a single joint notice containing information required by both the FDIC and another federal banking agency or state banking authority provided that the notice states that comments must be submitted to both agencies.

Public comments. Current § 303.6(f)(3) permits interested parties to comment upon a pending filing until the date of final disposition. Proposed § 303.9(a) provides that comments would be accepted only during a defined comment period in order to add certainty to the filing process for both the public and the applicant. Closing the comment period on a date certain eliminates the risk of final action being delayed due to a late comment or of final action being taken while a comment is in the process of being transmitted to the FDIC.

In order to provide the public with adequate time to submit meaningful comments, proposed § 303.9(b)(2) grants the appropriate regional director (DOS) three bases upon which to extend or reopen the public comment period: (1) If the applicant fails to file all required information on a timely basis to permit review by the public or makes a request for confidential treatment not granted by the FDIC that delays the public availability of that information; (2) if any person requesting an extension of time satisfactorily demonstrates to the FDIC that additional time is necessary to develop factual information that may materially affect the application; or (3) for good cause. Good cause is currently the only basis for extension of the comment period under § 303.6(f)(3).

Further, proposed § 303.9(b)(4) clarifies that the FDIC will provide copies of all comments to the applicant and that the applicant will be given an opportunity to respond.

Hearings and other meetings. Proposed § 303.10 simplifies the current rules concerning hearing procedures contained in § 303.6 (h), (i), and (j) and updates those provisions to reflect current FDIC practices.

Decisions on filings. Proposed § 303.11 sets forth new provisions concerning multiple transactions, abandonment of filings, and nullification of decisions. With regard to multiple transactions, if all related transactions have been granted expedited processing, then the longest

expedited processing time will govern for all transactions. The proposed rule also codifies current FDIC practice concerning abandonment of filings. If an applicant does not provide additional information requested by the FDIC within the time period specified, the FDIC may notify the applicant that the filing has been deemed abandoned and processing has been discontinued. The proposal also contains three nullification provisions. The FDIC may nullify a decision on a filing if: (1) The agency becomes aware of any material misrepresentation or omission after rendering a decision; (2) the agency is not informed by the applicant of a subsequent material change in circumstances prior to rendering a decision; or (3) the decision is contrary to law, regulation, or FDIC policy, or granted due to clerical or administrative error, or a material mistake of law or fact. The FDIC believes these provisions are useful additions to part 303.

Appeals and petitions for reconsideration. Current § 303.6(e) contains the FDIC's procedures governing petitions for reconsideration of a denied filing. Proposed § 303.11(f) would clarify that these procedures cover only requests for reconsideration of filings that do not otherwise have appeal procedures provided by other regulation or written guidance, and that decisions to deny a hearing request are nonappealable.

As proposed, § 303.11(f)(2) provides that within 15 days of receipt of notice from the FDIC that its filing has been denied, an applicant may file a petition with the appropriate regional director containing either a resolution of the board of directors of the applicant authorizing filing, if the applicant is a corporation or other entity, or a letter signed by the individual(s) filing the petition, if the applicant is not a corporation or other entity. As under the existing rule, the filing must contain substantive information that for good cause was not previously set forth in the filing and specific reasons why the FDIC should reconsider its prior decision.

A regional director or deputy regional director (DOS or DCA) may approve, but not deny, a petition for reconsideration. However, the Director or Deputy Director (DOS or DCA) may approve or deny a petition. If the petition is granted, the filing will be reconsidered by the Board of Directors if the filing was originally denied by the Board of Directors or denied by the Director, Deputy Director, or an associate director (DOS or DCA). The Director or Deputy Director (DOS or DCA) will reconsider the filing if the filing was originally denied by a regional director or deputy regional director. Proposed § 303.11(f) also clarifies that a decision on a petition for reconsideration by the Director or Deputy Director (DOS or DCA) is a final agency decision and is not appealable to the Board of Directors.

The FDIC specifically seeks comment on its new petition for reconsideration procedures, which are designed to provide a more objective review. It should be noted that the FDIC has separate appeal procedures regarding material supervisory determinations such as examination ratings, material disputed asset classifications, determinations regarding violations of laws and regulations, etc. which were published in the **Federal Register** on March 25, 1995. 60 FR 15923. In addition, procedures for requesting a review of assessment risk classification and for revision of computation of quarterly assessment payments are contained in part 327. Therefore, proposed § 303.11(f) applies only to filings as that term is defined in part 303.

General delegations of authority. Proposed § 303.12 contains the general principles governing delegations of authority from the Board of Directors to FDIC officials. Some, but not all, of these principles are currently contained in §§ 303.10(a) and 303.11 (a) and (b). This proposed section states that the Board does not delegate its authority regarding matters covered in the FDIC's regulations unless such a delegation is specifically made. However, in matters where the Board has neither specifically delegated nor retained authority, FDIC officials may take action with respect to matters which generally involve conditions or circumstances requiring prompt action to protect the interests of the FDIC and to achieve flexibility and expedition in the exercise of FDIC functions under part 303. Delegations are to be broadly construed in favor of the existence of authority in FDIC officials who act under delegated authority, and any exercise of delegated authority by an official is conclusive evidence of that official's authority. The purpose of this broad construction is to promote the efficient operation of the FDIC, to allow the public to rely on actions of FDIC officials, and to discourage frivolous challenges to the exercise of delegated authority.

Delegations of authority to DOS and DCA officials. Proposed § 303.13 contains delegations of authority to DOS and DCA officials to enable them to carry out the FDIC's applications function.

Where a CRA protest is filed and remains unresolved, proposed § 303.13(a) delegates authority to the regional director or deputy regional director (DCA) to concur that approval of any filing subject to CRA is consistent with the purposes of CRA. Previously, receipt of a CRA protest caused a filing to be forwarded to Washington for review. This change in policy is expected to improve and expedite decision making by placing it closer to the source.

For purposes of determining when to commence processing of a filing, proposed § 303.13(b) delegates authority to DOS officials to determine whether a filing is substantially complete. This provision also is intended to clarify that the standard to initiate the processing period is the receipt of a substantially complete filing.

Proposed § 303.13(c) contains a delegation of authority permitting DOS officials to enter into memoranda of agreement pursuant to regulations of the Advisory Council on Historic Preservation which implement the National Historic Preservation Act (NHPA). This provision is currently found in § 303.8(g) of the FDIC's regulations and facilitates the agency's ability to comply with NHPA.

B. Subpart B—Deposit Insurance

Since passage of the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236), all proposed depository institutions or existing noninsured depository institutions that desire federal deposit insurance have been required to apply to the FDIC. This includes all nationally chartered banks, state or federally chartered savings associations, and state chartered banks, including state member banks.

Subpart B reorganizes and clarifies the filing and processing procedures for an applicant to follow in applying for deposit insurance for a proposed or existing noninsured depository institution, for an interim depository institution (when required), and for continuation of deposit insurance for a state bank upon withdrawing from membership in the Federal Reserve System. The proposal updates the regulation to reflect current statutory requirements and current FDIC policy for processing such applications. Subpart B also sets forth the delegations of authority and criteria under which DOS may approve such applications. The proposed rule should be read in conjunction with the FDIC's revised policy statement on Applications for Deposit Insurance found elsewhere in today's **Federal Register**. Substantive changes to the regulatory text are discussed below.

Expedited processing. Under expedited processing, an application for deposit insurance for a proposed depository institution which will be a subsidiary of an ''eligible depository institution'' or an ''eligible holding company'' will be processed within 60 days of receipt of a substantially complete application or 20 days after publication, whichever is later. Currently, deposit insurance applications are processed within 120 days. *See* FDIC Financial Institutions Letter 26–96 dated May 6, 1996. An eligible depository institution is defined in proposed § 303.2(r). An eligible holding company is defined in proposed § 303.22(a) as a bank or thrift holding company which has consolidated assets of $150 million or more; has an assigned composite rating of 2 or better; and has at least 75 percent of its consolidated depository institution assets in eligible depository institutions. If the FDIC does not act within the expedited processing period, it does not constitute an automatic or default approval. Public comment is invited on the definition of eligible holding company and the time frame for processing applications for deposit insurance under expedited review.

Public notice and comment period. Current regulations state that notice shall be published on the date the application is mailed or delivered to the regional director or not more than 30 days prior to that date. Under proposed § 303.23(a), notice would be published as close as practicable to the filing date but not more than five days before the filing date. This provides assurance that the public portion of the application file will be available for inspection during the comment period.

Currently, the notice informs the public that comments may be filed with the regional director at any time before processing of the application has been completed and that processing will not be completed earlier than the 15th day following either the date of publication or date of receipt of the application, whichever is later. Proposed § 303.23(a) would require that interested parties file comments with the regional director on or before the 15th day following the date of publication. Closing the comment period eliminates the risk of final action being delayed due to a late comment or of final action being taken while a comment is in the mail to the FDIC. The proposed 15-day comment period is considered adequate time for an interested party to provide comments. Also, the regional director may extend or reopen the comment period for good cause, such as when an interested party cannot provide comments within the 15 days for reasons beyond the party's control. Comment is invited on the adequacy of the 15 day comment period, especially in light of the ability of regional directors to extend or reopen the comment period under § 303.9(b)(2).

Application for deposit insurance for an interim depository institution. An interim depository institution is defined in proposed § 303.24(a) as an institution formed or organized solely to facilitate a merger transaction which will be reviewed by one of the four federal banking agencies and that the institution will not open for business. The filing will consist of a brief letter application and a copy of the related merger transaction. Also, newspaper publication requirements concerning the application for deposit insurance for an interim is being eliminated as unnecessary since public notice would be required for the merger transaction, which is considered to be the primary transaction. It is anticipated that the FDIC will consult with the federal banking agency reviewing the merger application and that final action on the deposit insurance application will be taken within 21 days after receipt of a substantially complete application. If additional review by the FDIC is warranted, the applicant will be so advised in writing.

Continuation of deposit insurance upon withdrawing from membership in the Federal Reserve System. Procedures are being simplified. Under § 303.25 of the proposal, the applicant would file a letter application containing the information specified in the regulation, including a new requirement that the application must contain a statement by the bank's management that there are no current outstanding or proposed corrective programs or supervisory agreements with the Federal Reserve System. If such programs or agreements exist, the application must contain a statement that the bank's board of directors is willing to enter into a similar agreement with the FDIC which would become effective upon the date of withdrawal from the Federal Reserve System. The regional director would notify the applicant in writing within 15 days of the date a substantially complete application is received that deposit insurance will continue upon termination of membership in the Federal Reserve System or that additional review will be necessary. If additional review is warranted, the regional director would inform the applicant in writing of the reasons and inform the applicant that it will be notified in writing of the FDIC's final decision regarding continuation of deposit insurance. Upon further review, the regional director may approve the continuation of deposit insurance or, if denial is deemed warranted, forward a recommendation for action by the FDIC Board of Directors.

Other changes. Current § 303.7(d)(1)(ii) lists a number of specific criteria that must be met before delegated authority can be exercised. The criteria relate to initial capitalization, legal fees and other expenses, projected profitability, investment in fixed assets and financial arrangements involving insiders, including stock financing arrangements. These criteria, which have been updated to reflect current policy, are discussed in the revised policy statement on Applications for Deposit Insurance which is simply cross-referenced in the proposed rule to avoid duplication.

Current § 303.7(d)(1)(iii)(A) states that authority to approve an application for deposit insurance may not be delegated to the regional director or deputy regional director where a protest under the Community Reinvestment Act (CRA) is filed. This provision is being revised to permit approval of a CRA-protested application by the regional director (DOS) or deputy regional director (DOS) where the protest has been reviewed by DCA, the regional director (DCA) or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA, and the applicant agrees in writing to any conditions imposed regarding the CRA.

Section 303.7(d)(1)(iii)(B) of the current regulation states that the authority to approve an application may not be delegated to a regional director or deputy regional director where: (1) There is direct or indirect financing by proposed directors, officers or 5 percent or more shareholders of more than 75 percent of the purchase price of the stock subscribed by any one shareholder; (2) there is aggregate financing of stock subscriptions in excess of 50 percent of the total capital offered; or (3) warehoused or trusteed stock exceeds 10 percent of initial capital funds. This provision is being eliminated because the revised policy statement contains a comprehensive discussion of financing that the FDIC believes provides adequate guidance. If proposed financing is not within the established guidelines, the regional director will forward a recommendation to the Director (DOS).

A new provision found at § 303.26(d)(2) would permit DOS to impose a condition which requires the maintenance of a leverage capital ratio of at least 8 percent throughout the first three years of operation of a depository institution while also providing an

adequate allowance for loan and lease losses. This clarifies the FDIC's long-standing position that the minimum ratio of 8 percent is to be maintained throughout the first three years of operation rather than only requiring that the ratio be at least 8 percent at the end of the third year of operation.

Under current § 303.7(d)(2)(i), authority to approve applications for deposit insurance by operating noninsured institutions is delegated to the regional director (DOS) or deputy regional director (DOS) only for those applicant institutions with total assets of less than $250 million. There is no such restriction on the authority of the Director or Deputy Director (DOS). Accordingly, this size limitation is being eliminated from the proposed regulation.

Other minor changes are made within the subpart to facilitate reorganization and clarification to produce a more concise and user-friendly regulation.

C. Subpart C—Establishment and Relocation of Domestic Branches and Offices

Subpart C reorganizes and clarifies the portion of part 303 that implements section 18(d) of the FDI Act which requires insured state nonmember banks to obtain the prior written consent of the FDIC in order to establish a domestic branch, relocate the main office, or relocate a branch. The most significant changes from the current regulation are provisions implementing expedited processing for eligible depository institutions, the addition of several new definitions, and the exclusion of remote service units, including automated teller machines and automated loan machines, from the definition of a branch. As proposed, applications filed by eligible depository institutions will be deemed approved 21 days after receipt of a substantially complete application, or 5 days after the expiration of the comment period, whichever is later. Additional technical requirements regarding the expedited procedure apply to interstate branch applications. The average processing time for branch applications during the first six months of 1997 was 30 days. In addition to expedited processing, the proposed subpart contains two special provisions which provide further regulatory relief. One of these provisions gives advance consent for the relocation of a branch or main office in the event of a disaster or emergency and the other provision allows the regional director to waive publication required in the case of a redesignation of a main office and existing branch.

A section has also been added to allow the regional director (DOS) to approve an application under this subpart that is the subject of an unresolved CRA protest, provided the regional director (DCA) finds that approval of the application would be consistent with the purposes of CRA and the applicant agrees in writing to any nonstandard conditions imposed regarding CRA. This provision is expected improve decision making by placing it closer to the actual decision maker and avoiding unnecessary delays. In addition, the subpart adds provisions which implement relevant portions of the FDI Act regarding the establishment of interstate branches and implements changes contained in section 2205 of EGRPRA.

Finally, as part of the systematic review of its written policies pursuant to CDRIA, the FDIC is proposing elsewhere in today's **Federal Register** to rescind its Statement of Policy of Applications to Relocate a Main Office or Branch and Statement of Policy on Applications to Establish a Domestic Branch. Both statements are considered obsolete and unnecessary in view of the comprehensive approach taken in subpart C.

Scope. Proposed § 303.40 limits the scope of this subpart to applications regarding the establishment of domestic branches, and the relocation of a main office or domestic branch, including provisions regarding interstate branching. Excluded from the scope of the subpart are filings for the approval of the acquisition and establishment of branches in connection with a bank merger transaction. Proposed regulations for such filings are found in subpart D. The scope of the subpart also does not include filings by insured branches of foreign banks to relocate a branch or filings by state nonmember banks to establish a foreign branch. Proposed regulations regarding foreign banks and branches are contained in subpart J.

Interstate branching. The Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act) (Pub. L. 103–328, 108 Stat. 2338) became effective on September 29, 1994, and, among other things, amended the FDI Act to establish a federal framework for interstate branching effective June 1, 1997. Among the new interstate branching authorities added by the Interstate Act are a provision regarding the retention of branches after an interstate relocation of a main office and a provision regarding interstate branching through de novo branches.

Section 102(b)(3) of the Interstate Act adds a new paragraph (3) to section 18(d) of the FDI Act that permits a state nonmember bank, after the relocation of its main office to another state, to retain branches in its former home state. Home state means the state by which a state bank is chartered. This authority is, however, subject to certain limitations. A bank relocating its main office from one state to another may retain its branches in the original state only to the extent that the bank would be authorized, as a bank chartered in the new state, to establish or acquire those branches. As of June 1, 1997, an out-of-state bank may establish branches in another state only if it is authorized to establish such branches (i) as de novo branches under section 18(d)(4)(A) of the FDI Act, (ii) as a result of an interstate merger transaction under section 44 of the FDI Act, or (iii) as a result of an emergency assisted transaction under section 13(f) or 13(k) of the FDI Act. In effect, this provision means that a state nonmember bank can relocate its main office to another state and retain its existing branches in the original state if it could, as a bank chartered in the new state, establish those branches in the original state. Therefore, if the bank were considered to be chartered in such new state and could, with such other-state charter, establish those branches in the original state by means of an interstate de novo branch transaction, an interstate merger, or an emergency assisted transaction, then it can retain those branches. Accordingly, the proposed rule includes a requirement that an applicant seeking to relocate its main office interstate indicate whether the applicant intends to retain its existing home state branches.

Section 103(b) of the Interstate Act adds a new paragraph (4) to section 18(d) of the FDI Act that permits, subject to certain requirements and conditions, interstate branching through de novo branches. Under this authority the FDIC may approve an application by a state nonmember bank to establish and operate a de novo branch in a state that is not the bank's home state and in which the bank does not currently maintain a branch. In order to grant such approval, the FDIC must: (i) Determine that the host state (the state in which the bank seeks to establish a branch) has in effect a law that applies equally to all banks and expressly permits all out-of-state banks to establish de novo branches in such state, (ii) determine that the applicant has complied with the host state's filing requirements and has submitted to the host state a copy of the application it filed with the FDIC, (iii) determine that

the applicant is adequately capitalized and will continue to be adequately capitalized and adequately managed upon consummation of the transaction, and (iv) take the applicant's CRA record into consideration. Except for item (ii) in the foregoing listing, the FDIC generally has the resources needed to make the determinations required. Accordingly, among the application procedures included in this proposed rule is the requirement that the applicant request that the host state confirm in writing to the FDIC that the applicant has complied with the host state's filing requirements and has submitted a copy of its application with the FDIC to the host state supervisor.

Definitions. In § 303.41 of the proposal, the FDIC has added definitions for ''messenger service,'' ''mobile,'' ''temporary,'' and ''seasonal branches'' and, as noted above, ''de novo'' branches as well as definitions of ''home state'' and ''host state'' . In an effort to promote uniformity and increase the use of common terms, the definitions used in this subpart are similar to those used by other federal banking agencies.

With regard to the definition of ''branches,'' the proposed regulation at § 303.41(a) clarifies that remote service units, including automated loan machines, are not branches. The exclusion of automated teller machines and remote service units is a result of statutory changes contained in section 2205 of EGRPRA.

The definition of ''messenger services'' in § 303.41(a)(1) provides that branch applications will be required only for those messenger services operated by a bank or an affiliate that picks up and delivers items relating to transactions between the bank and its customer in which deposits are received, checks paid or money lent. A messenger service established and operated by a non-affiliated third party generally does not constitute a branch for purposes of this subpart. Banks contracting with third parties for such services should consult with the appropriate regional director (DOS) to determine if the messenger service constitutes a branch.

Section 303.41(a)(2) defines ''mobile branch'' as a branch service that does not have a permanent site and includes a vehicle that travels to various public locations and enables the applicant bank to conduct banking business with its customers. Because of the mobility inherent in such branches, they may serve regularly scheduled locations or may be open at irregular times and locations.

The definition of ''temporary branch'' contained in § 303.41(a)(3) clarifies that a bank may operate such a branch as a public service such as during an emergency or disaster to provide necessary banking services. A temporary branch can be approved for a period not to exceed one year. Such a time period should provide sufficient time for the applicant to restore appropriate services to the community.

The definition of ''seasonal branch'' in § 303.41(a)(4) provides that such a branch operate at periodically recurring intervals, such as during state fairs. This definition differs from the temporary branch in that once an application is approved for a seasonal branch, the applicant bank may return to that site on a recurring basis without the need to reapply.

''Branch relocation'' is defined in § 303.41(b) as a move within the same immediate neighborhood of the existing branch that does not substantially affect the nature of the business of the branch or the customers of the branch. Moving a branch to another location outside its immediate neighborhood is considered the establishment of a new branch and the closing of an existing branch.

The proposed regulation at § 303.41(c) defines a ''de novo branch'' to mean a branch of a bank which is originally established by the bank and which does not become a branch of such bank as a result of the acquisition, conversion, merger, or consolidation of an insured depository institution or a branch of an insured depository institution.

Definitions are also proposed for ''home state'' and ''host state'' at § 303.41 (d) and (e). A home state means the state by which the bank is chartered and host state means a state, other than the home state of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

Filing procedures. The proposed regulation also changes various application requirements. Changes address the timing of filing, the submission of copies of the publication, the inclusion of the geographic area in which a messenger service will operate, the inclusion of the community or communities in which a mobile branch will operate, and whether the mobile branch will serve various regularly scheduled locations or be open at irregular times and locations.

As proposed in § 303.42, an applicant must submit a letter application on the date the notice required by proposed § 303.44 is published or within 5 days after the date of the last required publication. Previously, applicants could file up to 30 days subsequent to the first publication date. By filing applications 5 days after the date of the last newspaper publication, banks are able to submit all copies of the newspaper publications required by the proposed regulation and the public will have the assurance that the application will be on file during the comment period.

Proposed § 303.42(b)(7) has been added to require applicants to submit a copy of each newspaper publication in addition to providing the date of publication and the name and address of the newspaper. In the past, applicants have been required to immediately notify the FDIC after the publication. Submitting a copy of the newspaper notice allows FDIC to verify publication and the contents of the notice.

The proposed regulation at § 303.42(b)(2) clarifies the filing procedures for messenger services and mobile branches. Since messenger services by their very nature are not serving a fixed location, the designation of a specific site for operation is not practical. Rather these types of branches will operate in defined geographic areas, such as a neighborhood, city or county. By approving such applications on a geographic area, banks will be able to operate freely without reapplying for changes to schedules. Filings relative to mobile branches however must disclose the community or communities to be served and the intention to serve defined locations on a regular schedule or to be open at varing times and locations. Knowledge of the community or communities to be served assists the FDIC in determining compliance with the applicable statutory and regulatory provisions relating to branch filings. Applicants must, however, reapply when the geographic area to be served changes.

Processing. Pursuant to proposed § 303.43(a), the FDIC proposes to expedite processing for eligible depository institutions. It is the FDIC's intent to reduce regulatory burden for well-run, well-managed institutions by providing expeditious approvals of routine applications to establish a branch or to relocate the main office or branch.

Pursuant to expedited processing procedures contained in proposed § 303.11(c), an application submitted by an eligible depository institution as defined in proposed § 303.2(r) will be acknowledged in writing by the FDIC and will receive expedited processing unless the FDIC removes the application from expedited processing for any of the reasons set forth in § 303.11(c)(2). Section 303.43(a) provides that the FDIC may remove an application from expedited processing at any time before

the approval date and will promptly notify the applicant in writing of the reason for such action. Absent such removal, an application processed under expedited processing will be deemed approved on the latest of the following: (1) The 21st day after receipt of a substantially complete application by the FDIC, (2) the 5th day after expiration of the comment period described in § 303.44 of this proposal, or (3) in the case of an application to establish and operate a de novo branch in a state that is not the applicant's home state and in which the applicant does not maintain a branch, the 5th day after the FDIC receives from the host state confirmation that the applicant has both complied with the filing requirements of the host state and submitted a copy of the application with the FDIC to the host state bank supervisor.

The automatic approval date for an application under expedited procedures provides an applicant with a firm date by which its application will be approved. Under the existing regulation, the FDIC can approve applications immediately after expiration of the comment period, but applications can also be approved much later.

For applicants not eligible for expedited processing, the FDIC will provide the applicant with written notification of the final action taken with regard to the particular application as soon as a decision is rendered.

Public notice requirements. The proposed regulation at § 303.44 generally would amend and clarify the publication requirements relating to relocating a main office and establishing or relocating branch offices. It also provides for a specific time frame in which comments must be received.

The proposed section retains current newspaper publication requirements contained in § 303.6(f)(1)(ii) of the existing regulation, except for relocation of branches which will now require publication only in the community which the branch serves. A branch relocation can only occur in the same immediate neighborhood; hence, publication is needed in only one newspaper since it is likely that the one newspaper will cover all of the affected community. In such cases, the FDIC has deemed publication in the community in which the home office is located unnecessary. Furthermore, a single publication is consistent with the requirements of the other federal banking agencies. Section 303.44(a) continues the existing requirement that for applications to relocate a main office, publication must be made at least once each week on the same day for two consecutive weeks.

Currently in § 303.6, individuals may comment until processing of the application is completed. In order to eliminate the uncertainty regarding the close of the comment period, it is proposed that the comment period be limited as specified in § 303.44. Proposed § 303.44 provides that comments must be received by the appropriate regional director (DOS) within 15 days of the date of the last newspaper publication. Proposed § 303.9 provides for extension or reopening of the comment period in certain situations.

Special provisions. Section 303.45 of the proposed regulation adds several new provisions regarding procedures for opening temporary branches in emergency or disaster situations, re-designating a main office, and providing for the expiration of approved applications.

The proposed regulation at § 303.45(a) clarifies procedures relating to establishing temporary branches in emergency or disaster situations. The current regulation on branching contains no specific guidance on this issue. The FDIC recognizes the need in limited circumstances, such as emergency or disaster situations, where there exists a clear public need to continue banking services, that applicants may not be in a position to follow the normal application procedures for relocation of a main office or branch. As a result, the proposed regulation provides that in the case of an emergency or disaster at a main office or branch which requires that an office be immediately relocated to a temporary location, the applicant notify the appropriate regional director (DOS) within 3 days of such temporary location. In such limited cases, the FDIC will accept initial notification by whatever means appropriate. The FDIC is making this limited exception to allow for the public's need to have uninterrupted access to banking services. Such prior consent to relocate the office is appropriate because it may not always be possible for a bank to comply with the normal application procedures for relocating a main office or branch in such circumstances.

The proposal further provides that within 10 days of the temporary relocation resulting from the emergency or disaster, the bank shall submit a written filing to the appropriate regional director (DOS) that identifies the nature of the emergency or disaster, specifies the location of the temporary branch, and provides an estimate of the duration the bank plans to operate the temporary branch. Finally, depending on the particular circumstances, as part of the review process, the appropriate regional director (DOS) may waive public notice requirements.

Section 303.45(b) of the proposed regulation provides that in cases where an applicant desires to designate an existing branch as its main office and redesignate its main office as a branch, an application must be submitted to relocate the main office and to establish or relocate a branch, as appropriate. The appropriate regional director (DOS) may waive the public notice requirements in instances where an application presents no significant or novel policy, supervisory, CRA, compliance, or legal concern. Such waiver will be granted only within the applicant's home state.

With regard to the expiration of approvals, applications which have been approved by the FDIC to establish branches and to relocate main offices and branches currently have no expiration date. The FDIC believes that approvals should not remain in effect indefinitely because circumstances surrounding an application may change over time. Therefore, proposed § 303.45(c) provides that approval of an application expires if a branch has not commenced business or if a relocation has not been completed within 18 months of approval.

Delegation of authority. Section 303.46 of the proposed regulations adds a delegation for the appropriate regional director to approve interstate branches. Additionally, the proposed regulation provides for a delegation to permit approval of a CRA-protested application by the regional director (DOS) or deputy regional director (DOS) where the protest has been reviewed by DCA, and the regional director (DCA) or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA, and the applicant agrees in writing to any conditions imposed regarding CRA.

New § 303.46(c)(8) makes clear that the Board of Directors has not delegated authority to approve a branch application by a bank which the FDIC has determined is not reasonably helping to meet the credit needs of the community served by the bank in a host state pursuant to section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a).

The proposed regulation provides that appropriate regional directors may exercise delegated authority to act on applications for establishment of temporary branches or messenger services without a favorable resolution of the statutory factors in section 6 of

the FDI Act. This delegation recognizes the limited nature of these types of branches.

The proposed regulation eliminates an obsolete delegation of authority relating to applications to establish and operate new teller's windows, drive-in facilities, or any like office, as an adjunct to the main office or branch (including offices not considered branches under state law). Applications to establish a new teller's window, drive-in facility, or any like offices are required when such a facility is a branch office. If such facilities are extensions of already approved main office and branches, no application to establish the facility is necessary.

Other changes. Several other changes are proposed that affect the new subpart C. These modifications involve changing the term ''move a main office'' to ''relocate the main office,'' changing the term ''courier service'' to ''messenger service,'' and deleting provisions relating to remote service facilities.

Public comment. In addition to seeking public comments on the above revisions to subpart C associated with the establishment of branches and relocation of branches and the main office, the FDIC also seeks specific public comments on the following issues.

Comment period: Since the FDIC is proposing in § 303.44(b) to change from a comment period that was essentially open-ended in current § 303.6 to a specific time frame (*i.e.*, 15 days), the FDIC seeks comment on whether a 30-day comment period is more appropriate than the proposed 15 days and if so, the reasons why 15 days would not be a feasible period of time within which to submit comments.

Mobile branch applications: The FDIC is proposing that the geographic location for a mobile branch be designated as to which community or communities are to be served. The FDIC seeks comment on whether such a designation is appropriate. The FDIC also seeks comment on whether a new application should be required if a change is made in the community or communities to be served.

D. Subpart D—Mergers

Subpart D covers transactions subject to FDIC approval under the Bank Merger Act (12 U.S.C. 1828(c)). This includes mergers, consolidations, and similar transactions involving insured depository institutions (collectively, ''mergers''). This subpart gathers together from various sections of part 303 the existing provisions governing merger applications and reorganizes them to make the regulatory requirements easier to understand. Substantive changes have been made in processing procedures to reduce regulatory burden.

The principal changes proposed in subpart D include the addition of an expedited processing procedure (proposed § 303.64(a)); the modification and centralization of various definitions applicable to merger transactions, such as replacement of the term ''phantom merger'' used only by the FDIC with the more commonly-used ''interim merger'' (proposed § 303.61(c)); and the addition of references to other statutory or regulatory provisions often applicable to merger transactions. These references, included at § 303.62(b), are to the interstate merger provisions of section 44 of the FDI Act (12 U.S.C. 1831u), applications for deposit insurance, insurance fund conversion transactions, branch closings, prompt corrective action considerations, and certification of assumption of deposit liabilities.

The most significant change from the existing merger approval regulations is the proposed expedited processing procedure. This procedure would be available for transactions to which all parties are eligible depository institutions (as defined in proposed § 303.2(r)), and immediately following which the resulting institution would be well-capitalized. Under expedited processing, which is generally applicable only to merger applications that can be approved under delegated authority, the application would be acted upon by the latest of 45 days after the FDIC receives a substantially complete application; 10 days after the last newspaper publication of the notice of the proposed merger; 5 days after the FDIC receives the Attorney General's comments on the competitive impact of the merger; or, for an interstate merger, 5 days after the FDIC confirms that the applicant has satisfactorily complied with the filing requirements of the resulting institution's host state. An application that otherwise qualifies for expedited processing may be removed from such treatment for the reasons stated in subpart A, at proposed § 303.11(c)(2).

Among the new references mentioned above, the reference to deposit insurance applications at proposed § 303.62(b)(2) clarifies that the FDIC will not require a deposit insurance application to secure insurance coverage for an institution resulting from a statutory merger between a federally-chartered interim institution and an FDIC-insured institution, even if the resulting institution will operate under the interim federal charter. However, the FDIC will continue to require an application for deposit insurance if the entity merging with the interim federal institution is not insured and the parties wish the resulting institution to be insured.[2]

In addition to reorganizing and enhancing the merger application provisions to make them easier to use, the proposal reduces the procedural burden on applicants. For example, in addition to establishing an expedited processing procedure, the proposal would no longer call for copies of the charter or articles of incorporation of the resulting institution to be routinely submitted with a merger application. The proposal also simplifies the application requirements for mergers between institutions that are commonly-owned outside of a bank holding company structure by treating such transactions as ''corporate reorganizations'' (proposed § 303.61(b)).

Further, in order to add predictability to the procedure for receiving and reviewing public comment on proposed mergers, the proposal provides that the comment period for non-emergency transactions will end on the 35th day after the applicant's first newspaper publication of notice of the merger (proposed § 303.65(d)). This period provides additional time for interested parties to respond to the final publication which occurs approximately on the 30th day. No change is being made to the public notice requirements for transactions determined to be an emergency requiring expeditious action.

The proposal also relaxes the FDIC's current practice of requiring that the first newspaper notice of the merger not be published until after the merger application is filed with the FDIC. Under the proposal, the applicant may publish its first notice up to 5 days before filing with the FDIC (proposed § 303.65(a)(1)).

With regard to CRA considerations, the proposal would expand the existing delegation to permit approval of a CRA-protested application by the regional director (DOS) or deputy regional director (DOS) where the protest has been reviewed by DCA, the regional director (DCA) or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA, and the applicant agrees in writing to any conditions imposed regarding the CRA (proposed § 303.66(b)(5)). This would modify the existing merger regulations, which provide that mergers

[2] The Board does not believe that it is consistent with the language or intent of the FDI Act to insure without FDIC approval an institution resulting from a combination of institutions that themselves have never been granted deposit insurance by the FDIC.

that are the subject of an unresolved CRA protest may be approved under delegated authority by senior supervisory officials in Washington, but may not be acted upon at the regional level.

The proposed rule eliminates consideration and favorable resolution of compliance with the National Environmental Policy Act (NEPA) (42 U.S.C. 4321 *et seq.*) as a criteria for DOS officials to exercise delegated authority to approve a merger transaction. This provision is currently found in § 303.7(b)(7)(ii). The FDIC has found that the physical environment is unlikely to be affected by the FDIC's consideration of bank merger transactions and that, typically, the provisions of the NEPA would not be implicated. Since the FDIC is in the process of reviewing its policy statement on NEPA, the agency believes it is not advisable to include a reference to NEPA in the proposed regulatory text.

The FDIC invites comment on all aspects of the proposed revisions to the merger provisions of part 303. Comments are more specifically invited regarding the expansion of the term ''corporate reorganization,'' elements of the expedited processing procedures as proposed for merger applications, and the inclusion of cross-references to related provisions. In addition, comment is sought on the proposal to require that comments regarding a particular merger application be filed with the FDIC no later than the 35th day after the first publication of notice of the merger.

E. Subpart E—Change in Bank Control

The FDIC proposes to reorganize, clarify, and simplify its regulation implementing the Change in Bank Control Act of 1978. The proposed changes, developed in consultation with the other federal banking agencies, attempt to harmonize the scope and procedural requirements of the FDIC's regulation with those of the other federal banking agencies and to reduce unnecessary burden.

The proposal defines the previously undefined term ''acting in concert'' to clarify the scope of the regulation. It also incorporates the current FDIC position that the acquisition of a loan in default that is secured by voting shares of an insured state nonmember bank is presumed to be an acquisition of the underlying shares. Further, the proposal lengthens the period of time for notifying the FDIC from 30 to 90 days for shares acquired in satisfaction of a debt previously contracted in good faith or through testate or intestate succession or a bona fide gift. In the case of shares acquired in satisfaction of a debt previously contracted, the proposal adds language that reflects FDIC practice of requiring the acquiror of a defaulted loan secured by a controlling amount of a state nonmember bank's voting securities to file a notice before the loan is acquired.

The proposal also would reduce regulatory burden on persons whose ownership percentage increases as the result of a redemption of voting shares by the issuing bank or the action of a third party not within the acquiring person's control. In these situations, the proposal would permit the person affected by the bank or third party action to file a notice within 90 calendar days after receiving notice of the transaction. Currently, these persons must file notice under the Change in Bank Control Act prior to the action that increases the person's percentage ownership, and, because these persons cannot control the third party action that causes the increased percentage ownership, they are often put in violation of the Change in Bank Control Act and the FDIC's Rules and Regulations.

The FDIC also proposes to provide more flexible timing for newspaper announcements of filings under the Change in Bank Control Act by permitting notificants to publish the announcement as close as practicable to filing the notice of change in control. The proposed rule removes the requirement that the notificant have confirmation that the FDIC has accepted the notice before publishing the announcement.

The FDIC also proposes to delete the provision governing notices filed in contemplation of a public tender offer which permits an acquiror to delay publication of the newspaper announcement. None of the other federal banking agencies has such a provision.

The FDIC invites comment on all of its proposed revisions to the regulation implementing the Change in Bank Control Act. In particular, the FDIC requests comment on whether the definition of ''acting in concert'' is appropriate, and whether there is reason to retain the public tender offer provision.

F. Subpart F—Change of Director or Senior Executive Officer

Section 32 of the FDI Act (12 U.S.C. 1831i) requires certain insured depository institutions and their depository institution holding companies to provide at least 30 days' prior notice to the appropriate federal banking agency before adding any individual to the board of directors or employing any individual as a senior executive officer. The agency may issue a notice of disapproval prior to expiration of the 30-day period if it determines, based upon the proposed individual's competence, experience, character or integrity, that it would not be in the best interests of the depositors or the public to permit the individual to be employed by, or associated with, the institution. Section 32 permits the agency to waive the prior notice requirement, but the agency may still disapprove an individual's association with the institution within 30 days after granting such a waiver.

Until recently, section 32 required prior notice from a depository institution or holding company that was chartered less than two years; had undergone a change in control within the preceding two years; or was not in compliance with minimum capital requirements or was otherwise in ''troubled condition.'' Section 2209 of EGRPRA amended section 32 by eliminating the prior notice requirement for institutions and holding companies that are chartered for less than two years or that have undergone a change in control within the preceding two years. However, institutions and holding companies that are not in compliance with minimum capital requirements or are otherwise in ''troubled condition'' remain subject to the prior notice requirement. In addition, EGRPRA provides that prior notice will be required if the agency determines, in connection with its review of a capital restoration plan required under section 38 of the FDI Act (governing prompt corrective action) or otherwise, that such prior notice is appropriate. Also, the EGRPRA amendments provide the agencies with more latitude to determine the prior notice period and allow the agencies up to 90 days to issue a notice of disapproval.

The FDIC published an interim rule implementing section 32 as applied to insured state nonmember banks on December 27, 1989 (54 FR 53040) and requested comments. The interim rule, which added a new § 303.14 to part 303 of the FDIC's regulations, remains in effect. Only seven commenters responded, and the principal issues raised concerned the definitions of ''change in control'' and ''troubled condition.'' Objections to the definition of change in control have been rendered moot by the EGRPRA amendments since a change of control within the preceding two years is no longer a triggering event for a section 32 notice. Two commenters objected to the definition of ''troubled condition.'' One objected to an insured

state nonmember bank being considered in troubled condition if it is subject to a cease-and-desist order on the grounds that not all such orders result from safety and soundness concerns and/or financial difficulties. The other commenter objected to the fact that an insured state nonmember bank can be designated in troubled condition based upon a visitation, examination, or report of condition. The proposed rule clearly indicates that only a cease and desist order or written agreement that requires action to improve financial condition of the bank triggers the designation of troubled condition. However, such designation may also be made based upon an examination or report of condition. The FDIC believes that it is appropriate to use all information it deems reliable in making such a designation.

The proposed regulation reflects the EGRPRA amendments to section 32 and reorganizes, clarifies, and simplifies notice procedures. The proposal also strives to harmonize the procedural requirements of the FDIC's regulation with those of the other federal banking agencies and to reduce any unnecessary regulatory burden.

Although the EGRPRA amendments appear to provide the agencies with authority to increase the prior notice period to 90 days, the FDIC proposes to retain the 30-day prior notice currently required by § 303.14. This established 30-day regulatory period has proven sufficient to process the majority of filings, and reflects the FDIC's time line for processing section 32 notices adopted in FDIC Financial Institutions Letter 26–96 dated May 6, 1996. However, the agency proposes to amend the regulation to allow the agency to take an additional period of up to 60 days, if necessary, to issue a notice of disapproval. It is anticipated that this additional 60-day period would be used infrequently. In all such cases, the notificant will be advised in writing prior to expiration of the 30-day prior notice period of the reason the FDIC could not take action and of the projected additional time needed.

Other than the revisions prompted by the EGRPRA amendments, there is little substantive change to the FDIC's regulation. Current § 303.14(c)(2)(ii) provides that if a new member of a bank's board of directors is elected at a shareholder's meeting, prior notice is automatically waived. However, notice must be filed with the appropriate regional director (DOS) within 48 hours after the election. Proposed § 303.103(c)(2) modifies this provision slightly to clarify that the automatic waiver applies to new board members not proposed by management and to state that the notice must be submitted within two business days, rather than 48 hours. Section 308.12 of the FDIC's regulations, which governs computation of processing time for purposes of part 303, refers to time in increments of days and not hours. This modification results in a more liberal computation of processing time in that intervening Saturdays, Sundays and federal holidays are not counted.

The FDIC invites public comment on retention of the 30-day processing timeframe (subject to a possible 60-day extension) and the change in the automatic waiver filing period. The agency also welcomes suggestions for further reducing unnecessary burden on insured state nonmember banks when reviewing changes in officers and directors, consistent with the requirements of section 32.

G. Activities and Investments of Insured State Banks

Subpart G is reserved for filing procedures related to activities and equity investments of insured state banks which are currently contained in part 362 (12 CFR part 362). Part 362 implements section 24 of the FDI Act (12 U.S.C. 1831a), which was created by the Federal Deposit Insurance Corporation Improvement Act of 1991 (Pub. L. 102–242, 105 Stat. 2236), and governs the circumstances in which insured state banks may engage in activities which are not permissible for national banks.

The FDIC recently issued a notice of proposed rulemaking to make comprehensive revisions to part 362. 62 FR 47969, Sept. 12, 1997. In connection with these revisions, the FDIC proposes to eliminate certain application procedures which are outdated, and also to authorize certain activities to be approved by the FDIC on an expedited basis. The FDIC cannot determine at this time whether its 362 proposal or this notice of proposed rulemaking to revise part 303 will be finalized first, but it is the FDIC's intent to place the part 362 application procedures relating to state bank activities in subpart G of part 303 at such time as both rules are final. In order to deal with this problem, the application procedures which implement the proposed revisions to part 362 concerning state bank activities are contained in subpart E of the 362 proposal. If the 362 proposal is finalized before this 303 proposal, insured state banks operating under the revised part 362 will look to subpart E of part 362 for application procedures until such time as part 303 is finalized, at which point the FDIC will transfer the application procedures from subpart E of part 362 to subpart G of part 303. If the 303 proposal is finalized first, insured state banks operating under the current version of part 362 will continue to look to the current version of part 362 itself for application procedures until the revisions to part 362 are finalized, and the application procedures which are proposed as subpart E of part 362 will be finalized as subpart G of part 303. Members of the public taking an interest in the FDIC's application procedures for the activities of insured state banks under part 362 should review the part 362 proposal for the specifics of such application procedures.

H. Subpart H—Filings by Savings Associations

The FDIC is also reserving subpart H for filing procedures related to activities of insured state savings associations and subsidiaries of insured savings associations, which are currently contained in § 303.13 of part 303 (12 CFR 303.13). Section 303.13 implements sections 28 and 18(m) of the FDI Act (12 U.S.C. 1831(e) and 12 U.S.C. 1828(m)), which were both created by the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (Pub. L. 101–73, 103 Stat. 484). Section 303.13 governs the circumstances in which a state savings association may engage in activities which are not permissible for a federal savings association, and also requires all insured savings associations to notify the FDIC prior to establishing a subsidiary or engaging in new activities through a subsidiary.

As part of the FDIC's recently-issued notice of proposed rulemaking to revise part 362, discussed above, the FDIC has proposed to address the substantive issues covered by § 303.13 as subparts C and D of a revised part 362. The proposal harmonizes, to the extent possible given the underlying statutes, the treatment of activities of insured state banks and the activities of insured state savings associations. In connection with these revisions, the FDIC proposes to eliminate certain application procedures which are outdated, and also to authorize certain activities to be approved by the FDIC on an expedited basis. The FDIC cannot determine at this time whether its 362 proposal or this notice of proposed rulemaking to revise part 303 will be finalized first, but it is the FDIC's intent to place the part 362 application procedures relating to savings associations in subpart H of part 303 at such time as both rules are final. In order to deal with this problem, the application procedures which implement the proposed revisions to

part 362 concerning savings associations are contained in subpart F of the 362 proposal. If the 362 proposal is finalized before this 303 proposal, existing § 303.13 will be rescinded in connection with finalizing part 362. Savings associations operating under the revised part 362 will look to subpart F of part 362 for application procedures until such time as part 303 is finalized, at which point the FDIC will transfer the application procedures from subpart F of part 362 to subpart H of part 303. If the 303 proposal is finalized first, existing § 303.13 will be preserved without substantive change on an interim basis in connection with finalizing part 303. Savings associations operating under § 303.13 will continue to look to § 303.13 for application procedures until the revisions to part 362 are finalized. In connection with finalizing part 362, § 303.13 will be rescinded, and the application procedures which are proposed as subpart F of part 362 will be finalized as subpart H of part 303. Members of the public taking an interest in the FDIC's application procedures for the activities of insured savings associations and their subsidiaries should review the part 362 proposal for the specifics of such application procedures.

I. Subpart I—Mutual-to-Stock Conversions

The FDIC is proposing to move the notice requirements for mutually owned state-chartered savings banks that propose to convert to stock form from § 303.15 to a separate subpart I. These notice requirements were adopted in final form on January 1, 1995. The intended effect of the rules is to ensure that mutual-to-stock conversions of FDIC regulated institutions do not raise safety and soundness concerns, breaches of fiduciary duty, or other violations of law. The substantive regulation regarding mutual-to-stock conversions would remain in § 333.4 of this chapter.

The FDIC also is proposing to provide for delegated authority in its mutual-to-stock conversion regulations. Some members of the industry have commented that the FDIC takes longer than necessary to act on conversion transactions. At the present time, all conversion notices are reviewed by the FDIC Board of Directors. The FDIC has gained considerable experience in reviewing notices to convert and the Board believes it is now appropriate to delegate authority to the Director and the Deputy Director (DOS) to issue notices of intent not to object. Such a delegation would apply only when the proposed conversion is determined not to pose a risk to the converting institution's safety and soundness, violate any law or regulation, present a breach of fiduciary duty, or raise any unique legal or policy issues. The Board believes that this delegation will allow the FDIC to act more promptly on routine notices and ease regulatory burden.

No other changes in procedures are being proposed. The public is invited to comment on any changes the FDIC could make to ease regulatory burden while ensuring that conversions do not raise supervisory concerns.

J. Subpart J—Foreign Bank Activities

Proposed subpart J addresses application requirements relating to the foreign activities of insured state nonmember banks and the U.S. activities of insured branches of foreign banks. The FDIC is proposing to make these application requirements easier to use and more streamlined by centralizing them in subpart J. Under the FDIC's current rules, these application requirements are located in various subsections of three different regulations: 12 CFR part 303, 12 CFR part 346, and 12 CFR part 347. The FDIC also is proposing to further streamline processing for several of these application requirements.

On July 15, 1997, the FDIC published a Notice of Proposed Rulemaking (part 347 NPR) which requests public comment on an FDIC proposal to revise the FDIC's rules on the foreign activities of insured state nonmember banks and the U.S. activities of insured branches of foreign banks. 62 FR 37748. Subpart D of the part 347 NPR includes four proposed application procedures designed to work with the substantive revisions made to the FDIC's international banking regulations under the part 347 NPR.[3] The FDIC cannot determine at this time whether the part 347 NPR or this notice of proposed rulemaking to revise part 303 (part 303 NPR) will be finalized first. To deal with the possibility that the part 303 NPR may be finalized before the part 347 NPR is finalized, this part 303 NPR contains interim versions of the same application procedures contained in subpart D of the part 347 NPR. The interim versions proposed here are designed to work with the existing versions of the FDIC's international banking regulations, and are different in several respects from the application procedures contained in subpart D of the part 347 NPR. Therefore, members of the public taking an interest in the FDIC's application procedures for international banking issues should review the part 347 NPR as well as this part 303 NPR.

If this part 303 NPR is finalized first, the four interim application procedures will remain in effect only until the part 347 NPR is finalized. In connection with finalizing the part 347 NPR, the FDIC will transfer the application procedures in subpart D of the part 347 NPR to subpart J of part 303 and rescind the interim procedures. If the part 347 NPR is finalized first, the interim procedures in this part 303 NPR will never be finalized, and the FDIC will make necessary technical amendments to transfer the application procedures in subpart D of the part 347 NPR to subpart J of part 303.

This part 303 NPR also contains two application procedures which are not of an interim nature: the procedure for moving an insured branch of a foreign bank, and the procedure for mergers involving an insured branch of a foreign bank. These two procedures are not impacted by the part 347 NPR.

Interim Application Procedures

Establishing, moving, or closing a foreign branch of a state nonmember bank. Section 18(d)(2) of the FDI Act (12 U.S.C. 1828(d)(2)) and § 347.3 require an insured state nonmember bank to obtain the FDIC's prior written consent before establishing a branch located outside the United States, its territories, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, or the Virgin Islands. Applications for these foreign branches are currently treated under the same process applicable for domestic branches under § 303.2. The FDIC proposes to treat foreign branches separately, since foreign branch applications are not legally required to be subjected to analysis under the CRA or factors under section 6 of the FDI Act, as is the case for domestic branches.

Under § 303.182 as proposed, the FDIC would give its general consent for an eligible depository institution (as defined by § 303.2(r)) to establish additional foreign branches in any jurisdiction in which the bank already operates a branch, or to move a branch within the jurisdiction.[4] Also, an

[3] These are the procedures for: (1) Establishing, moving, or closing a foreign branch of a state nonmember bank; (2) investment by state nonmember banks in foreign organizations; (3) exemptions from the insurance requirement for a state branch of a foreign bank; and (4) approval for an insured state branch of a foreign bank to conduct activities not permissible for federal branches.

[4] An application to establish a foreign branch is not an ''application for a deposit facility'' covered by the CRA, and the FDIC will therefore only take the insured state nonmember bank's CRA rating into account for purposes of determining whether the application receives expedited processing under

eligible depository institution that operates branches in two or more foreign jurisdictions may establish additional branches conducting approved activities in additional foreign jurisdictions under expedited processing procedures permitting the eligible depository institution to establish the branch 45 days after submitting its application to the FDIC.

The FDIC is proposing these general consent and expedited processing procedures because an insured state nonmember bank meeting the requirements of the provisions ordinarily should have sufficient familiarity with the implications of foreign branching, and be of sufficiently sound overall condition, that extensive FDIC review is not required. The FDIC retains the option to suspend these procedures as to any institutions for which this is not the case. For applicants seeking to establish a branch in an additional jurisdiction, the FDIC may also remove an applicant from expedited processing for any of the grounds specified in § 303.11(c) follows: (1) If the FDIC determines the filing presents a significant supervisory concern; (2) raises a significant legal or policy issue; or (3) if the FDIC determines other good cause exists for removal. The FDIC will promptly provide the applicant with a written explanation if the FDIC decides to remove a filing from expedited processing.

General consent and expedited processing are also inapplicable in any case presenting either of two special circumstances. Since the FDIC must have access to information about a foreign branch's activities in order to effectively supervise the institution, general consent or expedited processing do not apply if the law or practice of the foreign jurisdiction would limit the FDIC's access to information for supervisory purposes. In such cases, the FDIC must have an opportunity to fully analyze the extent of the confidentiality conferred under foreign law and whether it would, in light of all the circumstances, impair the FDIC's ability to carry out its responsibilities as a bank supervisor. In addition, if the proposed foreign branch has a direct adverse impact on a site which is on the World Heritage List[5] or the foreign jurisdiction's equivalent of the National Register of Historic Places (National Register), the FDIC may need an opportunity to evaluate the proposal in light of section 402 of the National Historic Preservation Act Amendments of 1989 (NHPA Amendments Act) (16 U.S.C. 470a–2).

Proposed § 303.182 also requires an insured state nonmember bank which closes a foreign branch to notify the appropriate regional director (DOS) that it has done so. This notice stems from the current requirement for such notice under § 347.3. The FDIC has previously determined that Congress did not intend section 42 of the FDI Act on branch closings to apply to foreign branches. Finally, proposed § 303.182 sets out the procedures for applications which are not eligible for the general consent or expedited processing procedures.

Acquisition of stock of foreign banks or other financial entities by an insured state nonmember bank. Section 18(l) of the FDI Act (12 U.S.C. 1828(l)) and § 347.4 require an insured state nonmember bank to obtain the FDIC's prior written consent before acquiring an ownership interest in a foreign bank or other financial entity. The current application procedures are set out in § 303.5(d). Since the current substantive provisions governing foreign investment at § 347.4 provide only relatively general guidance about the conduct of such activities, it is not possible for the FDIC to implement general consent and expedited processing procedures on an interim basis, and proposed § 303.183 contains no substantive changes from the current procedures. However, in connection with the FDIC's revisions of the foreign investment rules in the part 347 NPR, the FDIC has proposed general consent and expedited processing procedures.

Exemptions from the insurance requirement for a state branch of a foreign bank. Section 346.6 requires an uninsured state branch of a foreign bank to obtain the FDIC's consent if the branch proposes to accept initial deposits of less than $100,000 and such deposits are not otherwise exempted from the definition of retail deposit taking activity under § 346.6(a). The current application procedures are set out in § 346.6(b). These procedures need no substantive revision at this time, because the procedures were recently reviewed and amended by the FDIC as a result of amendments to the International Banking Act of 1978, Pub. L. 95–369, 92 Stat. 607 (12 U.S.C. 310l *et seq.*) made by the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994, Pub. L. 103–328, 108 Stat. 2338 (Interstate Act). 61 FR 5671 (Feb. 14, 1996).

Approval for an insured state branch of a foreign bank to conduct activities not permissible for a federal branch. Section 346.101 requires an insured state branch of a foreign bank to obtain the FDIC's permission to conduct any type of activity which is not permissible for a federal branch of a foreign bank. The current application procedures are set out in § 346.101 itself, which was recently adopted. 59 FR 60703 (Nov. 28, 1994). Thus, proposed § 303.187 does not make any substantive changes from the current procedures on an interim basis.

Noninterim Application Procedures

Moving an insured branch of a foreign bank. Section 18(d)(1) of the FDI Act requires any insured branch of a foreign bank which wishes to move from one location to another to obtain the FDIC's prior written consent. Applications for these insured branches currently are treated under the same process applicable to domestic branches of insured state nonmember banks under § 303.2. Since the FDIC's consent to these applications is legally subject to the same statutory considerations as applications to establish or relocate a domestic branch or to relocate the main office of an insured state nonmember bank, the FDIC is proposing an application process in § 303.184 which parallels proposed subpart C. This includes expedited processing for an eligible insured branch. Subpart J contains a proposed definition of ''eligible insured branch'' which parallels the general § 303.2(r) definition of ''eligible depository institution,'' with appropriate changes to take into account the different supervisory rating system and capital requirements applicable to insured branches.

Mergers involving an insured branch of a foreign bank. An insured branch of a foreign bank meets the definition of an insured depository institution under section 3 of the FDI Act (12 U.S.C. 1813) and is therefore subject to the Bank Merger Act. The FDIC's current rules and regulations do not include a specific application process for approvals of merger transactions involving an insured branch. In order to give insured branches conducting merger transactions which are subject to FDIC approval the benefit of the same streamlined application processing proposed for domestic institutions in subpart D, proposed § 303.185 contains appropriate cross-references to subpart

the general consent and expedited processing procedures.

[5] The World Heritage List was established under the terms of The Convention Concerning the Protection of World Culture and Natural Heritage adopted in November, 1972 at a General Conference of the United Nations Education, Scientific and Cultural Organization. Current versions of the list are on the Internet at http://www.unesco.org/whc/heritage.htm, or may be obtained from the FDIC Public Information Center, Room 100, 801 17th Street, NW, Washington, DC 20429.

D. Section 303.185 clarifies that an eligible insured branch as defined in subpart J generally is eligible for the expedited processing available to an eligible depository institution in subpart D. Similarly, § 303.185 clarifies that a transaction in which an insured branch is merged with other branches, agencies, or subsidiaries in the United States of the same foreign bank parent is eligible for disposition under the enhanced delegations applicable to corporate reorganizations.[6]

Section 303.185 also incorporates a point explained in Advisory Opinion FDIC–96–12 (May 13, 1996) concerning the treatment of an insured branch under section 44 of the FDI Act (12 U.S.C. 1831u) as added by section 102 of the Interstate Act. Section 44 permits the responsible federal regulator to approve an interstate merger transaction involving the acquisition of a branch of an insured bank without the acquisition of the entire bank, but approval is possible only if the state in which the branch is located expressly permits out-of-state banks to acquire a branch of the bank without acquiring an entire bank. In contrast, section 44 permits the responsible federal regulator to approve an interstate merger transaction involving the acquisition of an entire bank if the state in which the bank is located has not adopted legislation to opt out of interstate mergers. Section 303.185 treats interstate mergers involving an insured branch under the latter approach. Express state authority permitting out-of-state banks to acquire a branch of the bank without acquiring the entire bank is required only if a foreign bank has more than one insured branch in the affected state and proposes to sell fewer than all of them to the same acquiror. If such state authority does not exist, the FDIC requires the foreign bank to sell all of its insured branches in that state to the same affiliated or unaffiliated acquiror. As is explained in Advisory Opinion FDIC–96–12, the statute and definitions used in section 44 do not provide a conclusive answer to this issue, but the FDIC's approach gives effect to all of the language and purposes of the Interstate Act.

[6] If the foreign bank parent itself is not primarily engaged in business in the United States, and is involved in some merger or other combination outside the United States which does not result in a corresponding merger transaction in the United States with respect to an insured branch, section 18(c)(11) provides that no approval is required, since no party to the transaction is primarily engaged in business in the United States.

K. Subpart K—Prompt Corrective Action

Section 38 of the FDI Act, which governs prompt corrective action, restricts or prohibits certain activities based on an institution's capital category, and requires an insured institution to submit a capital restoration plan when it becomes undercapitalized. On September 15, 1992, the FDIC approved a final interagency rule implementing the requirements of prompt corrective action. The final rule, which became effective December 19, 1992, amended part 325 of the agency's regulations by defining five capital categories for purposes of implementing the prompt corrective action requirements. 57 FR 44900 (Sept. 29, 1992).

In conjunction with interagency action, the FDIC on January 26, 1993, approved amendments to part 303 to implement certain application procedures relating to prompt corrective action. The application procedures outlined in § 303.5(e) relate solely to activities that are prohibited unless prior written consent is granted by the appropriate agency. In addition, a new § 303.7(f)(1)(ix) was added to part 303 which provides delegation of authority to act on applications seeking prior consent to engage in certain restricted activities which are filed pursuant to the prompt corrective action regulations. These revisions to part 303 became effective on February 12, 1993. 58 FR 8219 (Feb. 12, 1993).

Subpart K does not substantially amend current procedures. The only substantive change is that a new paragraph has been added as § 303.207. This new section is derived from section 38(i)(2)(G) of the FDI Act, and relates to paying interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market area. Current § 303.5(e) contains a reference to activities listed in sections 38(i)(2) (A) through (F) of section 38, and the addition of item G completes the list of the seven activities which are prohibited for critically undercapitalized institutions unless prior FDIC approval has been granted.

As part of the reorganization of part 303, delegations previously contained in § 303.7(f)(ix) have been consolidated into subpart K and delegations previously contained in § 303.9(h), regarding directives and capital plans pursuant to section 38 of the FDI Act, have been consolidated with enforcement related delegations in subpart N. As subpart K applies only to the application process, it does not affect the general prompt corrective action regulations adopted as a part of the interagency rulemaking process.

L. Subpart L—Section 19 of the FDI Act (Consent to Service of Persons Convicted of Certain Criminal Offenses)

Section 19 of the FDI Act prohibits any person convicted of any crime involving dishonesty, breach of trust, or money laundering, or who has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for any such offense, from (i) continuing as or becoming an institution-affiliated party, (ii) owning or controlling directly or indirectly an insured depository institution, or (iii) otherwise participating in the conduct of the affairs of FDIC-insured depository institutions, without the FDIC's prior written consent.

Proposed subpart L does not substantially amend current section 19 application procedures, but rather brings together in one place information on section 19 which was previously contained in various sections of part 303. However, proposed § 303.222 has been added to clarify the FDIC's position that the prior consent of the FDIC is required before a person approved under section 19 to participate in the affairs of a particular institution may participate in the affairs of another insured institution. Delegations of authority to act upon applications filed pursuant to section 19 remains unchanged.

On July 24, 1997, the FDIC Board of Directors published for comment a proposed Statement of Policy on Section 19 which contains interpretations of the statutory language (62 FR 39840). Issues addressed in the statement of policy include what constitutes participation, who is a ''person'' under the statute, the meaning of ''own'' or ''control,'' procedures for filing a section 19 application, and the standards for granting consent to a section 19 application. The proposed rule should be read in conjunction with the proposed policy statement for a fuller understanding of the FDIC's position on section 19.

M. Subpart M—Other Filings

This subpart contains the procedural requirements and delegations of authority for miscellaneous filings which do not warrant treatment as separate subparts. In many instances, there were no regulations or guidelines established regarding procedures or content for submitting a filing to the FDIC. In addition, it was often unclear when the filing requirements were

applicable. Under proposed subpart M, all information relating to a particular filing has been brought together in a self-contained section under a standardized format. The FDIC believes that this will simplify the filing process for prospective applicants by setting forth this information in a single location.

Under the proposal, new expedited review procedures will be offered for applications to reduce or retire capital stock or capital debt instruments and applications to exercise trust powers. Expedited processing for brokered deposit waivers has been retained yet modified to parallel the requirements for an ''eligible depository institution'' in proposed § 303.2(r), with the exception of the well-capitalized criteria.

Application procedures currently found in part 359 (golden parachutes and indemnification payments) are being moved to subpart M. In addition, procedures for requesting a conditional waiver of cross-guaranty liability are being moved from the FDIC's Statement of Policy Regarding Liability of Commonly Controlled Depository Institutions to proposed subpart M. Finally, specific procedures are being added to address requests for relief from reimbursement under the Truth in Lending Act and Regulation Z.

Reduce or retire capital stock or capital debt instruments. Section 303.241 reorganizes, clarifies and simplifies procedures for applications to reduce or retire capital stock, notes or debentures pursuant to section 18(i)(1) of the FDI Act (12 U.S.C. 1828(i)(1)). Filing instructions are currently contained in the standard instructions for all applications for which no form of application has been prescribed (12 CFR 303.5(b)). Authority to approve or deny such applications is currently delegated at § 303.7(f)(1)(iii).

Under expedited processing, an application by an eligible depository institution (as defined in proposed § 303.2(r)) will be deemed approved 20 days after receipt by the appropriate FDIC regional director (DOS), unless the applicant is notified that the FDIC has removed the application from expedited processing. A recent increase in the number of applications to reduce or retire capital stock, notes or debt indicates to the FDIC that expedited processing will simplify and streamline the process for and be of benefit to state nonmember banks. The 20-day automatic approval period is based upon the processing time established in the FDIC's Application Processing Time Lines (FIL–26–96, May 6, 1996) and is supported by the average processing time for approval of these types of requests during 1996.

The information requested under the proposal is the basic information that is necessary to process a request pursuant to section 18(i)(1) of the FDI Act and is included to provide guidance to prospective applicants. The filing procedures and information requested do not impose additional requirements upon applicants but simply clarify existing practice.

Exercise of trust powers. Currently, §§ 303.5(b) and 303.7(a)(2) contain the general application procedures for the FDIC's prior approval to exercise trust powers. Sections 333.1, 333.2 and 333.101 provide the substantive basis for requesting such applications.

The FDIC proposes to amend part 303 to create a new section relating to trust applications that would bring together all the trust application procedures as well as the related delegations of authority into one centralized location. The proposal contains two exceptions to the application requirements. The first exception allows a state nonmember bank that received authority to exercise trust powers from its chartering authorities prior to December 1, 1950 to exercise trust powers without the FDIC's consent. The second exception permits an insured depository institution to continue to conduct trust activities pursuant to authority granted by its chartering authority following a charter conversion or withdrawal from membership in the Federal Reserve System.

The proposed procedures would require applicants to complete a trust application form obtained from any FDIC regional office and provides expedited processing for eligible depository institutions as defined in proposed § 303.2(r). Under expedited processing, an eligible institution's trust application will be deemed approved 30 days after receipt by the appropriate FDIC regional director, unless the applicant is advised in writing that its filing has been removed from expedited processing. For applications not processed pursuant to the expedited processing procedures, the FDIC will provide written notification of the final action taken with regard to the filing.

Brokered deposit waivers. The FDIC is proposing to reorganize its regulations regarding applications to accept brokered deposits by adequately capitalized insured depository institutions. The application procedures would be placed in this subpart M and the substantive rules regarding the acceptance of brokered deposits would remain in § 337.6. Procedures would not be substantially altered.

Applicants for a brokered deposit waiver cannot meet the strict definition of an ''eligible depository institution'' set forth in proposed § 303.2(r), regarding institutions eligible for expedited processing. The definition in § 303.2(r) requires eligible depository institutions to be ''well capitalized.'' Well capitalized institutions are not required to apply for a waiver prior to accepting brokered deposits. Therefore, for the purpose of determining eligibility for expedited processing for this subsection only, an adequately capitalized institution which otherwise meets the standards of § 303.2(r) will be deemed to be an eligible depository institution. Under the current regulation, any institution with a composite rating of 1 or 2 is eligible for expedited processing. The definition contained in § 303.2(r) contains additional qualifications for eligibility. The FDIC does not believe that there is a compelling reason to use a substantially different definition of eligibility for this subsection than that used for all other types of applications for which expedited procedures are available.

In moving the application procedures to part 303, the proposal would amend paragraph (c) of § 337.6 by referring the applicant to § 303.243 for filing instructions. Paragraphs (d) and (e) of § 337.6 would be deleted because the information in those paragraphs (involving filing procedures, delegations of authority, and expedited processing procedures) would appear in § 303.243.

Golden parachutes and severance plan payments. The FDIC is proposing to revise its regulations regarding applications to make excess nondiscriminatory severance plan payments and golden parachute payments by insured depository institutions or depository institution holding companies. The FDIC's regulations with respect to such payments are codified at part 359. Generally, troubled depository institutions as defined in the regulations are prohibited under part 359 from making severance plan payments and golden parachute payments, unless the institution obtains the consent of its primary federal regulator and, in certain circumstances, the FDIC.

Under the proposal, the substantive rules with respect to making such payments would remain unchanged in part 359 of the FDIC's regulations. The only changes to part 359 would appear in § 359.6, which involves ''Filing instructions.'' First, a reference to new § 303.244 of the FDIC's regulations would be added. Second, a sentence specifying the necessary elements of an

application would be deleted from § 359.6. These elements and the procedures for obtaining the consent of the FDIC would be set forth in the new § 303.244. The necessary elements would be expanded from two items to five items in § 303.244 in order to assist an applicant in preparing a complete filing. The filing procedures and information requested do not impose additional requirements upon applicants, but simply clarify existing requirements.

Waiver of liability for commonly controlled depository institutions. The application procedures for an insured depository institution to request a waiver of liability pursuant to section 5(e) of the FDI Act are new (12 U.S.C. 1815(e)). The FDIC Board of Directors recently approved revisions to the Statement of Policy Regarding Liability of Commonly Controlled Depository Institutions (62 FR 15480, April 1, 1997), which provides guidance to the industry as to the manner in which the FDIC will administer the provisions of section 5(e) of the FDI Act. The statement of policy is being further revised elsewhere in today's **Federal Register** to move the procedures for requesting a conditional waiver of the cross-guaranty liability to proposed § 303.245 and to include a cross-reference to § 303.245.

Insurance fund conversions. The FDIC is proposing to revise its regulations regarding filings for insurance fund conversions at § 303.246. The proposed revisions would reformat the filing requirements and delete references to and procedures regarding insurance fund conversions qualifying as exceptions to the insurance fund conversion moratorium imposed in section 5(d) of the FDI Act (12 U.S.C. 1815(d)(2)(A)(ii)). Such references and procedures are no longer necessary because the insurance fund conversion moratorium expired in the last quarter of l996 when the Savings Association Insurance Fund reached its designated reserve ratio.

Conversion with diminution of capital. Section 303.247 reorganizes and clarifies filing procedures pursuant to section 18(i)(2) of the FDI Act (12 U.S.C. 1828(i)(2)) to convert from an insured federal depository institution to a state nonmember bank where the capital stock or surplus of the resulting bank will be less than the capital stock or surplus, respectively, of the converting institution at the time of the shareholder's meeting approving such conversion. Filing instructions are currently contained in § 303.3(c) and § 303.5(b).

The information requested of the applicant under the proposal is the basic information that is necessary to process a request pursuant to section 18(i)(2) of the FDI Act. The filing procedures and information requested do not impose additional requirements upon applicants but simply clarify existing requirements.

A delegation of authority has been added to § 303.247 to allow the Director, Deputy Director, or where confirmed in writing, an associate director, regional director or deputy regional director (DOS) to approve conversions with diminution of capital. Authority to deny is delegated only to the Director and Deputy Director (DOS). At present, there is no delegated authority.

Continue or resume status as an insured institution following termination under section 8 of the FDI Act. Proposed § 303.248 covers applications by depository institutions for permission to continue or resume their insured status after termination of insurance under section 8 of the FDI Act (12 U.S.C. 1818). This section covers institutions whose deposit insurance continues in effect for any purpose or for any length of time under the terms of an FDIC order terminating deposit insurance. However, it does not cover any operating non-insured depository institution which was previously insured by the FDIC or any non-insured, non-operating depository institution whose charter has not been surrendered or revoked. Institutions not covered by this section would be required to file a *de novo* application for FDIC insurance. The contents of the filing under this section have been streamlined to require all relevant facts and reasons for the request and a certified copy of the resolution authorizing the request by the institution's board of directors.

Truth in Lending Act—Requests for relief from reimbursement and reconsiderations of denials. Proposed § 303.249 is intended to apply to requests for relief from reimbursement involving the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) and Regulation Z (12 CFR 226) (Truth in Lending cases). Currently, no specific procedures or timeframes are provided for Truth in Lending cases in part 303. Requests for relief from reimbursement are addressed pursuant to the procedures in § 303.6 which apply generally to applications, and requests for reconsideration of a request for relief following denial must be filed within 15 days under § 303.6(e), which governs petitions for reconsideration. Proposed § 303.249 sets forth new procedures specifically for Truth in Lending cases and provides that applicants may file initial requests for relief within 60 days after receipt of the compliance report of examination containing the request to conduct a file search and make restitution to affected customers. Requests for reconsideration following denial will continue to be handled under the FDIC's general petition for reconsideration provision, located at proposed § 303.11(f), which requires filing within 15 days of receipt of denial.

Modifications of conditions. Section 303.250 reorganizes and clarifies the procedures for requests to modify a previously issued FDIC approval of a filing. The instructions for these requests are currently contained in § 303.5(b). The relevant delegation of authority to approve or to deny such filings is contained in existing § 303.7(f)(l)(iv).

The information requested of the applicant under the proposal is the basic information that is necessary to process a request of this nature. The filing procedures and information requested do not impose additional requirements upon applicants, but simply clarify existing requirements. However, a new criteria for exercise of delegated authority by DOS officials is being added requiring Legal Division consultation to modify conditions if Legal Division consultation was required in connection with the original filing.

During 1995, the FDIC approved 15 requests to modify a prior approval, with an average processing time of 11 days. During 1996, the FDIC approved 14 such requests, with an average processing time of 15 days. Given the low volume of activity and the prompt processing of those requests, the FDIC believes that the creation of special expedited procedures is not warranted.

Extensions of time. Section 303.251 reorganizes and clarifies the procedures for requests seeking an extension of time to fulfill a condition required in an approval issued by the FDIC, or to consummate a transaction which was the subject of an approval by the FDIC. The instructions for these requests are currently contained in § 303.5(b). The relevant delegation of authority to approve or to deny such filings is contained in existing § 303.8(a).

The information requested of the applicant under the proposal is the basic information that is necessary to process a request of this nature. The filing procedures and information requested do not impose additional requirements upon applicants, but simply clarify existing requirements.

During 1995, the FDIC approved 31 requests for an extension of time, with an average processing time of 10 days.

During 1996, the FDIC approved 31 such requests, with an average processing time of 13 days. Given the low volume of activity and the prompt processing of those requests, the FDIC believes that the creation of special expedited procedures is not warranted.

N. Subpart N—Enforcement Delegations

Subpart N makes several significant changes to the FDIC's enforcement delegations of authority, as described below.

Section 8(a) notices of intention to terminate insured status. Under current § 303.9(a), authority has been delegated to the Director of DOS to issue notifications to primary regulator (NPRs) under section 8(a) of the FDI Act (12 U.S.C. 1818(a)), with Legal Division concurrence. If unsafe or unsound conditions or practices and violations of law cited in an NPR are not corrected, a notice of intention to terminate insured status (NIT) may be issued.

The Director of DOS, pursuant to an agreement with the Board of Directors, has not exercised delegated authority to issue NPRs, and has brought all such cases to the Board of Directors. Currently, when the Board issues an NPR, it also authorizes the Executive Secretary, with Legal Division concurrence, to issue an NIT, after being informed by DOS that an institution has not corrected the conditions, practices and/or violations of law cited in the NPR. Proposed § 303.262 would largely codify existing FDIC practice by delegating authority to issue NITs, but would modify existing FDIC practice by allowing the Director of DOS to issue NITs with Legal Division concurrence. This would speed matters since the Executive Secretary now relies on information received from DOS prior to issuing NITs.

Section 8(g) suspension and removal actions. Currently, authority is delegated to the Director and Deputy Director (DOS and DCA) and, when confirmed in writing by the Director, to an associate director, to issue orders of suspension or prohibition to any institution-affiliated party who is charged in any information, indictment or complaint, or who is convicted of or enters into a pretrial diversion or similar program, regarding any criminal offense cited in or covered by section 8(g) of the FDI Act, when such institution-affiliated party consents to the suspension or prohibition. Proposed § 303.266(b) contains a new delegation to issue orders of prohibition or suspension under section 8(g), regardless of whether or not the institution-affiliated party consents to the order, if the criminal offense is one for which section 8(g) mandates suspension or prohibition. The FDIC believes that such a delegation is appropriate since no discretion to issue this type of order is provided in the statute.

Consent section 8(q) orders terminating insured status. Section 8(q) of the FDI Act, 12 U.S.C. 1818(q), authorizes the issuance of consent orders terminating deposit insurance of an institution whose deposits have been assumed by another institution, whether by way of merger, consolidation, statutory assumption, or contract. Proposed § 303.268 codifies the current delegation of authority to the Executive Secretary of the FDIC to issue consent orders pursuant to section 8(q) of the Act. This authority was contained in a June 13, 1989 resolution of the Board of Directors and was not previously codified in part 303.

Civil money penalties. Proposed § 303.269 clarifies the FDIC's delegations of authority relating to the issuance of final orders to pay civil money penalties, whether or not a notice of charges has been issued in a case. Proposed § 303.269 also authorizes the Director (DOS) and Director (DCA) to take joint action where violations for which civil money penalties are authorized involved both safety and soundness and consumer compliance matters. The proposal further delegates the authority to levy and enforce civil money penalties for the late, inaccurate, false or misleading filing of Reports of Condition and Income, Home Mortgage Disclosure Act Reports, CRA loan data reports (*see* 12 CFR 345.42), and all other required reports.

Section 5(e) assessments of commonly-controlled institutions. Section 5(e) of the FDI Act, 12 U.S.C. 1815(e), permits the FDIC to recoup the amount of loss to the deposit insurance funds resulting from the failure of affiliated institutions or assistance provided to affiliated institutions. Proposed § 303.270 sets forth the authority to issue notices of assessment under section 5(e) of the Act, also known as cross-guaranty assessments.. This authority was not previously codified in 12 CFR part 303. The addition of this provision and the delegations of authority to the Director, Deputy Director and, where confirmed in writing, to an associate director of DOS to issue notices of assessment of liability, reflect the actual practice of the Board of Directors. Additionally, proposed § 303.278(j) provides that the Board expressly retains authority on whether or not to waive cross-guaranty assessments. This provision is new and was not previously codified in part 303.

Section 10(c) investigations. The legal authority of the General Counsel to issue orders of investigation pursuant to section 10(c) of the FDI Act contained in proposed § 303.272(b) is being expanded to include sections 8 through 13 of the FDI Act (12 U.S.C. 1818–1823) in order to cover post-conservatorship or post-receivership investigations conducted by the FDIC in connection with the possible liability of directors, officers, and other institution-affiliated parties. The requirement of the concurrent certification of the General Counsel for certain orders of investigation issued by the Director and Deputy Director of the Division of Resolutions and Receiverships is being added to be consistent with the current requirement for orders issued in certain specified situations by the Directors and Deputy Directors of DOS and DCA.

Acceptance of written agreements. Proposed § 303.274 continues in effect FDIC delegations of authority on acceptance of written agreements in lieu of orders to terminate deposit insurance and to issue cease-and-desist orders under sections 8 (a) and (b) of the Act (12 U.S.C. 1818 (a) and (b)). The Director (DOS) has delegated authority to enter into written agreements relating to section 8(a) of the Act and relating to safety and soundness matters under section 8(b) of the Act, while the Director (DCA) has authority to enter into written agreements under section 8(b) of the Act relating to consumer compliance matters. Proposed § 303.274(c) adds a new provision not previously codified in part 303, giving authority to the Director and Deputy Director (DOS) and (DCA) and, where confirmed in writing by the appropriate Director, to an associate director, or to the appropriate regional director or deputy regional director to enter into written agreements with insured institutions and institution-affiliated parties that contain conditions that must exist before the FDIC may issue a statement of non-objection to a filing under part 303.

Termination of pending actions—general. Proposed § 303.275 adds a new paragraph (h) which clarifies the time frames in which pending enforcement actions may be terminated or dismissed pursuant to delegated authority. The section provides that any pending enforcement action may be terminated or dismissed by the Director or Deputy Director of DOS or DCA, as appropriate, before the commencement of a hearing on the merits by an administrative law judge. Once a hearing on the merits has begun, the pending action may be dismissed or terminated by stipulation or consent of the affected parties no

later than 14 days after the administrative law judge has closed the record of the hearing. After this time, only the FDIC Board of Directors may terminate or dismiss an enforcement action. This provision was not previously codified in part 303.

Standards governing modification and termination of section 8(e) prohibition orders. The delegation of authority to the Director and Deputy Director (DOS) and (DCA), as appropriate and if confirmed in writing, to the associate director to modify and terminate orders of removal or prohibition under section 8(e) of the FDI Act (12 U.S.C. 1818(e)) may be found in proposed § 303.276(e). Proposed § 303.276(e) adds the standards articulated by the Board in FDIC enforcement decisions under which a removal or prohibition order may be modified or terminated. Those standards are as follows: (1) The respondent has demonstrated his/her fitness to participate in any manner in the conduct of the affairs of an insured depository institution, (2) the respondent has shown that his/her participation would not pose a risk to the institution's safety and soundness, and (3) the respondent has proven that his/her participation would not erode public confidence in the institution. Proposed § 303.276(e) also delegates authority to grant consent pursuant to section 8(e)(7)(B) of the Act for the modification of termination of outstanding section 8(e) orders issued by another federal financial regulator. These provisions are new and were not previously codified in part 303.

Enforcement authority vested in General Counsel. Proposed subpart N would vest authority in the General Counsel or, where confirmed in writing by the General Counsel, his or her designee, to provide Legal Division concurrence regarding all enforcement actions. This change reflects the General Counsel's position as the head of the Legal Division with ultimate prosecutorial authority over all enforcement actions.

IV. Other Regulatory Changes

A. Part 337 (Unsafe and Unsound Banking Practices)

The FDIC is proposing to amend § 337.6, which governs the acceptance of brokered deposits by insured depository institutions. A well capitalized insured depository institution may accept brokered deposits without restriction by § 337.6 while an undercapitalized institution may not accept brokered deposits under any circumstances. In the case of an adequately capitalized insured depository institution, a brokered deposit can be accepted but only if the institution has obtained a waiver from the FDIC. Under the proposal, the procedures for obtaining a waiver would be moved from § 337.6 to 12 CFR part 303. An institution seeking a waiver would be referred by § 337.6(c) to § 303.243. Paragraphs (d) and (e) of § 337.6 would be deleted because the information in those paragraphs (involving filing procedures, delegations of authority and expedited processing procedures) would appear in § 303.243. Paragraph (f) would be deleted because the 60-day transition rule prescribed by that paragraph (for the period beginning on June 16, 1992) is obsolete.

Additionally, § 337.6 would be amended to reflect certain changes in the statutory definition of ''deposit broker.'' Prior to these changes, the term ''deposit broker'' included ''any insured depository institution'' that solicits deposits by offering interest rates that significantly exceed the prevailing rates offered by other insured depository institutions in the same market area ''having the same type of charter.'' Through the Riegle Community Development and Regulatory Improvement Act of 1994 (*see* Pub. L. 103–325, 108 Stat. 2160, Sec. 337), Congress made two changes to this statutory definition. First, Congress changed ''any insured depository institution'' to ''any insured depository institution that is not well capitalized.'' The effect of this change was to relieve well capitalized institutions of the burden of reporting deposits with high interest rates as brokered deposits. Second, Congress removed the phrase, ''having the same type of charter.'' The effect of this change was to require a comparison between the interest rates of all insured depository institutions within a market area (as opposed to insured depository institutions with a particular type of charter). *See* 12 U.S.C. 1831f(g)(3). Under the proposal, the amended statutory language would be incorporated in the FDIC's regulatory definition of ''deposit broker'' at § 337.6(a)(5)(iii).

B. Part 346 (Foreign Banks)

The FDIC is proposing to move current § 303.8(f) from part 303 to part 346, without substantive change. Section 303.8(f) contains delegations for the Division of Supervision to accept the pledge agreements by which insured branches of foreign banks pledge assets for the benefit of the FDIC, to be used in the event the FDIC becomes obligated to pay the insured deposits of the insured branch. Section 303.8(f) also authorizes the General Counsel or designee to alter the model deposit agreement used. The FDIC is proposing to move the delegation to part 346 for ease of reference, in order to locate the delegation with the substantive pledge requirements to which the delegation applies. The delegation would be added as a new paragraph at the end of § 346.19 on pledge of assets.

C. Part 359 (Golden Parachute and Indemnification Payments)

The FDIC is proposing to amend 12 CFR part 359 by moving certain information from § 359.6 (''Filing instructions'') to 12 CFR part 303. The substantive rules in part 359 would remain unchanged. These rules govern the making of excess nondiscriminatory severance plan payments and golden parachute payments by insured depository institutions or depository institution holding companies. Generally, troubled depository institutions are prohibited under part 359 from making such payments unless the institution obtains the consent of the FDIC and/or the institution's primary federal regulator. Under the proposal, an institution seeking the consent of the FDIC would be referred by § 359.6 to § 303.244. Also, a listing of the necessary elements of an application would be moved from § 359.6 to § 303.244. These elements would be expanded in order to assist an applicant in preparing a complete filing.

V. Regulatory Text Deleted From Proposed Part 303

Some matters currently addressed in part 303 are not being included in the proposed revisions to part 303 because these matters will be covered elsewhere or are no longer needed. Those items are summarized below:

Section 303.2(c)—Special procedures for remote service facilities. Notice procedures for remote service facilities, along with related delegations of authority and the definition of ''remote service facility'' have been deleted because EGRPRA excludes such facilities from the definition of a branch.

Section 303.11(c)—Request for review. This section merely states that an aggrieved party may request the Board of Directors to review any action taken under authority delegated under §§ 303.7, 303.8, and 303.9. Numerous avenues already exist for appeal, such as those found under proposed § 303.11(f) (Appeals and petitions for reconsideration) and part 308 (Uniform Rules of Practice and Procedure). Broad authority to challenge delegations of authority seems unnecessary and is not in keeping with the Board's recent

resolution on delegations of authority which has been codified in part in proposed § 303.12 (General rules governing delegations of authority).

Section 303.12—OMB control number assigned pursuant to the Paperwork Reduction Act. This section is being deleted in its entirety because this same material also appears in § 304.7, Display of control numbers, of this chapter.

Several delegations of authority are also being eliminated:

Sections 303.7(f)(1)(vii) and 303.7(f)(2)(i)—Delegations regarding the Depository Institutions Management Interlocks Act. These delegations are being moved to part 348 (Management Official Interlocks) of this chapter.

Section 303.8(b)—Disclosure laws and regulations. The delegations related to part 335 (Securities of nonmember insured banks) are now contained in part 335 of this chapter. The delegations to administer part 341 (Registration of Securities Transfer Agents) are being moved to part 341 of this chapter.

Section 303.8(c)—Security devices and procedures and bank service arrangements. This is a delegation to administer the provisions of part 326 (Minimum Security Devices and Procedures). There are no longer any application procedures related to part 326, so therefore no delegations of authority are required.

Section 303.8(d)—In emergencies. This is a delegation to staff to manage the FDIC's affairs in the event an enemy attack renders the Board of Directors unable to perform its normal management functions. This delegation is being transferred to an internal Board resolution.

Section 303.8(h)—Application or notices for membership or resumption of business. This delegation permits DOS officials to provide comments to other federal regulators on applications or notices for membership in the Federal Reserve System, or for conversion of a state bank to a national bank. This delegation is being deleted as unnecessary since it is done as a matter of practice.

Section 303.8(i)—Depository Institutions Disaster Relief Act of 1992 (DIDRA). The provisions of DIDRA that were the subject of these delegations have expired.

VI. Initial Regulatory Flexibility Analysis

The Regulatory Flexibility Act (5 U.S.C. 601–612) (RFA) requires an agency to publish an initial regulatory flexibility analysis, except to the extent provided in 5 U.S.C. 605(b), whenever the agency is required to publish a general notice of proposed rulemaking for a proposed rule. Pursuant to subsections 603 (b) and (c) of the RFA, the FDIC provides the following initial regulatory flexibility analysis:

Reasons why agency action is being considered. The ''Supplementary Information'' section above contains this information.

Statement of objectives of and legal basis for proposed rule. The ''Supplementary Information'' section above contains this information.

Description and estimate of the number of small entities to which the proposed rule applies. The proposed rule applies generally to the approximately 6,300 state nonmember banks for which the FDIC is the primary federal regulator, regardless of size. As of June 26, 1997, there were 6,265 such institutions, 4,316 of which were small entities as defined by the RFA.[7] In addition, as indicated in the Scope paragraphs of the pertinent subparts, certain of the subparts apply to all depository institutions insured by the FDIC, regardless of size. As of June 26, 1997, there were 11,220 such institutions, 6,926 of which were small entities as defined by the RFA. Subpart B (Deposit Insurance) also applies to proposed depository institutions and operating noninsured institutions that seek to apply for FDIC deposit insurance, regardless of size. Based upon recent experience, the FDIC estimates that the proposed rule will affect a total of approximately 200 such entities per year, nearly all of which the FDIC would expect to be small entities as defined by the RFA. In limited circumstances, certain subparts apply more generally to other entities or persons, as defined by the respective subparts, making applications to the FDIC, regardless of size. Quantification of the number of such persons or small entities who will be affected by the proposed rule is not practicable. The FDIC believes that any economic impact on such small entities will be beneficial because the proposed rule serves to reduce regulatory burden. The FDIC invites the public to comment on this conclusion and will carefully review all comments received prior to issuing the final regulation.

Projected reporting, recordkeeping and other compliance requirements of the proposed rule. The proposed rule reorganizes, clarifies and simplifies the rules applicable to the processing of applications, notices and requests, and updates the regulation to reflect recent statutory changes. The FDIC expects that these proposed changes will reduce industry costs associated with regulatory filings and will decrease processing time associated with such filings. For example, branch applications for eligible institutions generally will be deemed approved 21 days after filing and expedited procedures have been introduced for certain merger and deposit insurance applications. Consistent with statutory amendments, the proposed rule eliminates the need for banks that have undergone a recent change in control or have been operating less than two years to file notices to add a director or senior executive officer, thus substantially reducing the number of required filings. Reorganization of part 303 so that all information relevant to the filing and processing of each particular application type in one concise subpart also serves to lessen burden. The proposed rule also more closely aligns the procedural requirements of the FDIC's regulations with those of the other federal banking agencies, thus reducing the burden which may be associated with interpreting the rules of more than one federal banking agency.

Identification of federal rules which may duplicate, overlap or conflict with the proposed rule. The ''Supplementary Information'' above contains this information.

Discussion of significant alternatives to proposed rule. The FDIC believes that the proposed rule is an alternative to the existing part 303 and provides economic benefits to small entities. The proposed rule reorganizes and consolidates the existing rule to make it easier for affected small entities to use. The reporting requirements have been clarified and simplified as a result of the FDIC's experience in administering the existing part 303. By streamlining application procedures and granting eligible depository institutions expedited processing of certain filings, the proposed rule enables small entities that qualify as eligible depository institutions to operate more efficiently. By reducing the regulatory burden associated with application procedures, the proposed rule reduces the resources small entities will have to devote to regulatory compliance. Because the majority of the filings required by the proposed rule are required by statute, elimination of the rule is not a viable alternative. The FDIC has carefully reviewed each of the existing filing and processing procedures and, where the applicable statutes provide some

[7] The RFA defines the term ''small entity'' in 5 U.S.C. 601 by reference to definitions published by the Small Business Administration. The Small Business Administration has defined a ''small entity'' for banking purposes as a national or commercial bank, savings institution or credit union with less than $100 million in assets. *See* 13 CFR 121.201.

flexibility, the FDIC proposes to revise existing part 303 in a way it believes best serves to reduce regulatory burden and streamline processing without compromising the safety and soundness of the banking industry.

The FDIC invites the public to comment on whether the proposed rule reduces regulatory burden and to provide the FDIC with suggested alternatives to those set forth in the proposed rule. The FDIC will carefully review all comments received prior to issuing the final regulation.

VII. Paperwork Reduction Act

The collections of information contained in this proposed rule and identified below have been submitted to the Office of Management and Budget (OMB) for review and approval in accordance with the requirements of the Paperwork Reduction Act of 1995 (PRA) (44 U.S.C. 3501 et seq.). Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the FDIC's functions, including whether the information has practical utility; (b) the accuracy of the estimates of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments should be addressed to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer Alexander Hunt, New Executive Office Building, Room 3208, Washington, DC 20503, with copies of such comments to Steven F. Hanft, Assistant Executive Secretary (Regulatory Analysis), Federal Deposit Insurance Corporation, Room F–4080, 550 17th Street NW, Washington, DC 20429. All comments should refer to ''Part 303.'' OMB is required to make a decision concerning the collections of information contained in the proposed regulations between 30 and 60 days after the publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of this publication. This does not affect the deadline for the public to comment to the FDIC on the proposed regulation.

Subpart C (Establishment and Relocation of Domestic Branches and Offices)

Section 18(d)(1) of the FDI Act (12 U.S.C. 1828(d)(1)) provides that no state nonmember insured bank shall establish and operate any new domestic branch or move its main office or any such branch from one location to another without the prior written consent of the FDIC after considering the factors enumerated in section 6 of the FDI Act (12 U.S.C. 1816). Subpart C of the proposed regulation sets forth the application requirements and procedures for insured state nonmember banks to establish a branch, relocate a main office, and relocate a branch subject to the approval by the FDIC. The information collected is used by the FDIC to evaluate the statutory factors and determine whether to grant consent. This collection of information has been approved by OMB under clearance number 3064–0070 through May 31, 1998. Public comment regarding this collection is being solicited because the proposed regulation would modify the OMB-approved collection by addressing the establishment and relocation of interstate branches and deleting remote service facilities from the section 18(d) application requirements.

Estimate of Annual Burden

Number of applications: 1,750.
Number of hours to prepare an application: 5.
Total annual burden hours: 8,750.

Subpart M (Other Filings); Section 303.242 (Exercise Trust Powers)

Section 333.2 of the FDIC's regulations (12 CFR 333.2) prohibits any insured state nonmember bank from changing the general character of its business without the prior written consent of the FDIC. The exercise of trust powers by a bank is usually considered to be a change in the general character of a bank's business if the bank did not exercise those powers previously because trust powers create a new fiduciary relationship. Therefore, unless a bank is currently exercising trust powers, it must file a formal application to obtain the FDIC's written consent to exercise trust powers. Section 303.242 of the proposed regulation sets forth the application procedures relating to the FDIC's prior approval to exercise trust powers. Each application submitted by a bank is evaluated by the FDIC to verify the qualifications of bank management to administer a trust department to ensure that the bank's financial condition will not be jeopardized as a result of trust operations. This collection of information has been approved by OMB under clearance number 3064–0025 through December 31, 1997. Public comment is being solicited because the collection is being modified to simplify and clarify the ''Application for Consent to Exercise Trust Powers'' form, and to eliminate a number of items of information required under the current form. In addition, the collection is being modified so that an ''eligible depository institution'' as defined in § 303.2(r) of the proposal will file an abbreviated application and will receive expedited processing by the FDIC.

Estimate of Annual Burden

Number of applications from ''eligible depository institutions'': 31.
Average number of hours to prepare an application: 8.
Annual burden hours: 248.
Number of applications from institutions that do not qualify as ''eligible depository institutions'': 5.
Average number of hours to prepare an application: 24.
Annual burden hours: 120.
Total number of applications: 36.
Total annual burden hours: 368.

Other Collections of Information

Proposed part 303 addresses collections of information in addition to subpart C and subpart M collections discussed above. Subpart B (Deposit Insurance) addresses a collection approved by OMB under clearance number 3064–0001 which expires on July 31, 2000. Subpart D (Mergers) addresses a collection approved by OMB under clearance number 3064–0015 which expires on September 30, 1998. The merger application collection will be the subject of an interagency solicitation of public comment concerning the PRA aspects of a single, interagency form for affiliated and nonaffiliated mergers. Subpart E (Change in Bank Control) addresses a collection approved by OMB under clearance number 3064–0019 which expires on January 31, 2000. Subpart F (Change of Director or Senior Executive Officer) addresses a collection approved by OMB under clearance number 3064–0097 which expires on January 31, 2000. Subpart G (Activities and Investments of Insured State Banks), addresses a collection approved by OMB under clearance number 3064–0111, and Subpart H (Filings by Savings Associations), addresses a collection approved under clearance number 3064–0104. Public comment about these two collections was sought in a notice of proposed rulemaking regarding 12 CFR part 362, ''Activities of Insured State Banks and Insured Savings Associations.'' 62 FR 47969, Sept. 12, 1997.

Subpart I (Mutual-to-Stock Conversions) addresses a collection approved by OMB under clearance number 3064–0117 which expires on

July 31, 2000. Subpart J (Foreign Bank Activities) addresses two collections approved by OMB under clearance numbers 3064–0114 and 3064–0125, both of which expire on July 31, 2000. Subpart K (Prompt Corrective Action) addresses a collection approved by OMB under clearance number 3064–0115 which expires on July 31, 1999. Subpart L (Section 19) addresses a collection approved by OMB under clearance number 3064–0018 which expires on July 31, 2000. Subpart M (Other Filings) § 303.241 (Reduce or retire capital stock or capital debt instruments) addresses a collection approved by OMB under clearance number 3064–0079 which expires on October 31, 1997. Public comment was sought about this collection on July 29, 1997 (62 FR 40525). A submission to renew 3064–0079 without change will be made to OMB in early October, 1997 at which time further comment will be solicited. Subpart M (Other Filings) § 303.243 (Brokered deposits) addresses a collection approved by OMB under clearance number 3064–0099 which expires on August 31, 1998.

The FDIC has reviewed these other collections of information and has concluded that either the proposed part 303 does not change the collection of information as approved by OMB in a way that requires that public comment be solicited or that the proposed changes have already been incorporated into recent OMB PRA submissions. Public comment and OMB review of these collections will occur as part of the regular cycle of review under the PRA. Nonetheless, the FDIC welcomes comment about the PRA aspects of this proposed regulation or any subpart of it. Comment specifically about PRA related issues should identify the Paperwork Reduction Act and any particular subpart and/or collection for which consideration is desired.

VIII. Derivation Table

This table directs readers to the provision(s) of the former regulation, if any, upon which the provision in the proposed rule is based.

Proposed Provision	Original Provision	Comments
303.1	303.0(a)	Revised.
303.2	303.0(b)	No change.
(a)	303.0(b)(13)	No change.
(b)	303.0(b)(29)	No change.
(c)	303.0(b)(30)	Revised.
(d)	303.0(b)(25)	No change.
(e)		Added.
(f)		Added.
(g)	303.0(b)(12)	Revised.
(h)	303.0(b)(6)	No change.
(i)	303.0(b)(26)	No change.
(j)		Added.
(k)	303.0(b)(1)	No change.
(l)	303.0(b)(30)	Revised.
(m)		Added.
(n)	303.0(b)(8)	Revised.
(o)	303.0(b)(3)	No change.
(p)	303.0(b)(2)	No change.
(q)	303.0(b) (4), (5)	No change.
(r)		Added.
(s)		Added.
(t)		Added.
(u)		Added.
(v)	303.0(b)(14)	No change.
(w)		Added.
303.2(x)		Added.
(y)		Added.
(z)	303.0(b)(24)	No change.
(aa)	303.0(b)(17)	No change.
(bb)	303.0(b)(15)	No change.
(cc)	303.0(b)(11)	No change.
(dd)	303.0(b)(7), (9)	Revised.
(ee)(1)	303.0(b)(16)	No change.
(2)	303.0(b)(18)	No change.
(3)	303.0(b)(19)	No change.
(4)	303.0(b)(20)	No change.
(5)	303.0 b(21)	No change.
(6)	303.0 b(22)	No change.
(ff)	303.0(b)(31)	No change.
(gg)	303.0(b)(27)	Amended.
(hh)	303.0(b)(28)	Amended.
303.3	303.0(a)	Revised.
303.4	303.6(l)	Added.
303.5		Added.
303.6	303.6(b)	Revised.
303.7(a)	303.6 (a), (c)	Revised.
(b)	303.6(f)	Revised.
(c)		Added.
(d)		Added.
303.8(a)	303.6(g)(1), (2)	Revised.
(b)	303.6(g)(3)	Revised.
303.9(a)	303.6(f)(3)	Revised.

Proposed Provision	Original Provision	Comments
303.9(b)(1)		Added.
(2)	303.6(f)(4)	Revised.
(3)	303.6(f)(5)	No change.
(4)		Added.
303.10(a)		Added.
(b), (c)	303.6(h)	Revised.
(d)		Added.
(e)	303.6(i)	Revised.
(f)	303.6(i)(2)	Revised.
(g)	303.6(j)(5)	Revised.
(h)	303.6(j)(1–4)	Revised.
(i)	303.6(j)(6)	Revised.
(j)	303.6(h)(3)	Revised.
(k)	303.6(k)	Revised.
(l)	303.6(l)	Revised.
(m)	303.6(m)	Revised.
303.11(a)	303.6(d)	Revised.
(b)		Added.
(c)		Added.
(d)		Added.
(e)		Added.
(f)	303.6(e)	Revised.
(g)		Added.
303.12(a)	303.11(a)	Added.
(b)		Revised.
(c), (d)	303.10(a)	Revised.
(e), (f)	303.11(a)(1)	Revised.
(g)		Added.
303.13	303.8(g)	No change.
303.20	303.1	Revised.
303.21	303.1	Revised.
303.22		Added.
303.23(a)	303.6(f)(1)	Revised.
(b)	303.6(f)(1)(ii)	No change.
303.24		Added.
303.25		Added.
303.26(a)(1)	303.7(d)(1)	Revised.
303.26(a)(2)	303.7(f)(1)(vi)	Revised.
303.26(b)	303.7(d)(2)	Revised.
(c)	303.7(d)(3)	Revised.
(d)	303.7(b)(4)	Revised.
303.27	303.10(b)(2)	Revised.
303.40(a)	303.2	Amended
(b),(c),(d)		Added.
303.41(a)	303.2(a) (footnote 2)	Revised.
(b)	303.2(a)	No change.
(c),(d),(e)		Added.
303.42(a), (b), (c), (d)	303.2(a)	Revised.
303.43(a), (b)		Added.
303.44(a)	303.6(f)(1)	Revised.
(b)	303.6(f)(3), (4)	Revised.
(c)	303.6(f)(2)	Revised.
303.45(a), (b), (c)		Added.
303.46(a), (b), (c), (d)	303.7(a)	Revised.
303.60		Added.
303.61(a)	303.3(a), (b)	Revised.
(b)	303.7(f)(1)(v)	Revised.
(c)	303.7(f)(1)(v)	Revised.
(d)	303.3(d)	Revised.
(e)		Added.
303.62(a)	303.3	Revised.
(b)		Added.
303.63(a)	303.3(a), (e)	Revised.
(b)	303.3(a)	Revised.
(c)		Added.
(d)	303.3(d)	Revised.
303.64(a), (b)		Added.
303.65(a), (b), (c), (d)	303.6(f)(1), (3)	Revised.
303.66(a)(1)	303.7(b), (f)	Revised.
(2), (3)		Added.
(b)	303.7(b)	Revised.
(c)	303.7(b)(2), (5)	Revised.
(d)	303.7(f)(v), (vi)	Revised.
(e)	303.10(b)(i), (iii), (iv)	Revised.

Proposed Provision	Original Provision	Comments
(f)	303.7(b)(3)	Revised.
(g)	303.8(e)	Revised.
303.67	303.10(b)(1)	Revised.
303.80		Added.
303.81(a)	303.4(a)	Revised.
(b)		Added.
(c)	303.4(a) footnote 3	No change.
(d)	303.4(a) footnote 4	No change.
303.82(a)		Added.
(b)	303.4(a)	Revised.
(c)		Added.
(e), (d)	303.4(a)	Revised.
303.83(a)(1) thru (b)(1)	303.4(c)	Revised.
(b)(2), (3)		Added.
303.84(a)	303.4(b)(1)	Revised.
(b)	303.4(b)(5)	No change.
303.85(a), (b), (c)		Added.
303.86(a)(1), (2)	303.4(b)(2)(i)	Revised.
(a)(3)		Added.
(a)(4), (5)	303.4(b)(3)(ii)	Revised.
(a)(6)	303.4(b)(6)	Revised.
303.87(a)	303.7(c)	Revised.
303.100		Added.
303.101(a)		Added.
(b)	303.14(a)(3)	Revised.
(c)	303.14(a)(4)	Revised.
303.102(a)	303.14(b)	Revised.
(b)	303.14(b)	No change.
(c)	303.14(c)(2)	No change.
303.103(a)	303.14(c)(1)	Revised.
(b)	303.14(c)(4)	Revised.
(c)	303.14(c)(2)	Revised.
(d)	303.14(d)	Revised.
303.104	303.14(e)	Revised.
303.160		Added.
303.161	303.15(a)	Revised.
303.162	303.15(a), (b)	Revised.
303.163(a)	303.15(c)(1)	No change.
(b)	303.15(c)(2)	No change.
(c), (d),(e),(f)	303.15(d)	No change.
303.164		Added.
303.180		Added.
303.181		Added.
303.182	303.2	Revised.
303.183	303.5(d), 303.7(f)(2)(ii)	Revised.
303.184	303.2, 303.6, 303.7	Revised.
303.185		Added.
303.186	346.6(b)	Revised.
303.187	346.101	Revised.
303.200		Added.
303.201	303.5(e)	No change.
303.202	303.5(e)	No change.
303.203	303.5(e)(1)	No change.
303.204	303.5(e)(2)	No change.
303.205	303.5(e)(3)	No change.
303.206	303.5(e)(4)	No change.
303.207	303.5(e)(5)	Amended.
303.208	303.7(f)(ix)	No change.
303.220		Added.
303.221		Added.
303.222		Added.
303.223		Added.
303.224(a),(b),(c),(d)	303.7(e)	Amended.
(e)	303.10(b)(3)	No change.
303.240		Added.
303.241(a)		Added.
(b),(c),(d)	303.5(b)	Revised.
(e),(f),(g)		Added.
(h)	303.7(f)(1)(iii)	No change
303.242(a)		Added.
(b),(c),(d)	303.5(b)	Revised.
(e)(f)		Added
(g)(h)	303.7(a)(2)	No change
303.243(a),(b),(c)	337.6(d),(e)	No change.

Proposed Provision	Original Provision	Comments
(d),(e),(f)		Added.
(g)	337.6 (c),(e)	No change.
(h)	337.6 (e), 303.7(f)(1)(viii)	Revised.
303.244(a), (b), (c), (d), (e)	359	Revised.
(f)	303.7(g)	No change.
303.245		Added.
303.246(a),(b),(c),(d)	303.5(a)	Revised.
(e)		Added.
(f)	303.7(f)(4)	Revised.
303.247	303.3(c)	Revised.
303.248	303.5(c)	Revised.
303.249		Added.
303.250(a),(b),(c),(d),(e)		Added.
(f)	303.7(f)(14)(iv)	Revised.
303.251(a),(b),(c),(d),(e)		Added.
(f)	303.8(a)	No change.
303.260		Added.
303.261	303.9(a)	Revised.
303.262		Added.
303.263	303.9(b)	Revised.
303.264	303.9(c)	Revised.
303.265	303.9(d)	Revised.
303.266	303.9(e)	Revised.
303.267	303.9(f)	Revised.
303.268		Added.
303.269	303.9(g)	Revised.
303.270		Added.
303.271	303.9(h)	Revised.
303.272	303.9(i)	Revised.
303.273	303.9(k)	Revised.
303.274	303.9(l)	Revised.
303.275	303.9(m)	Revised.
303.276	303.9(n)	Revised.
303.277	303.9(o)	Revised.
303.278	303.10(c)	Revised.

List of Subjects

12 CFR Part 303

Administrative practice and procedure, Authority delegations (Government agencies), Bank deposit insurance, Banks, banking, Bank merger, Branching, Foreign branches, Foreign investments, Golden parachute payments, Insured branches, Interstate branching, Reporting and recordkeeping requirements.

12 CFR Part 337

Banks, banking, Reporting and recordkeeping requirements, Savings associations, Securities.

12 CFR Part 341

Banks, banking, Reporting and recordkeeping requirements, Securities.

12 CFR Part 346

Bank deposit insurance, Foreign banking, Reporting and recordkeeping requirements.

12 CFR Part 348

Antitrust, Banks, banking, Holding companies.

12 CFR Part 359

Banks, banking, Golden parachute payments, Indemnity payments.

For the reasons set forth in the preamble and under the authority of 12 U.S.C. 1819(a)(Tenth), the FDIC Board of Directors hereby proposes to amend 12 CFR chapter III as follows:

1. Part 303 is revised to read as follows:

PART 303—FILING PROCEDURES AND DELEGATIONS OF AUTHORITY

Sec.
303.0 Scope.

Subpart A—Rules of General Applicability

Sec.
303.1 Scope.
303.2 Definitions.
303.3 General filing procedures.
303.4 Computation of time.
303.5 Effect of Community Reinvestment Act performance on filings.
303.6 Investigations and examinations.
303.7 Public notice requirements.
303.8 Public access to filing.
303.9 Comments.
303.10 Hearings and other meetings.
303.11 Decisions.
303.12 General rules governing delegations of authority.
303.13 Delegations of authority to officials in the Division of Supervision and the Division of Compliance and Consumer Affairs.

Subpart B—Deposit Insurance

303.20 Scope.
303.21 Filing procedures.
303.22 Processing.
303.23 Public notice requirements.
303.24 Application for deposit insurance for an interim institution.
303.25 Continuation of deposit insurance upon withdrawing from membership in the Federal Reserve System.
303.26 Delegation of authority.
303.27 Authority retained by the FDIC Board of Directors.

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303.40 Scope.
303.41 Definitions.
303.42 Filing procedures.
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303.44 Public notice requirements.
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303.60 Scope.
303.61 Definitions.
303.62 Transactions requiring prior approval.
303.63 Filing procedures.
303.64 Processing.

303.65 Public notice requirements.
303.66 Delegation of authority.
303.67 Authority retained by the FDIC Board of Directors.

Subpart E—Change in Bank Control

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303.81 Definitions.
303.82 Transactions requiring prior notice.
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303.84 Filing procedures.
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303.86 Public notice requirements.
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303.101 Definitions.
303.102 Filing procedures.
303.103 Processing and waiver of prior notice.
303.104 Delegation of authority.

Subpart G—Activities and Investments of Insured State Banks [Reserved]

Subpart H—Filings by Savings Associations [Reserved]

Subpart I—Mutual-to-Stock Conversions

303.160 Scope.
303.161 Filing procedures.
303.162 Content of notice.
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Subpart J—Foreign Bank Activities

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303.181 Definitions.
303.182 Establishing, moving or closing a foreign branch of a state nonmember bank.
303.183 Acquisition of stock of foreign banks or other financial entities by an insured state nonmember bank.
303.184 Moving an insured branch of a foreign bank.
303.185 Mergers involving an insured branch of a foreign bank.
303.186 Exemptions from insurance requirement for a state branch of a foreign bank.
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Subpart K—Prompt Corrective Action

303.200 Scope.
303.201 Filing procedures.
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303.207 Restricted activities for critically undercapitalized institutions.
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Subpart L—Section 19 of the FDI Act (Consent to Service of Persons Convicted of Certain Criminal Offenses)

303.220 Scope.
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303.222 Service at another insured depository institution.
303.223 Applicant's right to hearing following denial.
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Subpart M—Other Filings

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303.242 Exercise of trust powers.
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303.245 Waiver of liability for commonly controlled depository institutions.
303.246 Insurance fund conversions.
303.247 Conversion with diminution of capital.
303.248 Continue or resume status as an insured institution following termination under section 8 of the FDI Act.
303.249 Truth in Lending Act—Relief from reimbursement.
303.250 Modification of conditions.
303.251 Extension of time.

Subpart N—Enforcement Delegations

303.260 Scope.
303.261 Issuance of notification to primary regulator under section 8(a) of the FDI Act (12 U.S.C. 1818(a)).
303.262 Issuance of notice of intention to terminate insured status under section 8(a) of the FDI Act (12 U.S.C. 1818(a)).
303.263 Cease-and-desist actions under section 8(b) of the FDI Act (12 U.S.C. 1818(b)).
303.264 Temporary cease-and-desist orders under section 8(c) of the FDI Act (12 U.S.C. 1818(c)).
303.265 Removal and prohibition actions under section 8(e) of the FDI Act (12 U.S.C. 1818(e)).
303.266 Suspension and removal action under section 8(g) of the FDI Act (12 U.S.C. 1818(g)).
303.267 Termination of insured status under section 8(p) of the FDI Act (12 U.S.C. 1818(p)).
303.268 Termination of insured status under section 8(q) of the FDI Act (12 U.S.C. 1818(q)).
303.269 Civil money penalties.
303.270 Notices of assessment under section 5(e) of the FDI Act (12 U.S.C. 1815(e)).
303.271 Prompt corrective action directives and capital plans under section 38 of the FDI Act (12 U.S.C. 1831o) and part 325 of this chapter.
303.272 Investigations under section 10(c) of the FDI Act (12 U.S.C. 1820(c)).
303.273 Unilateral settlement offers.
303.274 Acceptance of written agreements.
303.275 Modifications and terminations of enforcement actions and orders.
303.276 Enforcement of outstanding enforcement orders.
303.277 Compliance plans under section 39 of the FDI Act (12 U.S.C. 1831p-1) (standards for safety and soundness) and part 308 of this chapter.
303.278 Enforcement matters where authority is not delegated.

Authority: 12 U.S.C. 378, 1813, 1815, 1816, 1817, 1818, 1819, (Seventh and Tenth), 1820, 1828, 1831e, 1831p-l, 1835a, 3104, 3105, 3108; 15 U.S.C. 1601–1607.

§ 303.0 Scope.

(a) This part generally describes the procedures to be followed by both the FDIC and applicants with respect to applications, requests, or notices required to be filed by statute or regulation. Additional details concerning processing are explained in related FDIC statements of policy. This part also sets forth delegations of authority from the FDIC's Board of Directors to the Directors of the Division of Supervision (DOS), the Division of Compliance and Consumer Affairs (DCA), the General Counsel of the Legal Division, the Executive Secretary, and, in some cases, their designees to act on certain applications, notices, requests, and enforcement matters.

(b) Additional application procedures may be found in the following FDIC regulations:

(1) 12 CFR part 327—Assessments (Request for review of assessment risk classification);

(2) 12 CFR part 328—Advertisement of Membership (Application for temporary waiver of advertising requirements);

(3) 12 CFR part 345—Community Reinvestment (CRA strategic plans and requests for designation as a wholesale or limited purpose institution);

(4) 12 CFR part 348—Management Official Interlocks (Exemption request).

Subpart A—Rules of General Applicability

§ 303.1 Scope.

Subpart A prescribes the general procedures for submitting applications, notices, and requests (collectively, ''filings'') to the FDIC which are required by statute or regulation. This subpart also prescribes the procedures to be followed by the FDIC, applicants and interested parties during the process of considering a filing, including public notice and comment. This subpart further explains the availability of expedited processing for eligible depository institutions (defined in § 303.2(r)). Finally, this subpart sets forth general principles governing delegations of authority by the FDIC's Board of Directors.

§ 303.2 Definitions.

For purposes of this part:

(a) *Act* or *FDI Act* means the Federal Deposit Insurance Act (12 U.S.C. 1811 et seq.).

(b) *Adjusted part 325 total assets* means adjusted 12 CFR part 325 total assets as calculated and reflected in the FDIC's Reports of Examination.

(c) *Adverse comment* means any objection, protest, or other adverse written statement submitted by an interested party relative to a filing. The term adverse comment shall not include any comment concerning the Community Reinvestment Act (CRA), fair lending, consumer protection, or civil rights that the appropriate regional director or deputy regional director (DCA) determines to be frivolous (for example, raising issues between the commenter and the applicant that have been resolved). The term adverse comment also shall not include any other comment that the appropriate regional director or deputy regional director (DOS) determines to be frivolous (for example, a non-substantive comment submitted primarily as a means of delaying action on the filing).

(d) *Amended order to pay* means an order to forfeit and pay civil money penalties, the amount of which has been changed from that assessed in the original notice of assessment of civil money penalties.

(e) *Applicant* means a person or entity that submits a filing to the FDIC.

(f) *Application* means a submission requesting FDIC approval to engage in various corporate activities and transactions.

(g) *Appropriate FDIC region, appropriate FDIC regional office, appropriate regional director, appropriate deputy regional director, appropriate regional counsel* mean, respectively, the FDIC region, and the FDIC regional office, regional director, deputy regional director, and regional counsel, which the FDIC designates as follows:

(1) When an institution or proposed institution that is the subject of a filing or administrative action is not and will not be part of a group of related institutions, the appropriate region for the institution and any individual associated with the institution is the FDIC region in which the institution or proposed institution is or will be located; or

(2) When an institution or proposed institution that is the subject of a filing or administrative action is or will be part of a group of related institutions, the appropriate region for the institution and any individual associated with the institution is the FDIC region in which the group's major policy and decision makers are located, or any other region the FDIC designates on a case-by-case basis.

(h) *Associate director* means any associate director of the Division of Supervision (DOS) or the Division of Compliance and Consumer Affairs (DCA) or, in the event such titles become obsolete, any official of equivalent authority within the respective divisions.

(i) *Book capital* means total equity capital which is comprised of perpetual preferred stock, common stock, surplus, undivided profits and capital reserves, as those items are defined in the instructions of the Federal Financial Institutions Examination Council (FFIEC) for the preparation of Consolidated Reports of Condition and Income for insured banks.

(j) *Comment* means any written statement of fact or opinion submitted by an interested party relative to a filing.

(k) *Corporation, FDIC* means the Federal Deposit Insurance Corporation.

(l) *CRA protest* means any adverse comment from the public related to a pending filing which raises a negative issue relative to the Community Reinvestment Act (CRA) (12 U.S.C. 2901 *et seq.*), whether or not it is labeled a protest and whether or not a hearing is requested.

(m) *Deputy Director* means the Deputy Director of the Division of Supervision (DOS) or the Deputy Director of the Division of Compliance and Consumer Affairs (DCA) or, in the event such titles become obsolete, any official of equivalent or higher authority within the respective divisions.

(n) *Deputy regional director* means any deputy regional director of the Division of Supervision (DOS) or the Division of Compliance and Consumer Affairs (DCA) or, in the event such titles become obsolete, any official of equivalent authority within the same FDIC region of DOS or DCA.

(o) *DCA* means the Division of Compliance and Consumer Affairs or, in the event the Division of Compliance and Consumer Affairs is reorganized, such successor division.

(p) *DOS* means the Division of Supervision or, in the event the Division of Supervision is reorganized, such successor division.

(q) *Director* means the Director of the Division of Supervision (DOS) or the Director of the Division of Compliance and Consumer Affairs (DCA) or, in the event such titles become obsolete, any official of equivalent or higher authority within the respective divisions.

(r) *Eligible depository institution* means a depository institution that meets the following criteria:

(1) Received an FDIC-assigned composite rating of 1 or 2 under the Uniform Financial Institutions Rating System (UFIRS) as a result of its most recent federal or state examination;

(2) Received a satisfactory or better Community Reinvestment Act (CRA) rating from its primary federal regulator at its most recent examination;

(3) Received a compliance rating of 1 or 2 from its primary federal regulator at its most recent examination;

(4) Is well capitalized as defined in the appropriate capital regulation and guidance of the institution's primary federal regulator; and

(5) Is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding, or other administrative agreement with its primary federal regulator or chartering authority.

(s) *Filing* means an application, notice or request submitted to the FDIC under this part.

(t) *General Counsel* means the head of the Legal Division of the FDIC or any official within the Legal Division exercising equivalent authority for purposes of this part.

(u) *Insider* means a person who is or is proposed to be a director, officer, or incorporator of an applicant; a shareholder who directly or indirectly controls 10 percent or more of any class of the applicant's outstanding voting stock; or the associates or interests of any such person.

(v) *Institution-affiliated party* shall have the same meaning as provided in section 3(u) of the Act (12 U.S.C. 1813(u)).

(w) *NEPA* means the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*)

(x) *NHPA* means the National Historic Preservation Act of 1966 (16 U.S.C. 470 *et seq.*)

(y) *Notice* means a submission notifying the FDIC that a depository institution intends to engage in or has commenced certain corporate activities or transactions.

(z) *Notice of assessment of civil money penalties* means a notice of assessment of civil money penalties, findings of fact and conclusions of law, and order to pay issued pursuant to sections 7(a)(1), 7(j)(15), 8(i) or 18(h) of the Act (12 U.S.C. 1817(a)(1), 1817(j)(15), 1818(i), or 1828(h)), section 106(b) of the Bank Holding Company Act (12 U.S.C. 1972), section 910(d) of the International Lending Supervision Act of 1983 (12 U.S.C. 3909), or any other provision of law providing for the assessment of civil money penalties by the FDIC.

(aa) *Notice of charges* means a notice of charges and of hearing setting forth the allegations of unsafe or unsound practices or violations and fixing the time and place of the hearing issued under section 8(b) of the Act (12 U.S.C. 1818(b)).

(bb) *Notice to primary regulator* means the notice described in section 8(a)(2)(A) of the Act concerning termination of deposit insurance (12 U.S.C. 1818(a)(2)(A)).

(cc) *Regional counsel* means a regional counsel of the Legal Division or, in the event the title becomes obsolete, any official of equivalent authority within the Legal Division. The authority delegated to a regional counsel may be exercised, when confirmed in writing by the regional counsel, by a deputy regional counsel, or any official of equivalent or higher authority in the Supervision and Legislation Branch of the Legal Division.

(dd) *Regional director* means any regional director in the Division of Supervision (DOS) or the Division of Compliance and Consumer Affairs (DCA), or in the event such titles become obsolete, any official of equivalent authority within the respective divisions.

(ee) *Section 8 orders:*

(1) *Section 8(a) order* means an order terminating the insured status of a depository institution under section 8(a) of the Act (12 U.S.C. 1818(a)).

(2) *Section 8(b) order, cease-and-desist order* means a final order to cease and desist issued under section 8(b) of the Act (12 U.S.C. 1818(b)).

(3) *Section 8(c) order, temporary cease-and-desist order* means a temporary order to cease and desist issued under section 8(c) of the Act (12 U.S.C. 1818(c)).

(4) *Section 8(e) order* means a final order of removal or prohibition issued under section 8(e) of the Act (12 U.S.C. 1818(e)).

(5) *Section 8(e)(3) order, temporary order of suspension* means a temporary order of suspension or prohibition issued under section 8(e)(3) of the Act (12 U.S.C. 1818(e)(3)).

(6) *Section 8(g) order* means an order of suspension or order of prohibition issued under section 8(g) of the Act (12 U.S.C. 1818(g)).

(ff) *Standard conditions* means the conditions that any FDIC official acting under delegated authority may impose as a matter of routine when approving a filing, whether or not the applicant has agreed to their inclusion. The following conditions, or variations thereof, are standard conditions:

(1) That the applicant has obtained all necessary and final approvals from the appropriate federal or state authority or other applicable authority;

(2) That if the transaction does not take effect within a specified time period, or unless, in the meantime, a request for an extension of time has been approved, the consent granted shall expire at the end of the said time period;

(3) That until the conditional commitment of the FDIC becomes effective, the FDIC retains the right to alter, suspend or withdraw its commitment should any interim development be deemed to warrant such action; and

(4) In the case of a merger transaction (as defined in § 303.61(a) of this part), including a corporate reorganization, that the proposed transaction not be consummated before the 30th calendar day (or shorter time period as may be prescribed by the FDIC with the concurrence of the Attorney General) after the date of the order approving the merger.

(gg) *Tier 1 capital* shall have the same meaning as provided in § 325.2(t) of this chapter (12 CFR 325.2(t)).

(hh) *Total assets* shall have the same meaning as provided in § 325.2(v) of this chapter (12 CFR 325.2(v)).

§ 303.3 General filing procedures.

Unless stated otherwise, filings should be submitted to the appropriate regional director (DOS). Forms and instructions for submitting filings may be obtained from any FDIC regional office (DOS). If no form is prescribed, the filing should be in writing; be signed by the applicant or a duly authorized agent; and contain a concise statement of the action requested. For specific filing and content requirements, consult the specific subparts of this part. The FDIC may require the applicant to submit additional information.

§ 303.4 Computation of time.

For purposes of this part, the FDIC begins computing the relevant period on the day after an event occurs (*e.g.*, the day after a substantially complete filing is received by the FDIC or the day after publication begins) through the last day of the relevant period. When the last day is a Saturday, Sunday or federal holiday, the period runs until the end of the next business day.

§ 303.5 Effect of Community Reinvestment Act performance on filings.

Among other factors, the FDIC takes into account the record of performance under the Community Reinvestment Act (CRA) of each applicant in considering a filing for approval of:

(a) The establishment of a domestic branch;

(b) The relocation of the bank's main office or a domestic branch;

(c) The relocation of an insured branch of a foreign bank;

(d) A transaction subject to the Bank Merger Act; and

(e) Deposit insurance.

§ 303.6 Investigations and examinations.

The Board of Directors, Directors of (DOS) or (DCA), their associate directors, or the appropriate regional director or appropriate deputy regional director (DOS) or (DCA) acting under delegated authority may examine or investigate and evaluate facts related to any filing under this chapter to the extent necessary to reach an informed decision and take any action necessary or appropriate under the circumstances.

§ 303.7 Public notice requirements.

(a) *General.* The public must be provided with prior notice of a filing to establish a domestic branch, relocate a domestic branch or the main office, relocate an insured branch of a foreign bank, engage in a merger or other business combination, initiate a change of control transaction, or request deposit insurance. The public has the right to comment on, or to protest, these types of proposed transactions during the relevant comment period. In order to fully apprise the public of this right, an applicant shall publish a public notice of its filing in a newspaper of general circulation. For specific publication requirements, consult subparts B (deposit insurance), C (branches and relocations), D (mergers), E (change in bank control), and J (foreign bank activities).

(b) *Confirmation of publication.* The applicant shall mail or otherwise deliver a copy of the newspaper notice to the appropriate regional director (DOS) promptly after publication.

(c) *Content of notice.* (1) The public notice referred to in paragraph (a) of this section shall consist of the following:

(i) Name and address of the applicant(s). In the case of an application for deposit insurance for a de novo bank, the names of all organizers or incorporators. In the case of an application to establish a branch, include the location of the proposed branch or, in the case of an application to relocate a branch, include the current and proposed address of the branch. In the case of a merger application, include the names of all parties to the transaction. In the case of a notice of acquisition of control, the name(s) of the acquiring parties. In the case of an application to relocate an insured branch of a foreign bank, include the

current and proposed address of the branch.

(ii) Type of filing being made;

(iii) Name of the depository institution(s) that is the subject matter of the filing;

(iv) That the public may submit comments to the appropriate FDIC regional director (DOS);

(v) The address of the appropriate FDIC regional office (DOS) where comments may be sent (the same location as that where the filing will be made);

(vi) The closing date of the public comment period as specified in the appropriate subpart; and

(vii) That the nonconfidential portions of the application are on file in the regional office and are available for public inspection during regular business hours.

(2) Alternatively, paragraphs (b)(1)(iv) through (vii) of this section may be satisfied through use of the following notice:

Any person wishing to comment on this application may file his or her comments in writing with the regional director (DOS) of the Federal Deposit Insurance Corporation at its regional office [insert address of regional office]. If any person desires to protest the granting of this application, he or she has a right to do so if he or she files a written comment with the regional director by the [insert closing date of the public comment period specified in the appropriate subpart of part 303]. The non-confidential portions of the application are on file in the regional office and are available for public inspection during regular business hours.

(d) *Multiple transactions.* The FDIC may consider more than one transaction, or a series of transactions, to be a single filing for purposes of the publication requirements of this section. When publishing a single public notice for multiple transactions, the applicant shall explain in the public notice how the transactions are related and state the closing date of the longest public comment period that shall apply to all of the related transactions.

(e) *Joint public notices.* For a transaction subject to public notice requirements by the FDIC and another federal or state banking authority, the FDIC will accept publication of a single joint notice containing all the information required by both the FDIC and the other federal agency or state banking authority, provided that the notice states that comments must be submitted to both the FDIC and, if applicable, the other federal or state banking authority.

§ 303.8 Public access to filing.

(a) *General.* For filings subject to a public notice requirement, any person may inspect or request a copy of the non-confidential portions of a filing (the public file) until 180 days following final disposition of a filing. The public file generally consists of portions of the filing, supporting data, supplementary information, and comments submitted by interested persons (if any) to the extent that the documents have not been afforded confidential treatment. To view or request photocopies of the public file, an oral or written request should be submitted to the appropriate regional director. The public file will be produced for review not more than one business day after receipt by the regional office. The FDIC may impose a fee for photocopying in accordance with § 309.5(c) of this chapter and with the rates the FDIC publishes annually in the **Federal Register**.

(b) *Confidential treatment.* (1) The applicant may request that specific information be treated as confidential. The following information generally is considered confidential:

(i) Personal information, the release of which would constitute a clearly unwarranted invasion of privacy;

(ii) Commercial or financial information, the disclosure of which would result in substantial competitive harm to the submitter; and

(iii) Information the disclosure of which could seriously affect the financial condition of any depository institution.

(2) If an applicant requests confidential treatment for information that the FDIC does not consider to be confidential, the FDIC may include that information in the public file after notifying the applicant. On its own initiative, the FDIC may determine that certain information should be treated as confidential and withhold that information from the public file. A written request for information withheld from the public file, or copies of the public file following closure of the file 180 days after final disposition, should be submitted pursuant to the Freedom of Information Act (5 U.S.C. 552) to the FDIC, Office of the Executive Secretary, 550 17th Street, NW., Washington, DC 20429.

§ 303.9 Comments.

(a) *Submission of comments.* For filings subject to a public notice requirement, any person may submit comments to the appropriate FDIC regional director (DOS) during the comment period.

(b) *Comment period.* (1) *General.* Consult specific subparts of this part for the comment period applicable to a particular filing.

(2) *Extension.* The appropriate regional director or deputy regional director (DOS) may extend or reopen the comment period if:

(i) The applicant fails to file all required information on a timely basis to permit review by the public or makes a request for confidential treatment not granted by the FDIC that delays the public availability of that information;

(ii) Any person requesting an extension of time satisfactorily demonstrates to the FDIC that additional time is necessary to develop factual information that the FDIC determines may materially affect the application; or

(iii) The appropriate regional director or deputy regional director (DOS) determines that other good cause exists.

(3) *Solicitation of comments.* Whenever appropriate, the regional director (DOS) may solicit comments from any person or institution which might have an interest in or be affected by the pending filing.

(4) *Applicant response.* The FDIC will provide copies of all comments received to the applicant and may give the applicant an opportunity to respond.

§ 303.10 Hearings and other meetings.

(a) *Matters covered.* This section covers hearings and other proceedings in connection with filings for or by:

(1) Deposit insurance by a proposed new depository institution or operating non-insured institution;

(2) An insured state nonmember bank to establish a domestic branch or to relocate a main office or domestic branch;

(3) Relocation of an insured branch of a foreign bank;

(4) (i) Merger or consolidation which requires the FDIC's prior approval under the Bank Merger Act (12 U.S.C. 1828(c));

(ii) Except as otherwise expressly provided, the provisions of this § 303.10 shall not be applicable to any proposed merger transaction which the FDIC Board of Directors determines must be acted upon immediately to prevent the probable default of one of the institutions involved or must be handled with expeditious action due to an existing emergency condition, as permitted by the Bank Merger Act (12 U.S.C. 1828(c)(6)); and

(5) Any other purpose or matter which the FDIC Board of Directors in its sole discretion deems appropriate.

(b) *Hearing requests.* Before the end of the comment period, any person may submit to the appropriate regional director (DOS) a written request for a hearing on a filing. The request must describe the nature of the issues or facts to be presented and the reasons why written submissions would be

insufficient to make an adequate presentation of those issues or facts to the FDIC. A person requesting a hearing shall simultaneously submit a copy of the request to the applicant.

(c) *Action on a hearing request.* The regional director (DOS) may grant or deny a request for a hearing and may limit the issues that he or she deems relevant or material. The FDIC generally grants a hearing request only if it determines that written submissions would be insufficient or that a hearing otherwise would be in the public interest.

(d) *Denial of a hearing request.* If the regional director (DOS) denies a hearing request, he or she shall notify the person requesting the hearing of the reason for the denial. A decision to deny a hearing request shall be a final agency determination that is not appealable to the Board of Directors.

(e) *FDIC procedures prior to the hearing.* (1) *Notice of hearing.* The FDIC shall issue a notice of hearing if it grants a request for a hearing or orders a hearing because it is in the public interest. The notice of hearing shall state the subject and date of the filing, the time and place of the hearing, and the issues to be addressed. The FDIC shall send a copy of the notice of hearing to the applicant, to the person requesting the hearing, and to anyone else requesting a copy.

(2) *Presiding officer.* The FDIC shall appoint a presiding officer to conduct the hearing, who will usually be the appropriate regional director (DOS). The presiding officer is responsible for all procedural questions not governed by this § 303.10.

(f) *Participation in the hearing.* Any person who wishes to appear (participant) shall notify the appropriate regional director (DOS) of his or her intent to participate in the hearing no later than 10 days from the date that the FDIC issues the Notice of Hearing. At least 5 days before the hearing, each participant shall submit to the appropriate regional director (DOS), as well as to the applicant and any other person as required by the FDIC, the names of witnesses, a statement describing the proposed testimony of each witness, and one copy of each exhibit the participant intends to present.

(g) *Transcripts.* The FDIC shall arrange for a hearing transcript. The person requesting the hearing and the applicant each shall bear the cost of one copy of the transcript for his or her use unless such cost is waived by the presiding officer and incurred by the FDIC.

(h) *Conduct of the hearing.* (1) *Presentations.* Subject to the rulings of the presiding officer, the applicant and participants may make opening and closing statements and present witnesses, material, and data.

(2) *Information submitted.* Any person presenting material shall furnish one copy to the FDIC, one copy to the applicant, and one copy to each participant.

(3) *Laws not applicable to hearings.* The Administrative Procedure Act (5 U.S.C. 551 *et seq.*), the Federal Rules of Evidence (28 U.S.C. Appendix), the Federal Rules of Civil Procedure (28 U.S.C. Rule 1 *et seq.*), and the FDIC's Rules of Practice and Procedure (12 CFR part 308) do not govern hearings under this § 303.10.

(i) *Closing the hearing record.* At the applicant's or any participant's request, or at the FDIC's discretion, the FDIC may keep the hearing record open for up to 10 days following the FDIC's receipt of the transcript. The FDIC shall resume processing the filing after the record closes.

(j) *Informal proceedings.* The FDIC may arrange for an informal proceeding with an applicant and other interested parties in connection with a filing, either upon receipt of a written request for such a meeting made during the comment period, or upon the FDIC's own initiative. No later than 10 days prior to an informal proceeding, the appropriate regional director (DOS) shall notify the applicant and each person who requested a hearing or oral presentation of the date, time, and place of the proceeding. The proceeding may assume any form, including a meeting with FDIC representatives at which participants will be asked to present their views orally. The appropriate regional director (DOS) or (DCA) may hold separate meetings with each of the participants.

(k) *Disposition and notice thereof.* The FDIC shall notify the applicant and all participants of the final disposition of a filing and shall provide a statement of the reasons for the final disposition.

(l) *Computation of time.* In computing periods of time under this section, the provisions of § 308.12 of the FDIC's Rules of Practice and Procedure (12 CFR 308.12) shall apply.

(m) *Authority retained by FDIC Board of Directors to modify procedures.* The FDIC Board of Directors may delegate authority by resolution on a case-by-case basis to the presiding officer to adopt different procedures in individual matters and on such terms and conditions as the Board of Directors determines in its discretion. Such resolution shall be made available for public inspection and copying in the Office of the Executive Secretary under the Freedom of Information Act (5 U.S.C. 552(a)(2)).

§ 303.11 Decisions.

(a) *General procedures.* The FDIC may approve, conditionally approve, deny, or not object to a filing after appropriate review and consideration of the record. The FDIC will promptly notify the applicant and any person who makes a written request of the final disposition of a filing. If the FDIC denies a filing, the FDIC will immediately notify the applicant in writing of the reasons for the denial.

(b) *Authority retained by FDIC Board of Directors to modify procedures.* In acting on any filing under this part, the FDIC Board of Directors may by resolution adopt procedures which differ from those contained in this part when it deems it necessary or in the public interest to do so. Such resolution shall be made available for public inspection and copying in the Office of the Executive Secretary under the Freedom of Information Act (5 U.S.C. 552(a)(2)).

(c) *Expedited processing.* (1) A filing submitted by an eligible depository institution as defined in § 303.2(r) of this part will receive expedited processing as specified in the appropriate subparts of this part unless the appropriate regional director or deputy regional director (DOS) chooses to remove the filing from expedited processing for the reasons set forth in paragraph (c)(2) of this section. Except for filings made pursuant to subpart J (foreign bank activities), expedited processing will not be available for any filing that the appropriate regional director (DOS) does not have delegated authority to approve.

(2) *Removal of filing from expedited processing.* The appropriate regional director or deputy regional director (DOS) may remove a filing from expedited procedures at any time prior to final disposition if:

(i) For filings subject to public notice under § 303.7, an adverse comment is received that warrants additional investigation or review;

(ii) For filings subject to evaluation of CRA performance under § 303.5, a CRA protest is received that warrants additional investigation or review, or the appropriate regional director (DCA) determines that the filing presents a significant CRA or compliance concern;

(iii) For any filing, the appropriate regional director (DOS) determines that the filing presents a significant supervisory concern, or raises a significant legal or policy issue; or

(iv) For any filing, the appropriate regional director (DOS) determines that other good cause exists for removal.

(3) For purposes of this section, a significant CRA concern includes but is not limited to a determination by the appropriate regional director (DCA) that, although a depository institution may have an institution-wide rating of satisfactory, a depository institution's CRA rating is less than satisfactory in a state or multi-state metropolitan statistical area (MSA), or a depository institution's CRA performance is less than satisfactory in an MSA or in the non-MSA portion of a state in which it seeks to expand through approval of an application for a deposit facility as defined in 12 U.S.C. 2902(3).

(4) If the FDIC determines that it is necessary to remove a filing from expedited review procedures pursuant to paragraph (c)(2) of this section, the FDIC promptly will provide the applicant with a written explanation.

(d) *Multiple transactions.* If the FDIC is considering related transactions, some or all of which have been granted expedited processing, then the longest processing time for any of the related transactions shall govern for purposes of approval.

(e) *Abandonment of filing.* A filing must contain all information set forth in the applicable subpart of this part. To the extent necessary to evaluate a filing, the FDIC may require an applicant to provide additional information. If information requested by the FDIC is not provided within the time period specified by the agency, the FDIC may deem the filing abandoned and shall provide written notification to the applicant and any interested parties that submitted comments to the FDIC that the file has been closed.

(f) *Appeals and petitions for reconsideration*—(1) *General.* Appeal procedures for a denial of a change in bank control (subpart E), change in senior executive officer or board of directors (subpart F) or denial of an application pursuant to section 19 of the FDI Act (subpart L) are contained in 12 CFR part 308, subparts D, L, and M, respectively. For all other filings covered by this chapter for which appeal procedures are not provided by regulation or other written guidance, the procedures specified in paragraphs (f)(2) through (5) of this section shall apply. A decision to deny a request for a hearing is a final agency determination that is not appealable to the Board of Directors pursuant to § 303.10(d) of this part.

(2) *Filing procedures.* Within 15 days of receipt of notice from the FDIC that its filing has been denied, any applicant may file a petition for reconsideration with the appropriate regional director (DOS), if the filing initially was submitted to DOS, or the appropriate regional director (DCA), if the filing initially was submitted to DCA.

(3) *Content of filing.* A petition for reconsideration must contain the following information:

(i) A resolution of the board of directors of the applicant authorizing filing of the petition, if the applicant is a corporation or other entity, or a letter signed by the individual(s) filing the petition, if the applicant is not a corporation or other entity;

(ii) Relevant, substantive information that for good cause was not previously set forth in the filing; and

(iii) Specific reasons why the FDIC should reconsider its prior decision.

(4) *Delegation of authority.* (i) Authority is delegated to the Director and Deputy Director (DOS) and (DCA), as appropriate and, where confirmed in writing by the appropriate Director, to an associate director and the appropriate regional director and deputy regional director, to grant a petition for reconsideration, after consultation with the Legal Division.

(ii) Authority is delegated to the Director and Deputy Director (DOS) and (DCA), as appropriate, to deny a petition for reconsideration, after consultation with the Legal Division.

(iii) Notwithstanding paragraphs (F)(4) (i) and (ii) of § 303.11, no reconsideration of a filing that originally required Legal Division concurrence may be acted upon without Legal Division concurrence.

(5) *Procedures for reconsideration of filings.* If a petition for reconsideration is granted, the filing will be reconsidered by:

(i) The Board of Directors, if the filing was originally denied by the Board of Directors or denied by the Director or Deputy Director or an associate director (DOS) or (DCA); or

(ii) The Director or Deputy Director (DOS) or (DCA), if the filing was originally denied by a regional director or deputy regional director.

(6) *Final decision.* Decisions made on a petition for reconsideration by the Director or Deputy Director (DOS) or (DCA) are final agency decisions and are not appealable to the Board of Directors.

(g) *Nullification of decision*—(1) *Material misrepresentation or omission.* If the FDIC subsequently becomes aware of any material misrepresentation or omission after the agency has rendered a decision on a filing, the FDIC may nullify its decision by providing written notification to the applicant of the determination and the reason therefor. Any person responsible for any material misrepresentation or omission in a filing or supporting materials may be subject to an enforcement action and other penalties, including criminal penalties provided in Title 18 of the United States Code.

(2) *Material change in circumstances.* If the FDIC is not informed by the applicant of a subsequent material change in circumstances prior to rendering a decision on a filing (for example, a material change in a business plan, or the financial condition of the depository institution), the FDIC may nullify its decision in the manner described in paragraph (g)(1) of this section.

(3) *Other nullifications.* The FDIC may nullify any decision on a filing that is contrary to law, regulation or FDIC policy, or granted due to clerical or administrative error, or a material mistake of law or fact.

§ 303.12 General rules governing delegations of authority.

(a) *Scope.* This section contains general rules governing the FDIC Board of Director's delegations of authority under this chapter. These principles are procedural in nature only and are not substantive standards. All delegations of authority, confirmations, limitations, revisions, and rescissions under this chapter must be in writing and maintained with the Office of the Executive Secretary.

(b) *Authority not delegated.* Except as otherwise expressly provided, the FDIC Board of Directors does not delegate its authority.

(1) The FDIC Board of Directors retains and does not delegate the authority to act on agreements with foreign regulatory or supervisory authorities, matters that would establish or change existing Corporation policy, matters that might attract unusual attention or publicity, or involve an issue of first impression notwithstanding any existing delegation of authority.

(2) The FDIC Board of Directors retains the authority to act on any filing or enforcement matter upon which any member of the Board of Directors wishes to act, even if the authority to act on such filing or enforcement matter has been delegated.

(c) *Exercise of delegated authority not mandated.* Any FDIC official with delegated authority under this chapter may elect not to exercise that authority.

(d) *Action by FDIC officials.* In matters where the FDIC Board of Directors has neither specifically delegated nor retained authority, FDIC officials may take action with respect to matters

which generally involve conditions or circumstances requiring prompt action to protect the interests of the FDIC and to achieve flexibility and expedition in its operations and the exercise of FDIC functions under this part.

(e) *Construction.* The delegations of authority contained in this chapter are to be broadly construed in favor of the existence of authority in FDIC officials who act under delegated authority. Any exercise of delegated authority by an FDIC official is conclusive evidence of that official's authority.

(f) *Written confirmations, limitations, revisions or rescissions.* Where the FDIC Board of Directors has delegated authority to the Director (DOS), Director (DCA) or the General Counsel, or their respective designees, each shall have the right to confirm, limit, revise, or rescind any delegation of authority issued or approved by them, respectively, to any subordinate official(s).

§ 303.13 Delegations of authority to officials in the Division of Supervision and the Division of Compliance and Consumer Affairs.

(a) *CRA protests.* Where a CRA protest is filed and remains unresolved, authority is delegated to the Director and Deputy Director (DCA) and, where confirmed in writing by the Director, to an associate director or the appropriate regional director or deputy regional director to concur that approval of any filing subject to CRA is consistent with the purposes of CRA.

(b) *Adequacy of filings.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to determine whether a filing is substantially complete for purposes of commencing processing.

(c) *National Historic Preservation Act.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to enter into memoranda of agreement pursuant to regulations of the Advisory Council on Historic Preservation which implement the National Historic Preservation Act of 1966 (16 U.S.C. 470).

Subpart B—Deposit Insurance

§ 303.20 Scope.

This subpart sets forth the procedures for applying for deposit insurance for a proposed depository institution or an operating noninsured depository institution under section 5 of the FDI Act (12 U.S.C. 1815). It also sets forth the procedures for requesting continuation of deposit insurance for a state bank withdrawing from membership in the Federal Reserve System and for interim institutions chartered to facilitate a merger transaction. Related delegations of authority are also set forth.

§ 303.21 Filing procedures.

(a) Applications for deposit insurance shall be filed with the appropriate regional director (DOS). The relevant application forms and instructions for applying for deposit insurance for an existing or proposed depository institution may be obtained from any FDIC regional office (DOS).

(b) Application for deposit insurance for an interim depository institution shall be filed and processed in accordance with the procedures set forth in § 303.24 of this subpart. An interim depository institution is defined as an institution formed or organized solely for the purpose of facilitating a merger transaction which will be reviewed by a responsible agency as defined in section 18(c)(2) of the FDI Act.

(c) A request for continuation of deposit insurance upon withdrawing from membership in the Federal Reserve System shall be in letter form and shall provide the information prescribed in § 303.25 of this subpart.

§ 303.22 Processing.

(a) *Expedited processing for proposed institutions.* (1) An application for deposit insurance for a proposed institution which will be a subsidiary of an eligible depository institution as defined in § 303.2(r) of this part or an eligible holding company will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. An eligible holding company is defined as a bank or thrift holding company that has consolidated assets of $150 million or more, has an assigned composite rating of 2 or better, and has at least 75 percent of its consolidated depository institution assets comprised of eligible depository institutions. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part.

(2) Under expedited processing, the FDIC will take action on an application within 60 days of receipt of a substantially complete application, or 20 days after publication, whichever is later. Final action may be withheld until the FDIC has assurance that permission to organize the proposed institution will be granted by the chartering authority. Notwithstanding paragraph (a)(1) of this section, if the FDIC does not act within the expedited processing period, it does not constitute an automatic or default approval.

(b) *Standard processing.* For those applications that are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

§ 303.23 Public notice requirements.

(a) *De novo institutions and operating noninsured institutions.* The applicant shall publish a notice, as prescribed in § 303.7 of this part, in a newspaper of general circulation in the community in which the main office of the depository institution is or will be located. Notice shall be published as close as practicable to, but no sooner than five days before, the date the application is mailed or delivered to the regional director (DOS). Comments by interested parties must be received by the appropriate regional director (DOS) within 15 days following the date of publication, unless the comment period has been extended or reopened in accordance with § 303.9(b)(2) of this part.

(b) *Exceptions to public notice requirements.* No publication shall be required in connection with the granting of insurance to a new depository institution established pursuant to the resolution of a failed depository institution, or to an interim depository institution formed or organized solely to facilitate a merger transaction, or for a request for continuation of federal deposit insurance by a state bank withdrawing from membership in the Federal Reserve System.

§ 303.24 Application for deposit insurance for an interim institution.

(a) *Content of application.* A letter application for deposit insurance for an interim institution, accompanied by a copy of the related merger application, shall be filed with the appropriate regional director. The letter application should briefly describe the transaction and contain a statement that deposit insurance is being requested for an interim institution formed or organized solely for the purpose of facilitating a merger transaction which will be reviewed by a federal banking agency other than the FDIC and that the institution will not open for business.

(b) *Processing.* An application for deposit insurance for an interim depository institution will be

acknowledged in writing by the FDIC. Final action will be taken within 21 days after receipt of a substantially complete application, unless the applicant is notified in writing that additional review is warranted. If the FDIC does not act within the expedited processing period, it does not constitute an automatic or default approval.

§ 303.25 Continuation of deposit insurance upon withdrawing from membership in the Federal Reserve System.

(a) *Content of application.* To continue its insured status upon withdrawal from membership in the Federal Reserve System, a state bank must submit a letter application to the appropriate regional director (DOS). A complete application shall consist of the following information:

(1) A copy of the letter, and any attachments thereto, sent to the Federal Reserve setting forth the bank's intention to terminate its membership;

(2) A copy of the letter from the Federal Reserve acknowledging the bank's notice to terminate membership;

(3) A statement regarding any anticipated changes in the bank's general business plan during the next 12-month period; and

(4)(i) A statement by the bank's management that there are no outstanding or proposed corrective programs or supervisory agreements with the Federal Reserve System.

(ii) If such programs or agreements exist, a statement by applicant that its Board of Directors is willing to enter into a similar supervisory agreement with the FDIC which would become effective upon withdrawal from the Federal Reserve System.

(b) *Processing.* An application for deposit insurance under this section will be acknowledged in writing by the FDIC. The appropriate regional director (DOS) shall notify the applicant, within 15 days of receipt of a substantially complete application, either that federal deposit insurance will continue upon termination of membership in the Federal Reserve System or that additional review is warranted and the applicant will be notified, in writing, of the FDIC's final decision regarding continuation of deposit insurance. If the FDIC does not act within the expedited processing period, it does not constitute an automatic or default approval.

§ 303.26 Delegation of authority.

(a) *Proposed depository institutions.* (1) Authority is delegated to the Director and the Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve applications for deposit insurance for proposed depository institutions. For the Director, Deputy Director or associate director (DOS) to exercise this authority, paragraphs (a)(1)(i) through (a)(1)(iv) of this section must be satisfied and the applicant shall have agreed in writing to comply with any conditions imposed by the delegate, other than those listed in paragraph (d) of this section which may be imposed without the applicant's consent. For the regional director or deputy regional director (DOS) to exercise this authority, paragraphs (a)(1)(i) through (a)(1)(v) of this section must be satisfied and the applicant shall have agreed in writing to comply with any conditions imposed by the delegate, other than those listed in paragraph (d) of this section which may be imposed without the applicant's consent.

(i) The factors set forth in section 6 of the Act (12 U.S.C. 1816) have been considered and favorably resolved;

(ii) No unresolved management interlocks, as prohibited by the Depository Institution Management Interlocks Act (12 U.S.C. 3201 *et seq.*), part 348 of this chapter or any other applicable implementing regulation, exist;

(iii) The application is in conformity with the standards and guidelines for the granting of deposit insurance established in the FDIC statement of policy ''Applications for Deposit Insurance'' (2 FDIC Law, Regulations and Related Acts (FDIC) 5349); and

(iv) Compliance with the CRA, the NEPA, the NHPA and any applicable related regulations, including 12 CFR part 345, has been considered and favorably resolved; and

(v) No CRA protest as defined in § 303.2(l) of this part has been filed which remains unresolved or, where such a protest has been filed and remains unresolved, the Director (DCA), Deputy Director (DCA), an associate director (DCA) or the appropriate regional director (DCA) or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA and the applicant agrees in writing to any conditions imposed regarding the CRA.

(2) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve applications for deposit insurance filed by or on behalf of proposed interim depository institutions formed or organized solely for the purpose of facilitating a merger transaction which will be reviewed by a responsible agency as defined in section 18(c)(2) of the FDI Act.

(b) *Operating noninsured depository institutions.* Authority is delegated to the Director and the Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve applications for deposit insurance by operating noninsured depository institutions. For the delegate to exercise this authority, the following criteria must be satisfied and the applicant shall have agreed in writing to comply with any condition imposed by the delegate, other than those listed in paragraph (d) of this section which may be imposed without the applicant's consent:

(1) The applicant is determined to be eligible for federal deposit insurance for the class of institution to which the applicant belongs in the state (as defined in 12 U.S.C. 1813(a)) in which the applicant is located;

(2) The factors set forth in section 6 of the Act (12 U.S.C. 1816) have been considered and favorably resolved;

(3) No unresolved management interlocks, as prohibited by the Depository Institution Management Interlocks Act (12 U.S.C. 3201 *et seq.*), part 348 of this chapter or any other applicable implementing regulation, exist;

(4) The application is in conformity with the standards and guidelines for the granting of deposit insurance to operating noninsured depository institutions established in the FDIC policy statement ''Applications for Deposit Insurance'' (2 FDIC Law, Regulations and Related Acts (FDIC) 5349);

(5) Compliance with the CRA, the NEPA, the NHPA, and any applicable related regulations, including 12 CFR part 345, has been considered and favorably resolved; and

(6) No CRA protest as defined in § 303.2(l) of this part has been filed which remains unresolved or, where such a protest has been filed and remains unresolved, the Director (DCA), Deputy Director (DCA), an associate director (DCA) or the appropriate regional director (DCA) or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA and the applicant agrees in writing to any conditions imposed regarding the CRA.

(c) *Continuation of deposit insurance upon withdrawing from membership in the Federal Reserve System.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate

director and the appropriate regional director and deputy regional director to approve continuation of federal deposit insurance where the applicant has agreed in writing to comply with any conditions imposed by the delegate, other than the standard conditions defined in § 303.2(ff) of this part which may be imposed without the applicant's written consent.

(d) *Conditions that may be imposed under delegated authority.* Following are conditions which may be imposed by a delegate in approving applications for deposit insurance without affecting the authority granted under paragraphs (a) and (b) of this section:

(1) The applicant will provide a specific amount of initial paid-in capital;

(2) With respect to a proposed depository institution that has applied for deposit insurance pursuant to this subpart, the Tier 1 capital to assets leverage ratio (as defined in the appropriate capital regulation and guidance of the institution's primary federal regulator) will be maintained at not less than eight percent throughout the first three years of operation and that an adequate allowance for loan and lease losses will be provided;

(3) Any changes in proposed management or proposed ownership to the extent of 10 or more percent of stock, including new acquisitions of or subscriptions to 10 or more percent of stock shall be approved by the FDIC prior to the opening of the depository institution;

(4) The applicant will adopt an accrual accounting system for maintaining the books of the depository institution;

(5) Where applicable, deposit insurance will not become effective until the applicant has been granted a charter as a depository institution, has authority to conduct a depository institution business, and its establishment and operation as a depository institution have been fully approved by the appropriate state and/or federal supervisory authority;

(6) Where deposit insurance is granted to an interim institution formed or organized solely to facilitate a related transaction, deposit insurance will only become effective in conjunction with consummation of the related transaction;

(7) Where applicable, a registered or proposed bank holding company, or a registered or proposed thrift holding company, has obtained approval of the Board of Governors of the Federal Reserve System or the Office of Thrift Supervision to acquire voting stock control of the proposed depository institution prior to its opening;

(8) Where applicable, the applicant has submitted any proposed contracts, leases, or agreements relating to construction or rental of permanent quarters to the appropriate regional director for review and comment;

(9) Where applicable, full disclosure has been made to all proposed directors and stockholders of the facts concerning the interest of any insider in any transactions being effected or then contemplated, including the identity of the parties to the transaction and the terms and costs involved. An insider is one who is or is proposed to be a director, officer, or incorporator of an applicant; a shareholder who directly or indirectly controls 10 or more percent of any class of the applicant's outstanding voting stock; or the associates or interests of any such person;

(10) The person(s) selected to serve as the principal operating officer(s) shall be acceptable to the regional director;

(11) The applicant will have adequate fidelity coverage;

(12) The depository institution will obtain an audit of its financial statements by an independent public accountant annually for at least the first three years after deposit insurance is effective, furnish a copy of any reports by the independent auditor (including any management letters) to the appropriate FDIC regional office within 15 days after their receipt by the depository institution and notify the appropriate FDIC regional office within 15 days when a change in its independent auditor occurs; and

(13) Any standard condition defined in § 303.2(ff) of this part.

§ 303.27 Authority retained by the FDIC Board of Directors.

Without limiting the Board of Director's authority, the Board of Directors retains authority to deny applications for deposit insurance and approve applications for deposit insurance where the applicant does not agree in writing to comply with any condition imposed by the FDIC, other than the standard conditions listed in §§ 303.2(ff) and 303.26(d) of this part, which may be imposed without the applicant's written consent.

Subpart C—Establishment and Relocation of Domestic Branches and Offices

§ 303.40 Scope.

(a) *General.* This subpart sets forth the application requirements and procedures and the delegation of authority for insured state nonmember banks to establish a branch, relocate a main office, and relocate a branch subject to the approval by the FDIC pursuant to sections 13(f), 13(k), 18(d) and 44 of the FDI Act.

(b) *Mergers.* Applications for approval of the acquisition and establishment of branches in connection with a merger transaction under section 18(c) of the FDI Act (12 U.S.C. 1828(c)), are processed in accordance with subpart D (Mergers) of this part.

(c) *Insured branches of foreign banks and foreign branches of domestic banks.* Applications regarding insured branches of foreign banks and foreign branches of domestic banks are processed in accordance with subpart J (Foreign Bank Activities) of this part.

(d) *Interstate acquisition of individual branch.* Applications requesting approval of the interstate acquisition of an individual branch or branches located in a state other than the applicant's home state without the acquisition of the whole bank are treated as interstate bank merger transactions under section 44 of the FDI Act (12 U.S.C. 1831a(u)), and are processed in accordance with subpart D (Mergers) of this part.

§ 303.41 Definitions.

For purposes of this subpart:

(a) *Branch* includes any branch bank, branch office, additional office, or any branch place of business located in any State of the United States or in any territory of the United States, Puerto Rico, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Virgin Islands, and the Northern Mariana Islands at which deposits are received or checks paid or money lent. A branch does not include an automated teller machine, an automated loan machine, or a remote service unit. The term branch also includes the following:

(1) A *messenger service* that is operated by a bank or its affiliate that picks up and delivers items relating to transactions in which deposits are received or checks paid or money lent. A messenger service established and operated by a non-affiliated third party generally does not constitute a branch for purposes of this subpart. Banks contracting with third parties to provide messenger services should consult with the appropriate regional director (DOS) to determine if the messenger service constitutes a branch.

(2) A *mobile branch,* other than a messenger service, that does not have a single, permanent site and uses a vehicle that travels to various locations to enable the public to conduct banking business. A mobile branch may serve defined locations on a regular schedule

or may serve a defined area at varying times and locations.

(3) A *temporary branch* that operates for a limited period of time not to exceed one year as a public service, such as during an emergency or disaster situation.

(4) A *seasonal branch* that operates at various periodically recurring intervals, such as during state and local fairs, college registration periods, and other similar occasions.

(b) *Branch relocation* means a move within the same immediate neighborhood of the existing branch that does not substantially affect the nature of the business of the branch or the customers of the branch. Moving a branch to a location outside its immediate neighborhood is considered the closing of an existing branch and the establishment of a new branch.

(c) *De novo branch* means a branch of a bank which is established by the bank as a branch and does not become a branch of such bank as a result of:

(1) The acquisition by the bank of an insured depository institution or a branch of an insured depository institution; or

(2) The conversion, merger, or consolidation of any such institution or branch.

(d) *Home state* means the state by which the bank is chartered.

(e) *Host state* means a state, other than the home state of the bank, in which the bank maintains, or seeks to establish and maintain, a branch.

§ 303.42 Filing procedures.

(a) *General.* An applicant shall submit an application to the appropriate regional director (DOS) on the date the notice required by § 303.44 of this subpart is published, or within 5 days after the date of the last required publication.

(b) *Content of filing.* A complete letter application shall include the following information:

(1) A statement of intent to establish a branch, or to relocate the main office or a branch;

(2) The exact location of the proposed site including the street address. With regard to messenger services, specify the geographic area in which the services will be available. With regard to a mobile branch, specify the community or communities in which the vehicle will operate and the intention to:

(i) Serve defined locations on a regular schedule; or

(ii) Be open at varying times and locations; or

(iii) A combination of paragraphs (b)(2)(i) and (b)(2)(ii) of this section;

(3) Details concerning any involvement in the proposal by an insider of the bank as defined in § 303.2(u) of this part, including any financial arrangements relating to fees, the acquisition of property, leasing of property, and construction contracts;

(4) A statement on the impact of the proposal on the human environment, including, information on compliance with local zoning laws and regulations and the effect on traffic patterns, for purposes of complying with the applicable provisions of the NEPA;

(5) A statement as to whether or not the site is included in or is eligible for inclusion in the National Register of Historic Places, including a statement that clearance has been or will be obtained from the State Historic Preservation Officer for purposes of complying with applicable provisions of the NHPA;

(6) Comments on any changes in services to be offered, the community to be served, or any other effect the proposal may have on the applicant's compliance with the CRA;

(7) A copy of each newspaper publication required by § 303.44 of this subpart, the name and address of the newspaper, and date of the publication;

(8) When an application is submitted to establish and operate a de novo branch in a state that is not the applicant's home state and in which the applicant does not maintain a branch, a statement that the applicant has requested that the host state provide to the appropriate regional director (DOS) written confirmation:

(i) That the applicant has complied with that state's filing requirements; and

(ii) That the applicant has also submitted to the host state bank supervisor a copy of the filing with the FDIC to establish and operate a de novo branch.

(9) When an application is submitted to relocate the main office of the applicant from one state to another, a statement of the applicant's intent regarding retention of branches in the state where the main office exists prior to relocation.

(c) *Undercapitalized institutions.* Applications to establish a branch by applicants subject to section 38 of the FDI Act (12 U.S.C. 1831o) also should provide the information required by § 303.204 of this part. Applications pursuant to sections 38 and 18(d) of the FDI Act (12 U.S.C. 1831o and 1828(d)) may be filed concurrently or as a single application.

(d) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

§ 303.43 Processing.

(a) *Expedited processing for eligible depository institutions.* An application filed under this subpart by an eligible depository institution as defined in § 303.2(r) of this part will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part. Absent such removal, an application processed under expedited processing will be deemed approved on the latest of the following:

(1) The 21st day after receipt by the FDIC of a substantially complete filing;

(2) The 5th day after expiration of the comment period described in § 303.44 of this part; or

(3) In the case of an application to establish and operate a de novo branch in a state that is not the applicant's home state and in which the applicant does not maintain a branch, the 5th day after the FDIC receives confirmation from the host state that the applicant has both complied with the application requirements of the host state and submitted a copy of the application with the FDIC to the host state bank supervisor.

(b) *Standard processing.* For those applications which are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

§ 303.44 Public notice requirements.

(a) *Newspaper publications.* For applications to establish or relocate a branch, a notice as described in § 303.7(b) of this part shall be published once in a newspaper of general circulation. For applications to relocate a main office, notice shall be published at least once each week on the same day for two consecutive weeks. The required publication shall be made in the following communities:

(1) *To establish a branch.* In the community in which the main office is located and in the communities to be served by the branch (including messenger services and mobile branches).

(2) *To relocate a main office.* In the community in which the main office is currently located and in the community to which the main office proposes to relocate.

(3) *To relocate a branch.* In the community in which the branch is located.

(b) *Public comments.* Comments by interested parties must be received by the appropriate regional director (DOS) within 15 days after the date of the last newspaper publication required by paragraph (a) of this section, unless the comment period has been extended or reopened in accordance with § 303.9(b)(2) of this part.

(c) *Lobby notices.* In the case of applications to relocate a main office or a branch, a copy of the required newspaper publication shall be posted in the public lobby of the office to be relocated for at least 15 days beginning with the date of the last published notice required by paragraph (a) of this section.

§ 303.45 Special provisions.

(a) *Emergency or disaster events.* (1) In the case of an emergency or disaster at a main office or a branch which requires that an office be immediately relocated to a temporary location, applicants shall notify the appropriate regional director (DOS) within 3 days of such temporary relocation.

(2) Within 10 days of the temporary relocation resulting from an emergency or disaster, the bank shall submit a written application to the appropriate regional director (DOS), that identifies the nature of the emergency or disaster, specifies the location of the temporary branch, and provides an estimate of the duration the bank plans to operate the temporary branch.

(3) As part of the review process, the appropriate regional director (DOS) will determine on a case by case basis whether additional information is necessary and may waive public notice requirements.

(b) *Redesignation of main office and existing branch.* In cases where an applicant desires to redesignate its main office as a branch and redesignate an existing branch as the main office, an application shall be submitted to relocate the main office and to relocate or establish a branch as appropriate. The appropriate regional director (DOS) may waive the public notice requirements in instances where an application presents no significant or novel policy, supervisory, CRA, compliance or legal concerns. Such waiver will be granted only to a redesignation within the applicant's home state.

(c) *Expiration of approval.* Approval of an application expires if a branch has not commenced business or if a relocation has not been completed within 18 months after date of approval.

§ 303.46 Delegation of authority.

(a) *Approval of applications.* (1) Where the applicant agrees in writing to comply with any conditions imposed by the delegate, other than the standard conditions defined in § 303.2(ff) of this part which may be imposed without the applicant's written consent, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve the applications listed in this paragraph (a)(1). For the Director, Deputy Director or associate director (DOS) to exercise this authority, paragraphs (c)(1) through (c)(4) and (c)(6) through (c)(7) of this section must be satisfied. For the regional director or deputy regional director (DOS) to exercise this authority, criteria in paragraphs (c) (1)–(7) of this section must be satisfied.

(i) Establish a branch;

(ii) Establish and operate a de novo branch in a state that is not the applicant's home state and in which the applicant does not maintain a branch;

(iii) Relocate a main office; and

(iv) Relocate a branch; or

(2) Where the applicant does not agree in writing to comply with any condition imposed by the delegate, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director to approve the applications listed in paragraph (a)(1) of this section.

(b) *Denial of applications.* (1) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to deny an application to establish a temporary branch.

(2) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director to deny applications for consent to:

(i) Establish a branch;

(ii) Establish and operate a de novo branch in a state that is not the applicant's home state and in which the applicant does not maintain a branch;

(iii) Relocate a main office; and

(iv) Relocate a branch.

(c) *Criteria for delegated authority.* The following criteria must be satisfied before the authority delegated in paragraph (a) of this section may be exercised:

(1) The factors set forth in section 6 of the FDI Act (12 U.S.C. 1816) have been considered and favorably resolved except that this criterion does not apply to applications to establish messenger services and temporary branches;

(2) The applicant meets the capital requirements set forth in 12 CFR part 325 and the FDIC's ''Statement of Policy on Capital Adequacy'' (12 CFR part 325, appendix B) or agrees in writing to increase capital so as to be in compliance with the requirements of 12 CFR part 325 before or at the consummation of the transaction which is the subject of the filing, except that this criterion does not apply to applications to establish messenger services and temporary branches, or to relocate branches or main offices;

(3) Any financial arrangements which have been made in connection with the proposed branch or relocation and which involve the applicant's insiders are fair and reasonable in comparison to similar arrangements that could have been made with independent third parties;

(4) Compliance with the CRA, the NEPA, the NHPA, and any applicable related regulations, including 12 CFR part 345, has been considered and favorably resolved;

(5) No CRA protest as defined in § 303.2(l) of this part has been filed which remains unresolved or, where such a protest has been filed and remains unresolved, the Director (DCA), Deputy Director (DCA), an associate director (DCA) or the appropriate regional director (DCA) or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA and the applicant agrees in writing to any conditions imposed regarding the CRA;

(6) An applicant with one or more existing branches in a state other than the applicant's home state has not failed the credit needs test in a host state under section 109 of the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (12 U.S.C. 1835a).

(7) Additionally, for applications submitted to establish and operate a de novo branch in a state that is not the applicant's home state and in which the applicant does not maintain a branch:

(i) Receipt by the appropriate regional director (DOS) of the host state's written confirmation that the applicant has complied with that state's filing requirements and that the applicant also has submitted to the host state bank supervisor a copy of its FDIC filing to establish and operate a de novo branch;

(ii) Determination by the FDIC that the applicant is adequately capitalized as of the date of the filing and will continue to be adequately capitalized and adequately managed upon consummation of the transaction;

(iii) Confirmation that the host state has in effect a law that meets the requirements of section 18(d)(4)(A) of

the FDI Act (12 U.S.C. 1828(d)(4)(A)); and

(iv) Compliance with section 44(b)(3) of the FDI Act (12 U.S.C. 1831u(b)(3)); and

(8) Additionally, for applications submitted to relocate a main office from one state to another where the applicant seeks to retain branches in the state where the applicant's main office exists prior to an interstate relocation of the main office, confirmation that the filing meets the requirements of section 18(d)(3)(B) of the FDI Act (12 U.S.C. 1828(d)(3)(B)).

Subpart D—Mergers

§ 303.60 Scope.

This subpart sets forth the application requirements, procedures, and delegations of authority for transactions subject to FDIC approval under the Bank Merger Act, section 18(c) of the FDI Act (12 U.S.C. 1828(c)).

§ 303.61 Definitions.

For purposes of this subpart:

(a) *Merger* includes any transaction in which an insured depository institution:

(1) Merges or consolidates with any other insured depository institution or, either directly or indirectly, acquires the assets of, or assumes liability to pay any deposits made in, any other insured depository institution; or

(2) Merges or consolidates with any noninsured bank or institution or assumes liability to pay any deposits made in, or similar liabilities of, any noninsured bank or institution, or transfers assets to any noninsured bank or institution in consideration of the assumption of liability for any portion of the deposits made in such insured depository institution.

(b) *Corporate reorganization* means a merger between commonly-owned institutions, between an insured depository institution and its subsidiary, or between an insured depository institution and its holding company, provided that the merger would have no effect on competition or otherwise have significance under the statutory standards set forth in section 18(c) of the FDI Act (12 U.S.C. 1828(c)). For purposes of this paragraph, institutions are commonly-owned if more than 50 percent of the voting stock of each of the institutions is owned by the same company, individual, or group of closely-related individuals acting in concert.

(c) *Interim merger* means a merger (other than a purchase and assumption transaction) between an operating depository institution and a newly-formed depository institution or corporation that will not open for business and that exists solely for the purpose of facilitating a corporate reorganization.

(d) *Optional conversion* (Oakar transaction) means a merger in which an insured depository institution assumes deposit liabilities insured by the deposit insurance fund (either the Bank Insurance Fund (BIF) or the Savings Association Insurance Fund (SAIF)) of which that assuming institution is not a member, and elects not to convert the insurance covering the assumed deposits. Such transactions are covered by section 5(d)(3) of the FDI Act (12 U.S.C. 1815(d)(3)).

(e) *Resulting institution* refers to the surviving institution upon consummation of a merger.

§ 303.62 Transactions requiring prior approval.

(a) *Mergers.* The following transactions require the prior written approval of the FDIC under this subpart:

(1) Any merger, including any corporate reorganization, interim merger, or optional conversion, in which the resulting institution is to be an insured state nonmember bank; and

(2) Any merger, including any corporate reorganization or interim merger, that involves an uninsured bank or institution.

(b) *Related provisions.* Transactions covered by this subpart also may be subject to other provisions or application requirements, including the following:

(1) *Interstate mergers.* Interstate mergers between insured banks are subject to the provisions of section 44 of the FDI Act (12 U.S.C. 1831u). In the case of a merger that consists of the acquisition of a branch without acquisition of the bank, the branch is treated for section 44 purposes as a bank whose home state is the state in which the branch is located.

(2) *Deposit insurance.* An application for deposit insurance will be required in connection with a merger between a state-chartered interim institution and an insured depository institution if the related merger application is being acted upon by a federal banking agency other than the FDIC. If the FDIC is the federal banking agency responsible for acting on the related merger application, a separate application for deposit insurance is not necessary. Procedures for applying for deposit insurance are set forth in subpart B of this part. An application for deposit insurance will not be required in connection with a merger of a federally-chartered interim institution and an insured institution, even if the resulting institution is to operate under the charter of the federal interim institution.

(3) *Deposit insurance fund conversions.* Procedures for conversion transactions involving the transfer of deposits from BIF to SAIF or from SAIF to BIF are set forth in subpart M of this part at § 303.246.

(4) *Branch closings.* Branch closings in connection with a merger are subject to the notice requirements of section 42 of the FDI Act (12 U.S.C. 1831r–1), including requirements for notice to customers. These requirements are addressed in the Interagency Policy Statement Concerning Branch Closings Notices and Policies (2 FDIC Law, Regulations and Related Acts (FDIC) 5391).

(5) *Undercapitalized institutions.* Applications for a merger by applicants subject to section 38 of the FDI Act (12 U.S.C. 1831o) should also provide the information required by § 303.204 of this part. Applications pursuant to sections 38 and 18(c) of the FDI Act (12 U.S.C, 1831o and 1828(c)) may be filed concurrently or as a single application.

(6) *Certification of assumption of deposit liability.* An insured depository institution assuming deposit liabilities of another insured institution must provide certification of assumption of deposit liability to the FDIC in accordance with 12 CFR part 307.

§ 303.63 Filing procedures.

(a) *General.* Applications required under this subpart shall be filed with the appropriate regional director (DOS). The appropriate forms and instructions, including instructions concerning notice to depositors where applicable, may be obtained upon request from any DOS regional office.

(b) *Mergers.* Applications for approval of mergers shall be accompanied by copies of all agreements or proposed agreements relating to the merger and any other information requested by the FDIC.

(c) *Interim mergers.* Applications for approval of interim mergers and any related deposit insurance applications shall be made by filing the forms and other documents required by paragraphs (a) and (b) of this section and such other information as may be required by the FDIC for consideration of the request for deposit insurance.

(d) *Optional conversions.* Applications for optional conversions shall include a statement that the proposed merger is a transaction covered by section 5(d)(3) of the FDI Act (12 U.S.C. 1815(d)(3)).

§ 303.64 Processing.

(a) *Expedited processing for eligible depository institutions.* (1) *General.* An application filed under this subpart by an eligible depository institution as defined in § 303.2(r) of this part and which meets the additional criteria in paragraph (a)(4) of this section will be acknowledged by the FDIC in writing and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part.

(2) Under expedited processing, the FDIC will take action on an application by the date that is the latest of:

(i) 45 days after the date of the FDIC's receipt of a substantially complete merger application; or

(ii) 10 days after the date of the last notice publication required under § 303.65 of this subpart; or

(iii) 5 days after receipt of the Attorney General's report on the competitive factors involved in the proposed transaction; or

(iv) For an interstate merger subject to the provisions of section 44 of the FDI Act (12 U.S.C. 1831u), 5 days after the FDIC confirms that the applicant has satisfactorily complied with the filing requirements of the resulting institution's host state.

(3) Notwithstanding paragraph (a)(1) of this section, if the FDIC does not act within the expedited processing period, it does not constitute an automatic or default approval.

(4) *Qualifications.*—(i) *Criteria.* The FDIC will process an application using expedited procedures if:

(A) All parties to the merger are eligible depository institutions as defined in § 303.2(r) of this part; and

(B) Immediately following the merger, the resulting institution will be ''well capitalized'' pursuant to subpart B of part 325 of this chapter (12 CFR part 325).

(b) *Standard processing.* For those applications not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action taken by the FDIC on the application as soon as the decision is rendered.

§ 303.65 Public notice requirements.

(a) *General.* Except as provided in paragraph (b) of this section, an applicant for approval of a merger must publish notice of the proposed transaction on at least three occasions at approximately two-week intervals in a newspaper of general circulation in the community or communities where the main offices of the merging institutions are located or, if there is no such newspaper in the community, then in the newspaper of general circulation published nearest thereto.

(1) *First publication.* The first publication of the notice should be as close as practicable to the date on which the application is filed with the FDIC, but no more than 5 days prior to the filing date.

(2) *Last publication.* The last publication of the notice shall be on the 30th day after the first publication or, if the newspaper does not publish on the 30th day, on the newspaper's publication date that is closest to the 30th day.

(b) *Exceptions.*—(1) *Emergency requiring expeditious action.* If the FDIC determines that an emergency exists requiring expeditious action, notice shall be published twice during a 10-day period. The first notice shall be published as soon as possible after the FDIC notifies the applicant of such determination. The second notice shall be published on the 10th day after the first publication or, if the newspaper does not publish on the 10th day, on the newspaper's publication date that is closest to the 10th day.

(2) *Probable failure.* If the FDIC determines that it must act immediately to prevent the probable failure of one of the institutions involved in a proposed merger, publication is not required.

(c) *Content of notice.*—(1) *General.* The notice shall conform to the public notice requirements set forth in § 303.7 of this part.

(2) *Branches.* If it is contemplated that the resulting institution will operate offices of the other institution(s) as branches, the following statement shall be included in the notice required in section § 303.7(b):

> It is contemplated that all offices of the above-named institutions will continue to be operated (with the exception of [insert identity and location of each office that will not be operated]).

(3) *Emergency requiring expeditious action.* If the FDIC determines that an emergency exists requiring expeditious action, the notice shall specify as the closing date of the public comment period the date that is the 10th day after the date of the first publication.

(d) *Public comments.* Comments must be received by the regional director (DOS) within 35 days after the first publication of the notice, unless the comment period has been extended or reopened in accordance with § 303.9(b)(2). If the FDIC has determined that an emergency exists requiring expeditious action, comments must be received by the regional director within 10 days after the first publication.

§ 303.66 Delegation of authority.

(a) *General.*—(1) *Bank Merger Act approval.* Subject to paragraphs (a)(3) and (e) of this section, authority is delegated in paragraphs (b), (c), and (d) of this section to the designated FDIC officials to approve under the Bank Merger Act any application filed under this subpart for approval of a merger for which the specified criteria are satisfied.

(2) *Interstate merger approval.* With respect to an interstate merger covered by section 44 of the FDI Act (12 U.S.C. 1831u), in addition to the authority delegated to any official in paragraph (b), (c), or (d) of this section to approve the merger under the Bank Merger Act, authority is also delegated to such official to approve the merger under section 44. This delegation is subject to paragraph (a)(3) of this section and to the condition that the merger is eligible for FDIC approval under section 44.

(3) *Combined approvals.* The delegations in paragraphs (a)(2), (b), (c), and (d) of this section do not apply to an interstate bank merger covered both by section 44 and by the Bank Merger Act, unless the merger is being approved pursuant to delegated authority under both section 44 and the Bank Merger Act.

(b) *Basic delegation.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, and the appropriate regional director and deputy regional director to approve applications under the Bank Merger Act. For the Director, Deputy Director or associate director (DOS) to exercise this authority, paragraphs (b)(1) through (4) and (b)(6) of this section must be satisfied. For the regional director or deputy regional director (DOS) to exercise this authority, paragraphs (b)(1) through (b)(6) of this section must be satisfied.

(1) The resulting institution would meet all applicable capital requirements upon consummation of the transaction (or, where the resulting entity is an insured branch of a foreign bank, would be in compliance with 12 CFR 346.20 upon consummation of the transaction); and

(2) The factors set forth in section 18(c)(5) of the Act (12 U.S.C. 1828(c)(5)) have been considered and favorably resolved; and

(3)(i) The merging institutions do not operate in the same relevant geographic market(s); or

(ii) In each relevant geographic market in which more than one of the merging

institutions operate, the resulting institution upon consummation of the merger would hold no more than 15 percent of the total deposits held by banks and/or other depository institutions (as appropriate) in the market; or

(iii) In each relevant geographic market in which more than one of the merging institutions operate, the resulting institution upon consummation of the merger would hold no more than 25 percent of the total deposits held by banks and/or other depository institutions (as appropriate) in the market, and the Attorney General has notified the FDIC in writing that the proposed merger would not have a significantly adverse effect on competition; and

(4) Compliance with the CRA and any applicable related regulations, including 12 CFR part 345, has been considered and favorably resolved; and

(5) No CRA protest as defined in § 303.2(l) of this part has been filed which remains unresolved or, where such a protest has been filed and remains unresolved, the Director (DCA), Deputy Director (DCA), associate director (DCA), the appropriate regional director (DCA), or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA, and the applicant agrees in writing to any conditions imposed regarding the CRA; and

(6) The applicant agrees in writing to comply with any conditions imposed by the delegate, other than the standard conditions defined in § 303.2(ff) of this part, which may be imposed without the applicant's written consent.

(c) *Additional delegations.* In addition to the delegations otherwise provided for in this section, and subject to the criteria set forth in paragraphs (b)(1), (2), (4) and (6) of this section, authority is delegated to the Director and to the Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to approve an application for a merger upon the consummation of which the resulting institution would hold not more than 35 percent of the total deposits held by banks and/or other depository institutions (as appropriate) in any relevant geographic market in which more than one of the merging institutions operate, and the Attorney General has notified the FDIC in writing that the merger would not have a significantly adverse effect on competition.

(d) *Corporate reorganizations; interim mergers.*—(1) *Basic delegation.* In addition to the delegations otherwise provided for in this section, authority is delegated to the Director and to the Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve:

(i) An application for a corporate reorganization that satisfies the criteria set forth in paragraphs (b) (5) and (6) of this section; and

(ii) Any related application for deposit insurance.

(2) *Additional delegation.* Authority is further delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director to approve:

(i) An application for corporate reorganization that satisfies the criteria set forth in paragraphs (b)(6) of this section and as to which a CRA protest as defined in § 303.2(l) of this part has been filed which remains unresolved; and

(ii) Any related application for deposit insurance.

(e) *Limitations.* The delegations in paragraphs (b) through (d) of this section do not apply if:

(1) The Attorney General of the United States has determined that the merger would have a significantly adverse effect on competition; or

(2) The FDIC has made a determination pursuant to section (c)(6) of the Bank Merger Act (12 U.S.C. 1828(c)(6)) that an emergency exists requiring expeditious action or that the transaction must be consummated immediately in order to avoid a probable failure.

(f) *Review of competitive factors reports.* In deciding whether to approve a merger under the authority delegated by this section, the delegate shall review any reports provided by the Attorney General of the United States, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, or the Director of the Office of Thrift Supervision in response to a request by the FDIC for reports on the competitive factors involved in the proposed merger. If the Attorney General has not provided a competitive factors report and if the delegation criterion specified in either paragraph (b)(3) (i) or (ii) of this section is satisfied, the delegate may request from the FDIC's General Counsel or designee a written opinion as to whether the proposed merger may have a significantly adverse effect on competition.

(g) *Competitive factor reports provided by the FDIC.* Authority is delegated to the Director and the Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to furnish requested reports to the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, or the Director of the Office of Thrift Supervision on the competitive factors involved in any merger subject to approval by one of those agencies, if the delegate is of the view that the proposed merger would not have a substantially adverse effect on competition.

§ 303.67 Authority retained by the FDIC Board of Directors

Without limiting the authority of the Board of Directors, the Board of Directors retains authority to act on applications covered by this subpart if the criteria or other conditions for delegation are not satisfied. This includes the retention of authority to deny applications for merger transactions. It further includes retention of authority to approve applications for merger transactions where:

(a) The limitations specified in § 303.66(e) preclude action under delegated authority;

(b) The applicant does not agree in writing to comply with any conditions imposed by the delegate, other than the standard conditions defined in § 303.2(ff) of this part, which may be imposed without the applicant's written consent; or

(c) The resulting institution, upon consummation of a merger other than a corporate reorganization, would have more than 35 percent of the total deposits held by banks and/or other depository institutions (as appropriate) in any relevant geographic market in which more than one of the merging institutions operate.

Subpart E—Change in Bank Control

§ 303.80 Scope.

This subpart sets forth the procedures for submitting a notice to acquire control of an insured state nonmember bank pursuant to the Change in Bank Control Act of 1978, section 7(j) of the FDI Act (12 U.S.C. 1817(j)), and delegations of authority regarding such filings.

§ 303.81 Definitions.

For purposes of this subpart:

(a) *Acquisition* means a purchase, assignment, transfer, pledge or other disposition of voting shares, or an increase in percentage ownership of an insured state nonmember bank resulting from a redemption of voting shares.

(b) *Acting in concert* means knowing participation in a joint activity or parallel action towards a common goal

of acquiring control of an insured state nonmember bank, whether or not pursuant to an express agreement.

(c) *Control* means the power, directly or indirectly, to direct the management or policies of an insured bank or to vote 25 percent or more of any class of voting shares of an insured bank.

(d) *Person* means an individual, corporation, partnership, trust, association, joint venture, pool, syndicate, sole proprietorship, unincorporated organization, and any other form of entity; and a voting trust, voting agreement, and any group of persons acting in concert.

§ 303.82 Transactions requiring prior notice.

(a) *Prior notice requirement.* Any person acting directly or indirectly, or through or in concert with one or more persons, shall give the FDIC 60 days prior written notice, as specified in § 303.84 of this subpart, before acquiring control of an insured state nonmember bank, unless the acquisition is exempt under § 303.83.

(b) *Acquisitions requiring prior notice.*—(1) *Acquisition of control.* The acquisition of control, unless exempted, requires prior notice to the FDIC.

(2) *Rebuttable presumption of control.* The FDIC presumes that an acquisition of voting shares of an insured state nonmember bank constitutes the acquisition of the power to direct the management or policies of an insured bank requiring prior notice to the FDIC, if, immediately after the transaction, the acquiring person (or persons acting in concert) will own, control, or hold with power to vote 10 percent or more of any class of voting shares of the institution, and if:

(i) The institution has registered shares under section 12 of the Securities Exchange Act of 1934 (15 U.S.C. 78l); or

(ii) No other person will own, control or hold the power to vote a greater percentage of that class of voting shares immediately after the transaction. If two or more persons, not acting in concert, each propose to acquire simultaneously equal percentages of 10 percent or more of a class of voting shares of an insured state nonmember bank, each such person shall file prior notice with the FDIC.

(c) *Acquisitions of loans in default.* The FDIC presumes an acquisition of a loan in default that is secured by voting shares of an insured state nonmember bank to be an acquisition of the underlying shares for purposes of this section.

(d) *Other transactions.* Transactions other than those set forth in paragraph (b)(2) of this section resulting in a person's control of less than 25 percent of a class of voting shares of an insured state nonmember bank are not deemed by the FDIC to constitute control for purposes of the Change in Bank Control Act.

(e) *Rebuttal of presumptions.* Prior notice to the FDIC is not required for any acquisition of voting shares under the presumption of control set forth in this section, if the FDIC finds that the acquisition will not result in control. The FDIC will afford any person seeking to rebut a presumption in this section an opportunity to present views in writing or, if appropriate, orally before its designated representatives at an informal conference.

§ 303.83 Transactions not requiring prior notice.

(a) *Exempt transactions.* The following transactions do not require notice to the FDIC under this subpart:

(1) The acquisition of additional voting shares of an insured state nonmember bank by a person who:

(i) Held the power to vote 25 percent or more of any class of voting shares of that institution continuously since March 9, 1979, or since that institution commenced business, whichever is later; or

(ii) Is presumed, under § 303.82(b)(2) of this subpart, to have controlled the institution continuously since March 9, 1979, if the aggregate amount of voting shares held does not exceed 25 percent or more of any class of voting shares of the institution or, in other cases, where the FDIC determines that the person has controlled the bank continuously since March 9, 1979;

(2) The acquisition of additional shares of a class of voting shares of an insured state nonmember bank by any person (or persons acting in concert) who has lawfully acquired and maintained control of the institution (for purposes of § 303.82 of this subpart) after complying with the procedures of the Change in Bank Control Act to acquire voting shares of the institution under this subpart;

(3) Acquisitions of voting shares subject to approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842(a)), section 18(c) of the FDI Act (12 U.S.C. 1828(c)), or section 10 of the Home Owners' Loan Act (12 U.S.C. 1467a);

(4) Transactions exempt under the Bank Holding Company Act: foreclosures by institutional lenders, fiduciary acquisitions by banks, and increases of majority holdings by bank holding companies described in sections 2(a)(5), 3(a)(A), or 3(a)(B) respectively of the Bank Holding Company Act (12 U.S.C. 1841(a)(5), 1842(a)(A), and 1842(a)(B));

(5) A customary one-time proxy solicitation;

(6) The receipt of voting shares of an insured state nonmember bank through a pro rata stock dividend; and

(7) The acquisition of voting shares in a foreign bank, which has an insured branch or branches in the United States. (This exemption does not extend to the reports and information required under paragraphs 9, 10, and 12 of the Change in Bank Control Act of 1978 (12 U.S.C. 1817(j) (9), (10), and (12)).)

(b) *Prior notice exemption.* (1) The following acquisitions of voting shares of an insured state nonmember bank, which otherwise would require prior notice under this subpart, are not subject to the prior notice requirements if the acquiring person notifies the appropriate regional director (DOS) within 90 calendar days after the acquisition and provides any relevant information requested by the regional director (DOS):

(i) The acquisition of voting shares through inheritance;

(ii) The acquisition of voting shares as a bona fide gift; or

(iii) The acquisition of voting shares in satisfaction of a debt previously contracted in good faith, except that the acquiror of a defaulted loan secured by a controlling amount of a state nonmember bank's voting securities shall file a notice before the loan is acquired.

(2) The following acquisitions of voting shares of an insured state nonmember bank, which otherwise would require prior notice under this subpart, are not subject to the prior notice requirements if the acquiring person notifies the appropriate regional director (DOS) within 90 calendar days after receiving notice of the acquisition and provides any relevant information requested by the regional director (DOS):

(i) A percentage increase in ownership of voting shares resulting from a redemption of voting shares by the issuing bank; or

(ii) The sale of shares by any shareholder that is not within the control of a person resulting in that person becoming the largest shareholder.

(3) Nothing in paragraph (b)(1) of this section limits the authority of the FDIC to disapprove a notice pursuant to § 303.85(c) of this subpart.

§ 303.84 Filing procedures.

(a) *Filing notice.* (1) A notice required under this subpart shall be filed with the appropriate regional director (DOS)

and shall contain all the information required by paragraph 6 of the Change in Bank Control Act, section 7(j) of the FDI Act (12 U.S.C. 1817(j)(6)), or prescribed in the designated interagency form which may be obtained from any FDIC regional office.

(2) The FDIC may waive any of the informational requirements of the notice if the FDIC determines that it is in the public interest.

(3) A notificant shall notify the appropriate regional director (DOS) immediately of any material changes in a notice submitted to the regional director (DOS), including changes in financial or other conditions.

(4) When the acquiring person is an individual, or group of individuals acting in concert, the requirement to provide personal financial data may be satisfied by a current statement of assets and liabilities and an income summary, as required in the designated interagency form, together with a statement of any material changes since the date of the statement or summary. The regional director (DOS), nevertheless, may request additional information if appropriate.

(b) *Other laws.* Nothing in this regulation shall affect any obligation which the acquiring person(s) may have to comply with the federal securities laws or other laws.

§ 303.85 Processing.

(a) *Acceptance of notice.* The 60-day notice period specified in § 303.82 of this subpart shall commence on the date of receipt of a substantially complete notice. The regional director (DOS) shall notify the person or persons submitting a notice under this subpart in writing of the date the notice is accepted for processing. The FDIC may request additional relevant information at any time.

(b) *Time period for FDIC action.*—(1) *Consummation of acquisition.* (i) The notificant(s) may consummate the proposed acquisition 60 days after submission to the regional director (DOS) of a substantially complete notice under paragraph (a) of this section, unless within that period the FDIC disapproves the proposed acquisition or extends the 60-day period.

(ii) The notificant(s) may consummate the proposed transaction before the expiration of the 60-day period if the FDIC notifies the notificant(s) in writing of its intention not to disapprove the acquisition.

(c) *Disapproval of acquisition of control.* Subpart D of 12 CFR part 308 sets forth the rules of practice and procedure for a notice of disapproval.

§ 303.86 Public notice requirements.

(a) *Publication.*—(1) *Newspaper announcement.* Any person(s) filing a notice under this subpart shall publish an announcement soliciting public comment on the proposed acquisition. The announcement shall be published in a newspaper of general circulation in the community in which the home office of the state nonmember bank to be acquired is located. The announcement shall be published as close as is practicable to the date the notice is filed with the appropriate regional director (DOS), but in no event more than 10 calendar days before or after the filing date.

(2) *Contents of newspaper announcement.* The newspaper announcement shall conform to the public notice requirements set forth in § 303.7 of this part.

(3) *Delay of publication.* The FDIC may permit delay in the publication required by this section if the FDIC determines, for good cause shown, that it is in the public interest to grant such a delay. Requests for delay of publication may be submitted to the appropriate regional director (DOS).

(4) *Shortening or waiving notice.* The FDIC may shorten the public comment period to a period of not less than 10 days, or waive the public comment or newspaper publication requirements of this paragraph, or act on a notice before the expiration of a public comment period, if it determines in writing either that an emergency exists or that disclosure of the notice, solicitation of public comment, or delay until expiration of the public comment period would seriously threaten the safety or soundness of the bank to be acquired.

(5) *Consideration of public comments.* In acting upon a notice filed under this subpart, the FDIC shall consider all public comments received in writing within 20 days following the required newspaper publication or, if the FDIC has shortened the public comment period pursuant to paragraph (a)(4) of this section, within such shorter period.

(6) *Publication if filing is subsequent to acquisition of control.* (i) Whenever a notice of a proposed acquisition of control is not filed in accordance with the Change in Bank Control Act and these regulations, the acquiring person(s) shall, within 10 days of being so directed by the FDIC, publish an announcement of the acquisition of control in a newspaper of general circulation in the community in which the home office of the state nonmember bank to be acquired is located.

(ii) The newspaper announcement shall contain the name(s) of the acquiror(s), the name of the depository institution involved, and the date of the acquisition of the stock. The announcement shall also contain a statement indicating that the FDIC is currently reviewing the acquisition of control. The announcement also shall state that any person wishing to comment on the change in control may do so by submitting written comments to the appropriate regional director (DOS) of the FDIC (give address of regional office) within 20 days following the required newspaper publication.

§ 303.87 Delegation of authority.

(a) Authority is delegated to the Director and the Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to issue a written notice of the FDIC's intent not to disapprove an acquisition of control of an insured state nonmember bank.

(b) The authority delegated by paragraph (a) of this section shall include the power to:

(1) Act in situations where information is submitted on acquisitions arising out of events beyond the person's control, as set forth in § 303.83(b) of this subpart;

(2) Extend notice periods;

(3) Determine whether a notice should be filed under section 7(j) of the Act (12 U.S.C. 1817(j)) by a person acquiring less than 25 percent of any class of voting shares of an insured state nonmember bank; and

(4) Delay or waive publication, waive or shorten the public comment period, or act on a proposed acquisition of control prior to the expiration of the public comment period, as provided in §§ 303.86(a) (3) and (4) of this subpart.

(c) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to disapprove an acquisition of control of an insured state nonmember bank.

Subpart F—Change of Director or Senior Executive Officer

§ 303.100 Scope.

This subpart sets forth the circumstances under which an insured state nonmember bank must notify the FDIC of a change in any member of its board of directors or any senior executive officer and the procedures for filing such notice, as well as applicable delegations of authority. This regulation implements section 32 of the FDI Act (12 U.S.C. 1831i).

§ 303.101 Definitions.

For purposes of this subpart:

(a) *Director* means a person who serves on the board of directors or board of trustees of an insured state nonmember bank, except that this term does not include an advisory director who:

(1) Is not elected by the shareholders;

(2) Is not authorized to vote on any matters before the board of directors or board of trustees or any committee thereof;

(3) Solely provides general policy advice to the board of directors or board of trustees and any committee thereof; and

(4) Has not been identified by the FDIC as a person who performs the functions of a director for purposes of this subpart.

(b) *Senior executive officer* means a person who holds the title of president, chief executive officer, chief operating officer, chief managing official (in an insured state branch of a foreign bank), chief financial officer, chief lending officer, or chief investment officer, or, without regard to title, salary, or compensation, performs the function of one or more of these positions. *Senior executive officer* also includes any other person identified by the FDIC, whether or not hired as an employee, with significant influence over, or who participates in, major policymaking decisions of the insured state nonmember bank.

(c) *Troubled condition* means any insured state nonmember bank that:

(1) Has a composite rating, as determined in its most recent report of examination of 4 or 5 under the Uniform Financial Institutions Rating System (UFIRS), or in the case of an insured state branch of a foreign bank, an equivalent rating;

(2) Is subject to a proceeding initiated by the FDIC for termination or suspension of deposit insurance;

(3) Is subject to a cease-and-desist order or written agreement issued by either the FDIC or the appropriate state banking authority that requires action to improve the financial condition of the bank or is subject to a proceeding initiated by the FDIC or state authority which contemplates the issuance of an order that requires action to improve the financial condition of the bank, unless otherwise informed in writing by the FDIC; or

(4) Is informed in writing by the FDIC that it is in troubled condition for purposes of the requirements of this subpart on the basis of the bank's most recent report of condition or report of examination, or other information available to the FDIC.

§ 303.102 Filing procedures.

(a) *Insured state nonmember banks.* An insured state nonmember bank shall give the FDIC written notice, as specified in paragraph (c)(1) of this section, at least 30 days prior to adding or replacing any member of its board of directors, employing any person as a senior executive officer of the bank, or changing the responsibilities of any senior executive officer so that the person would assume a different senior executive officer position, if:

(1) The bank is not in compliance with all minimum capital requirements applicable to the bank as determined on the basis of the bank's most recent report of condition or report of examination;

(2) The bank is in troubled condition; or

(3) The FDIC determines, in connection with its review of a capital restoration plan required under section 38(e)(2) of the FDI Act (12 U.S.C. 1831o(e)(2)) or otherwise, that such notice is appropriate.

(b) *Insured branches of foreign banks.* In the case of the addition of a member of the board of directors or a change in senior executive officer in a foreign bank having an insured state branch, the notice requirement shall not apply to such additions and changes in the foreign bank parent, but only to changes in senior executive officers in the state branch.

(c)(1) *Content of filing.* The notice required by paragraph (a) of this section shall be filed with the appropriate regional director (DOS) and shall contain information pertaining to the competence, experience, character, or integrity of the individual with respect to whom the notice is submitted, as prescribed in the designated interagency form which is available from any FDIC regional office. The regional director or his or her designee may require additional information.

(2) *Modification.* The FDIC may modify or accept other information in place of the requirements of paragraph (c)(1) of this section for a notice filed under this subpart.

§ 303.103 Processing and waiver of prior notice.

(a) *Processing.* The 30-day notice period specified in § 303.102(a) shall begin on the date substantially all information required to be submitted by the notificant pursuant to § 303.102(c)(1) is received by the appropriate regional director (DOS). The regional director shall notify the bank submitting the notice of the date on which the notice is accepted for processing and of the date on which the 30-day notice period will expire. If processing cannot be completed within 30 days, the notificant will be advised in writing, prior to expiration of the 30-day period, of the reason for the delay in processing and of the additional time period, not to exceed 60 days, in which processing will be completed.

(b) *Commencement of service.*—(1) *At expiration of period.* A proposed director or senior executive officer may begin service after the end of the 30-day period or any other additional period as provided under paragraph (a) of this section, unless the FDIC disapproves the notice before the end of the period.

(2) *Prior to expiration of period.* A proposed director or senior executive officer may begin service before the end of the 30-day period or any additional time period as provided under paragraph (a) of this section, if the FDIC notifies the bank and the individual in writing of the FDIC's intention not to disapprove the notice.

(c) *Waiver of prior notice.* (1) *Waiver requests.* The FDIC may permit an individual, upon petition by the bank to the appropriate regional director (DOS), to serve as a senior executive officer or director before filing the notice required under this subpart if the FDIC finds that:

(i) Delay would threaten the safety or soundness of the bank;

(ii) Delay would not be in the public interest; or

(iii) Other extraordinary circumstances exist that justify waiver of prior notice.

(2) *Automatic waiver.* In the case of the election of a new director not proposed by management at a meeting of the shareholders of an insured state nonmember bank, the prior 30-day notice is automatically waived and the individual immediately may begin serving, provided that a complete notice is filed with the appropriate regional director (DOS) within two business days after the individual's election.

(3) *Effect on disapproval authority.* A waiver shall not affect the authority of the FDIC to disapprove a notice within 30 days after a waiver is granted under paragraph (c)(1) of this section or the election of an individual who has filed a notice and is serving pursuant to an automatic waiver under paragraph (c)(2) of this section.

(d) *Notice of disapproval.* The FDIC may disapprove a notice filed under § 303.102 if the FDIC finds that the competence, experience, character, or integrity of the individual with respect to whom the notice is submitted indicates that it would not be in the best interests of the depositors of the bank or in the best interests of the public to permit the individual to be employed

by, or associated with, the bank. Subpart L of 12 CFR part 308 sets forth the rules of practice and procedure for a notice of disapproval.

§ 303.104 Delegation of authority.

The following authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director or deputy regional director to:

(a) Designate an insured state nonmember bank as being in troubled condition;

(b) Grant waivers of the prior notice requirement;

(c) Extend the 30-day processing period for an additional period of up to 60 days in the event of extenuating circumstances; and

(d) Issue notices of disapproval or notices of intent not to disapprove under this subpart.

Subpart G—Activities and Investments of Insured State Banks [Reserved]

Subpart H—Filings by Savings Associations [Reserved]

Subpart I—Mutual-to-Stock Conversions

§ 303.160 Scope.

This subpart sets forth the notice requirements which must be met by mutually owned state-chartered savings banks that propose to convert to stock form, and the related delegations of authority. The substantive requirements governing such conversions are contained in § 333.4 of this chapter.

§ 303.161 Filing procedures.

A notice shall be filed in letter form with the appropriate regional director (DOS) at the same time as the conversion application materials are filed with the institution's primary state regulator.

§ 303.162 Content of notice.

The notice shall provide a description of the proposed conversion and include all materials that have been filed with any state or federal banking regulator and any state or federal securities regulator. Copies of all agreements entered into as part of the mutual-to-stock conversion between the institution and its officers, directors or trustees, and any agreements entered into with any other institution and/or its successors must be provided. An insured mutual savings bank chartered by a state that does not require the filing of an application to convert from mutual to stock form that proposes to convert to stock form shall notify the FDIC of the proposed conversion and provide any materials requested by the FDIC.

§ 303.163 Processing.

(a) The FDIC shall review the materials submitted by the institution seeking to convert from mutual to stock form. The FDIC, in its discretion, may request any additional information it deems necessary to evaluate the proposed conversion and the institution promptly shall provide such information to the FDIC. Among the factors to be reviewed by the FDIC are:

(1) The use of the proceeds from the sale of stock, as set forth in the business plan;

(2) The adequacy of the disclosure materials;

(3) The participation of depositors in approving the transaction;

(4) The form of the proxy statement required for the vote of the depositors/members on the conversion;

(5) Any increased compensation and other remuneration (including stock grants, stock option rights and other similar benefits) to be granted to officers and directors/trustees of the bank in connection with the conversion;

(6) The adequacy and independence of the appraisal of the value of the mutual savings bank for purposes of determining the price of the shares of stock to be sold;

(7) The process by which the bank's trustees approved the appraisal, the pricing of the stock and the compensation arrangements for insiders;

(8) The nature and apportionment of stock subscription rights; and

(9) The bank's plans to fulfill its commitment to serving the convenience and needs of its community.

(b) *Additional considerations.* In reviewing the materials required to be submitted under this section, the FDIC will take into account the extent to which the proposed conversion conforms with the various provisions of the mutual-to-stock conversion regulations of the Office of Thrift Supervision (OTS) (12 CFR part 563b), as currently in effect at the time the FDIC reviews the required materials related to the proposed conversion. Any non-conformity with those provisions will be closely reviewed. Conformity with the OTS requirements will not be sufficient for FDIC regulatory purposes if the FDIC determines that the proposed conversion would pose a risk to the institution's safety or soundness, violate any law or regulation or present a breach of fiduciary duty.

(c) *Notification of completed filing of materials.* The FDIC shall notify the institution when all the required materials related to the proposed conversion have been filed with the FDIC and the notice is thereby complete for purposes of computing the time periods designated in paragraphs (d) and (f) of this section.

(d) *Notice of intent not to object.* If the FDIC determines, in its discretion, that the proposed conversion would not pose a risk to the institution's safety or soundness, violate any law or regulation or present a breach of fiduciary duty, then the FDIC shall issue to the bank seeking to convert, within 60 days of receipt of a substantially complete notice of proposed conversion or within 20 days after the last applicable state or other federal regulator has approved the proposed conversion, whichever is later, a notice of intent not to object to the proposed conversion. The FDIC may, in its discretion, extend by written notice to the institution the initial 60-day period by an additional 60 days.

(e) *Letter of objection.* If the FDIC determines, in its discretion, that the proposed conversion poses a risk to the institution's safety or soundness, violates any law or regulation or presents a breach of fiduciary duty, then the FDIC shall issue a letter to the institution stating its objection(s) to the proposed conversion and advising the institution that the conversion shall not be consummated until such letter is rescinded. A copy of the letter of objection shall be furnished to the institution's primary state regulator and any other state or federal banking regulator and state or federal securities regulator involved in the conversion. The letter of objection shall advise the institution of its right to petition the FDIC for reconsideration under § 303.11(f) of this part. Such action shall not, in any way, prohibit the FDIC from taking any other action(s) that it may deem necessary.

(f) *Consummation of the conversion.* An institution may consummate the proposed conversion upon either:

(1) The receipt of a notice of intent not to object; or

(2) The expiration of the 60-day period following receipt of a substantially complete notice by the FDIC or the 20-day period after the last applicable state or other federal regulator has approved the proposed conversion, whichever is later, unless the FDIC issues a notice of objection before the end of that period. If a notice of objection is issued, the conversion shall not be consummated until such letter is rescinded. The FDIC may, in its discretion, extend by written notice to the institution the initial 60-day period by an additional 60 days.

§ 303.164 Delegation of authority.

(a) Authority is delegated to the Director and Deputy Director (DOS) to issue a notice of intent not to object to a proposed conversion transaction that is determined not to pose a risk to the institution's safety or soundness, violate any law or regulation, present a breach of fiduciary duty, and not to raise any unique legal or policy issues. Such authority will be exercised in accordance with the time periods contained in § 303.163(d) of this subpart, unless the bank seeking to convert agrees to a longer time period.

(b) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director to accept notices of intent to convert to stock form and to extend the initial 60-day period within which FDIC may object by an additional 60 days.

Subpart J—Foreign Bank Activities

§ 303.180 Scope.

This subpart sets forth procedures for complying with application requirements relating to the foreign activities of insured state nonmember banks and the U.S. activities of insured branches of foreign banks and delegations of authority.

§ 303.181 Definitions.

For the purposes of this subpart, the following additional definitions apply:

(a) *Board of Governors* means the Board of Governors of the Federal Reserve System.

(b) *Comptroller* means the Office of the Comptroller of the Currency.

(c) *Eligible insured branch.* An insured branch will be treated as an eligible depository institution within the meaning of § 303.2(r) of this part if the insured branch:

(1) Received an FDIC-assigned composite ROCA rating of 1 or 2 as a result of its most recent federal or state examination, and the FDIC, Comptroller, or Board of Governors have not expressed concern about the condition or operations of the foreign banking organization or the support it offers the branch;

(2) Received a satisfactory or better Community Reinvestment Act (CRA) rating from its primary federal regulator at its most recent examination;

(3) Received a compliance rating of 1 or 2 from its primary federal regulator at its most recent examination;

(4) Is well capitalized as defined in subpart B of part 325 of this chapter; and

(5) Is not subject to a cease and desist order, consent order, prompt corrective action directive, written agreement, memorandum of understanding, or other administrative agreement with any U.S. bank regulatory authority.

(d) *Federal branch* means a federal branch of a foreign bank as defined by § 346.1 of this chapter.

(e) *Foreign bank* means a foreign bank as defined by § 346.1 of this chapter.

(f) *Foreign branch* means a foreign branch of an insured state nonmember bank as defined by § 347.2 of this chapter.

(g) *Insured branch* means an insured branch of a foreign bank as defined by § 346.1 of this chapter.

(h) *State branch* means a state branch of a foreign bank as defined by § 346.1 of this chapter.

§ 303.182 Establishing, moving or closing a foreign branch of a state nonmember bank.

(a) *General consent to expand within a country.* (1) General consent of the FDIC is granted under § 347.3 of this chapter for an eligible depository institution to establish additional foreign branches conducting activities authorized by § 347.3 in any foreign country in which the bank already operates one or more foreign branches, or to move an existing foreign branch within a foreign country.

(2) *Notice procedures for general consent.* The eligible depository institution must provide the appropriate regional director (DOS) written notice within 30 days of taking such action, and include the location of the foreign branch, including a street address, and a statement that the foreign branch has not been located on a site on the World Heritage List or on the foreign country's equivalent of the National Register of Historic Places (National Register), in accordance with section 402 of the National Historic Preservation Act Amendments of 1980 (NHPA Amendments Act) (16 U.S.C. 470a–2). The appropriate regional director will provide written acknowledgment of receipt of the notice.

(b) *Filing procedures for other branch establishments.* (1) *Where to file.* An insured state nonmember bank seeking to establish a foreign branch other than under paragraph (a) of this section must submit an application to the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter filing must contain the following information:

(i) The exact location of the foreign branch, including a street address, and a statement whether the foreign branch will be located on a site on the World Heritage List or on the foreign country's equivalent of the National Register, in accordance with section 402 of the NHPA Amendments Act;

(ii) Details concerning any involvement in the proposal by an insider of the applicant, including any financial arrangements relating to fees, the acquisition of property, leasing of property, and construction contracts;

(iii) A brief description of the applicant's business plan with respect to the foreign branch; and

(iv) A brief description of the activities of the branch, and to the extent any activities are not authorized by § 347.3 of this chapter, the applicant's reasons why they should be approved.

(3) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(c) *Processing.*—(1) *Expedited processing for eligible depository institutions.* An application filed by an eligible depository institution as defined in § 303.2(r) of this part that operates foreign branches in two or more territories or foreign countries to establish a foreign branch that conducts activities authorized by § 347.3 of this chapter in an additional foreign country will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part. Absent such removal, an application processed under expedited processing is deemed approved 45 days after the FDIC's receipt of a substantially complete application.

(2) *Standard processing.* For those applications which are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action taken as soon as the decision is rendered.

(d) *Exceptions to general consent and expedited processing.* (1) Upon notice to an insured state nonmember bank, the FDIC may modify or suspend the availability of its general consent or expedited processing under this section.

(2) General consent or expedited processing under this section does not apply in any case in which:

(i) The foreign branch would be located on a site on the World Heritage List or on the foreign country's equivalent of the National Register in accordance with section 402 of the NHPA Amendments Act; or

(ii) Any applicable law or practice in the relevant foreign country would limit the FDIC's access to information for supervisory purposes.

(e) *Closing.* Within 30 days after it closes a foreign branch, an insured state nonmember bank must advise the appropriate regional director (DOS) by letter of the name, location, and date of closing of the closed branch.

(f) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director to approve an application under paragraph (c) of this section if the following criteria are satisfied:

(1) The requirements of section 402 the NHPA Amendments Act have been favorably resolved; and

(2) The applicant will only conduct activities authorized by § 347.3 of this chapter.

§ 303.183 Acquisition of stock of foreign banks or other financial entities by an insured state nonmember bank.

(a) *Definition.* For purposes of this section only, a foreign bank or other financial entity means a foreign bank or other financial entity as defined by § 347.2 of this chapter.

(b) *Filing procedures.*—(1) *Where to file.* An application by an insured state nonmember bank to acquire or hold an ownership interest in a foreign bank or other financial entity, as required by § 347.4 of this chapter, must be filed in writing with the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter filing must contain full information concerning the foreign bank or other financial entity, including the following information:

(i) The cost, number, class of shares to be acquired, and the proposed carrying value of such shares on the books of the insured state nonmember bank;

(ii) A recent balance sheet and income statement of the foreign bank or other financial entity;

(iii) A brief description of the foreign bank's or other financial entity's business (including full information concerning any direct or indirect business transacted in the United States);

(iv) Lists of directors and principal officers (with address and principal business affiliation of each) and of all shareholders known to hold 10 percent or more of any class of the foreign bank's or other financial entity's stock or other evidence of ownership, and the amount held by each; and

(v) Information concerning the rights and privileges of the various classes of shares outstanding.

(3) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(c) *Processing.* The FDIC will provide the applicant with written notification of the final action taken.

(d) *Delegations of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to approve or deny applications submitted under this section for the acquisition and holding of stock or other evidences of ownership of a foreign bank or other financial entity that result in the state nonmember bank having a less than 25 percent ownership interest in such bank or other financial entity.

§ 303.184 Moving an insured branch of a foreign bank.

(a) *Filing procedures.*—(1) *Where and when to file.* An application by an insured branch of a foreign bank seeking the FDIC's consent to move from one location to another, as required by section 18(d)(1) of the FDI Act (12 U.S.C. 1828(d)(1)), must be submitted in writing to the appropriate regional director (DOS) on the date the notice required by paragraph (c) of this section is published, or within 5 days after the date of the last required publication.

(2) *Content of filing.* A complete letter filing must include the following information:

(i) The exact location of the proposed site, including the street address;

(ii) Details concerning any involvement in the proposal by an insider of the insured branch, including any financial arrangements relating to fees, the acquisition of property, leasing of property, and construction contracts;

(iii) A statement of the impact of the proposal on the human environment, including information on compliance with local zoning laws and regulations and the effect on traffic patterns, for purposes of complying with the applicable provisions of the NEPA;

(iv) A statement as to whether the site is included in or is eligible for inclusion in the National Register of Historic Places, including a statement that clearance has been or will be obtained from the State Historic Preservation Officer, for purposes of complying with the applicable provisions of the NHPA;

(v) Comments on any changes in services to be offered, the community to be served, or any other effect the proposal may have on the applicant's compliance with the CRA; and

(vi) A copy of the newspaper publication required by paragraph (c) of this section, as well as the name and address of the newspaper and the date of the publication.

(3) *Comptroller's application.* If the applicant is filing an application with the Comptroller which contains the information required by paragraph (a)(2) of this section, the applicant may submit a copy to the FDIC in lieu of a separate application.

(4) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(b) *Processing.*—(1) *Expedited processing for eligible insured branches.* An application filed by an eligible insured branch as defined in § 303.181(c) of this part will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part. Absent such removal, an application processed under expedited processing will be deemed approved on the latest of the following:

(i) The 21st day after the FDIC's receipt of a substantially complete application; or

(ii) The 5th day after expiration of the comment period described in paragraph (c) of this section.

(2) *Standard processing.* For those applications that are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(c) *Publication requirement and comment period.*—(1) *Newspaper publications.* The applicant must publish a notice of its proposal to move from one location to another, as described in § 303.7(b), in a newspaper of general circulation in the community in which the insured branch is located prior to its being moved and in the community to which it is to be moved. The notice must include the insured branch's current and proposed addresses.

(2) *Public comments.* All public comments must be received by the appropriate regional director (DOS) within 15 days after the date of the last newspaper publication required by paragraph (c)(1) of this section, unless the comment period has been extended or reopened in accordance with § 303.9(b)(2).

(3) *Lobby notices.* If the insured branch has a public lobby, a copy of the newspaper publication must be posted in the public lobby for at least 15 days beginning on the date of the publication required by paragraph (c)(1) of this section.

(d) *Delegation of authority.* (1) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director to approve an application under this section. For the Director, Deputy Director or associate director (DOS) to exercise this authority, paragraphs (d)(1)(i) through (d)(1)(iv) and (d)(1)(vi) of this section must be satisfied. For the regional director or deputy regional director (DOS) to exercise this authority, paragraphs (d)(1)(i) through (d)(1)(vi) of this section must be satisfied.

(i) The factors set forth in section 6 of the FDI Act (12 U.S.C. 1816) have been considered and favorably resolved;

(ii) The applicant is at least adequately capitalized as defined in subpart B of part 325 of this chapter;

(iii) Any financial arrangements which have been made in connection with the proposed relocation and which involve the applicant's directors, officers, major shareholders, or their interests are fair and reasonable in comparison to similar arrangements that could have been made with independent third parties;

(iv) Compliance with the CRA, the NEPA, the NHPA and any applicable related regulations, including 12 CFR part 345, has been considered and favorably resolved;

(v) No CRA protest as defined in § 303.2(l) of this part has been filed which remains unresolved or, where such a protest has been filed and remains unresolved, the Director (DCA), Deputy Director (DCA), an associate director (DCA) or the appropriate regional director or deputy regional director (DCA) concurs that approval is consistent with the purposes of the CRA and the applicant agrees in writing to any conditions imposed regarding the CRA; and

(vi) The applicant agrees in writing to comply with any conditions imposed by the delegate, other than the standard conditions defined in § 303.2(ff) of this part which may be imposed without the applicant's written consent.

(2) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to approve applications under this section which meet all criteria in paragraph (d)(1) of this section except that the applicant does not agree in writing to comply with any condition imposed by the delegate, other than the standard conditions defined in § 303.2(ff) which may be imposed without the applicant's written consent; or

(3) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to deny applications under this section.

§ 303.185 Mergers involving an insured branch of a foreign bank.

(a) *Applicability of subpart D.* Mergers requiring the FDIC's prior approval as set forth in § 303.62 of this part include any merger in which the resulting institution is an insured branch of a foreign bank which is not a federal branch, or any merger which involves any insured branch and any uninsured institution. In such cases:

(1) References to an eligible depository institution in subpart D of this part include an eligible insured branch as defined in § 303.181 of this subpart;

(2) The definition of a corporate reorganization in § 303.61(b) of this part includes a merger between an insured branch and other branches, agencies, or subsidiaries in the United States of the same foreign bank; and

(3) For the purposes of § 303.62(b)(1) of this part on interstate mergers, a merger transaction involving an insured branch is one involving the acquisition of a branch of an insured bank without the acquisition of the bank for purposes of section 44 of the FDI Act (12 U.S.C. 1831u) only when the merger transaction involves fewer than all the insured branches of the same foreign bank in the same state.

§ 303.186 Exemptions from insurance requirement for a state branch of a foreign bank.

(a) *Filing procedures.*—(1) *Where to file.* An application by a state branch for consent to operate as a noninsured state branch, as required by § 346.6(b) of this chapter, must be submitted in writing to the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter filing must include the following information:

(i) The kinds of deposit activities in which the state branch proposes to engage;

(ii) The expected source of deposits;

(iii) The manner in which deposits will be solicited;

(iv) How the activity will maintain or improve the availability of credit to all sectors of the United States economy, including the international trade finance sector;

(v) That the activity will not give the foreign bank an unfair competitive advantage over United States banking organizations; and

(vi) A resolution by the applicant's board of directors, or evidence of approval by senior management if a resolution is not required pursuant to the applicant's organizational documents, authorizing the filing of the application.

(2) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(b) *Processing.* The FDIC will provide the applicant with written notification of the final action taken.

§ 303.187 Approval for an insured state branch of a foreign bank to conduct activities not permissible for federal branches.

(a) *Filing procedures.*—(1) *Where to file.* An application by an insured state branch seeking approval to conduct activities not permissible for a federal branch, as required by § 346.101(a) of this chapter, must be submitted in writing to the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter filing must include the following information:

(i) A brief description of the activity, including the manner in which it will be conducted and an estimate of the expected dollar volume associated with the activity;

(ii) An analysis of the impact of the proposed activity on the condition of the United States operations of the foreign bank in general and of the branch in particular, including a copy of the feasibility study, management plan, financial projections, business plan, or similar document concerning the conduct of the activity;

(iii) A resolution by the applicant's board of directors, or evidence of approval by senior management if a resolution is not required pursuant to the applicant's organizational documents, authorizing the filing of the application;

(iv) A statement by the applicant of whether it is in compliance with §§ 346.19 and 346.20 of this chapter, Pledge of assets and Asset maintenance, respectively;

(v) A statement by the applicant that it has complied with all requirements of the Board of Governors concerning applications to conduct the activity in question and the status of each such application, including a copy of the Board of Governors' disposition of such application, if applicable; and

(vi) A statement of why the activity will pose no significant risk to the Bank Insurance Fund.

(3) *Board of Governors application.* If the application to the Board of Governors contains the information required by paragraph (a) of this section, the applicant may submit a copy to the FDIC in lieu of a separate letter application.

(4) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(b) *Divestiture or cessation.*—(1) *Where to file.* Divestiture plans necessitated by a change in law or other authority, as required by § 346.101(f) of this chapter, must be submitted in writing to the appropriate regional director (DOS).

(2) *Content of filing.* A complete letter filing must include the following information:

(i) A detailed description of the manner in which the applicant proposes to divest itself of or cease the activity in question; and

(ii) A projected timetable describing how long the divestiture or cessation is expected to take.

(3) *Additional information.* The appropriate regional director (DOS) may request additional information to complete processing.

(c) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve plans of divestiture and cessation submitted pursuant to paragraph (b) of this section.

Subpart K—Prompt Corrective Action

§ 303.200 Scope.

(a) *General.* (1) This subpart covers applications filed pursuant to section 38 of the FDI Act (12 U.S.C. 1831o), which requires insured depository institutions that are not adequately capitalized to receive approval prior to engaging in certain activities. Section 38 restricts or prohibits certain activities and requires an insured depository institution to submit a capital restoration plan when it becomes undercapitalized. The restrictions and prohibitions become more severe as an institution's capital level declines.

(2) Definitions for the capital categories referenced in this Prompt Corrective Action subpart may be found in subpart B of part 325 of this chapter, § 325.103(b) for banks and § 325.103(c) for insured branches of foreign banks.

(b) *Institutions covered.* Restrictions and prohibitions contained in subpart B of part 325 of this chapter apply primarily to insured state nonmember banks and insured branches of foreign banks, as well as to directors and senior executive officers of those institutions. Portions of subpart B of part 325 of this chapter also apply to all insured depository institutions that are deemed to be critically undercapitalized.

§ 303.201 Filing procedures.

Applications shall be filed with the appropriate regional director (DOS). The application shall contain the information specified in each respective section of this subpart, and shall be in letter form as prescribed in § 303.3 of this part. Additional information may be requested by the FDIC. Such letter shall be signed by the president, senior officer or a duly authorized agent of the insured depository institution and be accompanied by a certified copy of a resolution adopted by the institution's board of directors or trustees authorizing the application.

§ 303.202 Processing.

The FDIC will provide the applicant with a subsequent written notification of the final action taken as soon as the decision is rendered.

§ 303.203 Applications for capital distribution.

(a) *Scope.* An insured state nonmember bank and any insured branch of a foreign bank shall submit an application for capital distribution if, after having made a capital distribution, the institution would be undercapitalized, significantly undercapitalized, or critically undercapitalized.

(b) *Content of filing.* An application to repurchase, redeem, retire or otherwise acquire shares or ownership interests of the insured depository institution shall describe the proposal, the shares or obligations which are the subject thereof, and the additional shares or obligations of the institution which will be issued in at least an amount equivalent to the distribution. The application also shall explain how the proposal will reduce the institution's financial obligations or otherwise improve its financial condition. If the proposed action also requires an application under section 18(i) of the FDI Act (12 U.S.C. 1828(i)) as implemented by § 303.241 of this part regarding prior consent to retire capital, such application should be filed concurrently with, or made a part of, the application filed pursuant to section 38 of the FDI Act (12 U.S.C. 1831o).

§ 303.204 Applications for acquisitions, branching, and new lines of business

(a) *Scope.* (1) Any insured state nonmember bank and any insured branch of a foreign bank which is undercapitalized or significantly undercapitalized, and any insured depository institution which is critically undercapitalized, shall submit an application to engage in acquisitions, branching or new lines of business.

(2) A new line of business will include any new activity exercised which, although it may be permissible, has not been exercised by the institution.

(b) *Content of filing.* Applications shall describe the proposal, state the date the institution's capital restoration plan was accepted by its primary federal regulator, describe the institution's status toward implementing the plan, and explain how the proposed action is consistent with and will further the achievement of the plan or otherwise further the purposes of section 38 of the FDI Act. If the FDIC is not the applicant's primary federal regulator, the application also should state whether approval has been requested from the applicant's primary federal regulator, the date of such request and the disposition of the request, if any. If the proposed action also requires applications pursuant to section 18 (c) or (d) of the FDI Act (mergers and branches) (12 U.S.C. 1828 (c) or (d)), such applications should be filed concurrently with, or made a part of, the application filed pursuant to section 38 of the FDI Act (12 U.S.C. 1831o).

§ 303.205 Applications for bonuses and increased compensation for senior executive officers.

(a) *Scope.* Any insured state nonmember bank or insured branch of a foreign bank that is significantly or critically undercapitalized, or any insured state nonmember bank or any insured branch of a foreign bank that is undercapitalized and which has failed to submit or implement in any material respect an acceptable capital restoration plan, shall submit an application to pay a bonus or increase compensation for any senior executive officer.

(b) *Content of filing.* Applications shall list each proposed bonus or increase in compensation, and for the latter shall identify compensation for each of the twelve calendar months preceding the calendar month in which the institution became undercapitalized. Applications also shall state the date the institution's capital restoration plan was accepted by the FDIC, and describe any progress made in implementing the plan.

§ 303.206 Application for payment of principal or interest on subordinated debt.

(a) *Scope.* Any critically undercapitalized insured depository institution shall submit an application to pay principal or interest on subordinated debt.

(b) *Content of filing.* Applications shall describe the proposed payment and provide an explanation of action taken under section 38(h)(3)(A)(ii) of the FDI Act (action instead of receivership or conservatorship). The application also shall explain how such payments would further the purposes of section 38 of the FDI Act (12 U.S.C. 1831o). Existing approvals pursuant to requests filed under section 18(i)(1) of the FDI Act (12 U.S.C. 1828(i)(1)) (capital stock reductions or retirements) shall not be deemed to be the permission needed pursuant to section 38.

§ 303.207 Restricted activities for critically undercapitalized institutions.

(a) *Scope.* Any critically undercapitalized insured depository institution shall submit an application to engage in certain restricted activities.

(b) *Content of filing.* Applications to engage in any of the following activities, as set forth in sections 38(i)(2)(A) through (G) of the FDI Act, shall describe the proposed activity and explain how the activity would further the purposes of section 38 of the FDI Act (12 U.S.C. 1831o):

(1) Enter into any material transaction other than in the usual course of business including any action with respect to which the institution is required to provide notice to the appropriate federal banking agency. Materiality will be determined on a case-by-case basis;

(2) Extend credit for any highly leveraged transaction (as defined in part 325 of this chapter);

(3) Amend the institution's charter or bylaws, except to the extent necessary to carry out any other requirement of any law, regulation, or order;

(4) Make any material change in accounting methods;

(5) Engage in any covered transaction (as defined in section 23A(b) of the Federal Reserve Act (12 U.S.C. 371c(b));

(6) Pay excessive compensation or bonuses. Part 359 of this chapter provides guidance for determining excessive compensation. The FDIC will consider the existing compensation levels of an institution's executive officers directors and principal shareholders (as defined in Regulation O, 12 CFR part 215) on a case-by-case basis, and will require prior written approval for any change in their compensation levels; or

(7) Pay interest on new or renewed liabilities at a rate that would increase the institution's weighted average cost of funds to a level significantly exceeding the prevailing rates of interest on insured deposits in the institution's normal market area. Section 337.6 of this chapter (Brokered deposits) provides guidance for defining the relevant terms of this provision; however this provision does not supersede the general prohibitions contained in § 337.6.

§ 303.208 Delegation of authority.

Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny the following applications, requests or petitions submitted pursuant to this subpart:

(a) Applications filed pursuant to section 38 of the FDI Act (12 U.S.C. 1831o) (prompt corrective action), including applications to make a capital distribution;

(b) Applications for acquisitions, branching, and new lines of business (except that the delegation is limited to the authority as delegated to approve or deny any concurrent application filed pursuant to section 18(c) or (d) of the FDI Act (12 U.S.C. 1828(c) or (d));

(c) Applications to pay a bonus or increase compensation;

(d) Applications for an exception to pay principal or interest on subordinated debt; and

(e) Applications by critically undercapitalized insured depository institutions to engage in any restricted activity listed in this subpart.

Subpart L—Section 19 of the FDI Act (Consent to Service of Persons Convicted of Certain Criminal Offenses)

§ 303.220 Scope.

This subpart covers applications under section 19 of the FDI Act (12 U.S.C. 1829).

Pursuant to section 19, any person who has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution for such offense, may not become, or continue as, an institution-affiliated party of an insured depository institution; own or control, directly or indirectly, any insured depository institution; or otherwise participate, directly or indirectly, in the conduct of the affairs of any insured depository institution without the prior written consent of the FDIC.

§ 303.221 Filing procedures.

(a) *Regional office.* An application under section 19 shall be filed with the appropriate FDIC regional director (DOS).

(b) *Contents of filing.* Application forms may be obtained from any FDIC regional office. The FDIC may require additional information beyond that sought in the form or questionnaire, as warranted, in individual cases.

§ 303.222 Service at another insured depository institution.

In the case of a person who has already been approved by the FDIC under this subpart or section 19 of the Act in connection with a particular insured depository institution, such person may not become an institution affiliated party, or own or control directly or indirectly another insured depository institution, or participate in the conduct of the affairs of another insured depository institution, without the prior written consent of the FDIC.

§ 303.223 Applicant's right to hearing following denial.

An applicant may request a hearing following a denial of an application in accordance with the provisions of part 308 of this chapter.

§ 303.224 Delegation of authority.

(a) *Approvals.* Authority is delegated to the Director and Deputy Director (DOS) or, where confirmed in writing by the Director, to an associate director or to the appropriate regional director or deputy regional director, to approve applications made by insured depository institutions pursuant to section 19 of the FDI Act, after consultation with the Legal Division; provided however, that authority may not be delegated to the regional director or deputy regional director where the applicant's primary supervisory authority interposes any objection to such application.

(b) *Denials.* Authority is delegated to the Director and Deputy Director (DOS) or, where confirmed in writing by the Director, to an associate director, to deny applications made by insured depository institutions pursuant to section 19 of the Act.

(c) *Concurrent legal certification.* The authority to deny applications delegated under this section shall be exercised only upon the concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, his or her designee, that the action taken is not inconsistent with section 19 of the FDI Act.

(d) *Conditions on application approvals.* Regional directors and deputy regional directors acting under delegated authority under this subpart may impose any of the following conditions on the approval of applications, as appropriate in individual cases:

(1) A participant or institution-affiliated party of an institution shall be bonded to the same extent as others in similar positions; and/or

(2) When deemed necessary, the prior consent of the appropriate regional director (DOS) shall be required for any proposed significant changes in duties and/or responsibilities of the person who is the subject of the application.

(e) *Authority not delegated by FDIC Board of Directors.* The FDIC Board of Directors has not delegated its authority to consider and act upon an application under section 19 of the FDI Act after a hearing held in accordance with the provisions of part 308 of this chapter.

Subpart M—Other Filings

§ 303.240 General.

This subpart sets forth the filing procedures to be followed when seeking the FDIC's consent to engage in certain activities or accomplish other matters as specified in the individual sections contained herein. For those matters covered by this subpart that also have substantive FDIC regulations or related statements of policy, references to the relevant regulations or statements of policy are contained in the specific sections.

§ 303.241 Reduce or retire capital stock or capital debt instruments.

(a) *Scope.* This section contains the procedures to be followed by an insured state nonmember bank to seek the prior approval of the FDIC to reduce the amount or retire any part of its common or preferred stock, or to retire any part of its capital notes or debentures pursuant to section 18(i)(1) of the Act (12 U.S.C. 1828(i)(1)).

(b) *Filing procedures.* Applicants shall submit a letter application to the appropriate regional director (DOS).

(c) *Content of filing.* The application shall contain the following:

(1) The type and amount of the proposed change to the capital structure and the reason for the change;

(2) A schedule detailing the present and proposed capital structure;

(3) The time period that the proposal will encompass;

(4) If the proposal involves a series of transactions affecting Tier 1 capital components which will be consummated over a period of time which shall not exceed 12 months, the application shall certify that the insured depository institution will maintain itself as a well capitalized institution as defined in part 325 of this chapter, both before and after each of the proposed transactions;

(5) If the proposal involves the repurchase of capital instruments, the amount of the repurchase price and the basis for establishing the fair market value of the repurchase price;

(6) A statement that the proposal will be available to all holders of a particular class of outstanding capital instruments on an equal basis, and if not, the details of any restrictions; and

(7) The date that the applicant's board of directors approved the proposal.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the application.

(e) *Undercapitalized institutions.* Procedures regarding applications by an undercapitalized insured depository institution to retire capital stock or capital debt instruments pursuant to section 38 of the FDI Act (12 U.S.C. 1831o) are set forth in subpart K (Prompt Corrective Action), § 303.203 of this part. Applications pursuant to section 38 and 18(i) may be filed concurrently, or as a single application.

(f) *Expedited processing for eligible depository institutions.* An application filed under this section by an eligible depository institution as defined in § 303.2(r) of this part will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part. Absent such removal, an application processed under expedited processing will be deemed approved 20 days after the FDIC's receipt of a substantially complete application.

(g) *Standard processing.* For those applications that are not processed pursuant to expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(h) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny an application pursuant to section 18(i)(1) of the FDI Act (12 U.S.C. 1828(i)) to reduce the amount or retire any part of common or preferred capital stock, or to retire any part of capital notes or debentures.

§ 303.242 Exercise of trust powers.

(a) *Scope.* This section contains the procedures to be followed by a state nonmember bank to seek the FDIC's prior consent to exercise trust powers. The FDIC's prior consent to exercise trust powers is not required in the following circumstances:

(1) Where a state nonmember bank received authority to exercise trust powers from its chartering authority prior to December 1, 1950; or

(2) Where an insured depository institution continues to conduct trust activities pursuant to authority granted by its chartering authority subsequent to a charter conversion or withdrawal from membership in the Federal Reserve System.

(b) *Filing procedures.* Applicants should submit to the appropriate regional director (DOS) a completed form, ''Application for Consent To Exercise Trust Powers.'' This form may be obtained from any FDIC regional office.

(c) *Content of filing.* The filing should consist of the completed trust application form.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Expedited processing for eligible depository institutions.* An application filed under this section by an eligible depository institution as defined in § 303.2(r) of this part will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part. Absent such removal, an application processed under expedited procedures will be deemed approved 30 days after the FDIC's receipt of a substantially complete application.

(f) *Standard processing.* For those applications that are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(g) *Delegation of authority.* (1) Where the criteria listed in paragraph (g)(2) of this section are satisfied and the applicant agrees in writing to comply with any conditions imposed by the approving FDIC official, other than the standard conditions defined in § 303.2(ff) of this part, which may be imposed without the applicant's written

consent, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve applications for the FDIC's consent to exercise trust powers.

(2) The following criteria must be satisfied before the authority delegated in paragraph (g)(1) of this section may be exercised:

(i) The factors set forth in section 6 of the FDI Act (12 U.S.C. 1816) have been considered and favorably resolved;

(ii) The proposed management of the trust business is determined to be capable of satisfactorily handling the anticipated business; and

(iii) The applicant's board of directors formally has adopted the FDIC Statement of Principles of Trust Department Management available from any FDIC regional office.

(h) *Denials and certain conditional approvals.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director to:

(1) Deny applications for trust powers; and

(2) Approve applications for trust powers where the criteria listed in paragraph (g)(2) of this section are satisfied but the applicant does not agree in writing to comply with any condition imposed by the delegate, other than the standard conditions defined in § 303.2(ff) of this part which may be imposed without the applicant's written consent.

§ 303.243 Brokered deposit waivers.

(a) *Scope.* Pursuant to section 29 of the FDI Act (12 U.S.C. 1831f) and § 337.6 of this chapter, an adequately capitalized insured depository institution may not accept, renew or roll over any brokered deposits unless it has obtained a waiver from the FDIC. A well capitalized insured depository institution may accept brokered deposits without a waiver, and an undercapitalized insured depository institution may not accept, renew or roll over any brokered deposits under any circumstances. This section contains the procedures to be followed to file with the FDIC for a brokered deposit waiver. The FDIC will provide notice to the depository institution's appropriate federal banking agency and any state regulatory agency, as appropriate, that a request for a waiver has been filed and will consult with such agency or agencies, prior to taking action on the institution's request for a waiver. Prior notice and/or consultation shall not be required in any particular case if the FDIC determines that the circumstances require it to take action without giving such notice and opportunity for consultation.

(b) *Filing procedures.* Applicants should submit a letter application to the appropriate regional director (DOS).

(c) *Content of filing.* The application should contain the following:

(1) The time period for which the waiver is requested;

(2) A statement of the policy governing the use of brokered deposits in the institution's overall funding and liquidity management program;

(3) The volume, rates and maturities of the brokered deposits held currently and anticipated during the waiver period sought, including any internal limits placed on the terms, solicitation and use of brokered deposits;

(4) How brokered deposits are costed and compared to other funding alternatives and how they are used in the institution's lending and investment activities, including a detailed discussion of asset growth plans;

(5) Procedures and practices used to solicit brokered deposits, including an identification of the principal sources of such deposits;

(6) Management systems overseeing the solicitation, acceptance and use of brokered deposits;

(7) A recent consolidated financial statement with balance sheet and income statements; and

(8) The reasons the institution believes its acceptance, renewal or rollover of brokered deposits would pose no undue risk.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the application.

(e) *Expedited processing for eligible depository institutions.* An application filed under this section by an eligible depository institution as defined in this § 303.243(e) will be acknowledged in writing by the FDIC and will receive expedited processing, unless the applicant is notified in writing to the contrary and provided with the basis for that decision. For the purpose of this section, an applicant will be deemed an eligible depository institution if it satisfies all of the criteria contained in § 303.2(r) except that the applicant may be adequately capitalized rather than well capitalized. The FDIC may remove an application from expedited processing for any of the reasons set forth in § 303.11(c)(2) of this part. Absent such removal, an application processed under expedited procedures will be deemed approved 21 days after the FDIC's receipt of a substantially complete application.

(f) *Standard processing.* For those filings which are not processed pursuant to the expedited procedures, the FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(g) *Conditions for approval.* A waiver issued pursuant to this section shall:

(1) Be for a fixed period, generally no longer than two years, but may be extended upon refiling; and

(2) May be revoked by the FDIC at any time by written notice to the institution.

(h) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny brokered deposit waiver applications. Based upon a preliminary review, any delegate may grant a temporary waiver for a short period in order to facilitate the orderly processing of a filing for a waiver.

§ 303.244 Golden parachute and severance plan payments.

(a) *Scope.* Pursuant to section 18(k) of the FDI Act (12 U.S.C. 1828(k)) and part 359 of this chapter (12 CFR part 359), an insured depository institution or depository institution holding company may not make golden parachute payments or excess nondiscriminatory severance plan payments unless the depository institution or holding company obtains permission to make such payments in accordance with the rules contained in part 359 of this chapter. This section contains the procedures to file for the FDIC's consent when such consent is necessary under part 359 of this chapter, as described below:

(1) *Golden parachute payments.* A golden parachute payment is defined in § 359.1(f)(1) of this chapter as a payment by a troubled insured depository institution or troubled depository institution holding company. A troubled insured depository institution or a troubled depository institution holding company is prohibited from making golden parachute payments unless it obtains the consent of the appropriate federal banking agency and the written concurrence of the FDIC. Therefore, in the case of golden parachute payments, the procedures in this section apply to all troubled insured depository institutions and troubled depository institution holding companies.

(2) *Excess nondiscriminatory severance plan payments.* In the case of excess nondiscriminatory severance plan payments as provided by § 359.1(f)(2)(v) of this chapter, the

FDIC's consent is necessary for state nonmember banks that meet the criteria set forth in § 359.1(f)(1)(ii) of this chapter. In addition, the FDIC's consent is required for all insured depository institutions or depository institution holding companies that meet the same criteria and seek to make payments in excess of the 12-month amount specified in § 359.1(f)(2)(v).

(b) *Filing procedures.* Applicants should submit a letter application to the appropriate FDIC regional director (DOS).

(c) *Content of filing.* The application should contain the following:

(1) The reasons why the applicant seeks to make the payment;

(2) An identification of the institution-affiliated party who will receive the payment;

(3) A copy of any contract or agreement regarding the subject matter of the filing;

(4) The cost of the proposed payment and its impact on the institution's capital and earnings; and

(5) The reasons why consent to the payment should be granted.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Processing.* The FDIC will provide the applicant with a subsequent written notification of the final action taken as soon as the decision is rendered.

(f) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or to deny filings to make:

(1) Excess nondiscriminatory severance plan payments as provided by 12 CFR 359.1(f)(2)(v); and

(2) Golden parachute payments permitted by 12 CFR 359.4.

§ 303.245 Waiver of liability for commonly controlled depository institutions.

(a) *Scope.* Section 5(e) of the FDI Act (12 U.S.C. 1815(e)) creates liability for commonly controlled insured depository institutions for losses incurred or anticipated to be incurred by the FDIC in connection with the default of a commonly controlled insured depository institution or any assistance provided by the FDIC to any commonly controlled insured depository institution in danger of default. In addition to certain statutory exceptions and exclusions contained in sections 5(e)(6), (7) and (8), the FDI Act also permits the FDIC, in its discretion, to exempt any insured depository institution from this liability if it determines that such exemption is in the best interests of the Bank Insurance Fund (BIF) or the Savings Association Insurance Fund (SAIF). This section describes procedures to request a conditional waiver of liability pursuant to 12 U.S.C. 1815(e)(5)(A).

(b) *Definition. Conditional waiver of liability* means an exemption from liability pursuant to section 5(e) of the FDI Act (12 U.S.C. 1815(e)) subject to terms and conditions.

(c) *Filing procedures.* Applicants should submit a letter application to the appropriate regional director (DOS).

(d) *Content of filing.* The application should contain the following information:

(1) The basis for requesting a waiver;

(2) The existence of any significant events (e.g., change of control, capital injection, etc.) that may have an impact upon the applicant and/or any potentially liable institution;

(3) Current, and if applicable, pro forma financial information regarding the applicant and potentially liable institution(s); and

(4) The benefits to the appropriate FDIC insurance fund resulting from the waiver and any related events.

(e) *Additional information.* The FDIC may request additional information at any time during the processing of the filing.

(f) *Processing.* The FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(g) *Failure to comply with terms of conditional waiver.* In the event a conditional waiver of liability is issued, failure to comply with the terms specified therein may result in the termination of the conditional waiver of liability. The FDIC reserves the right to revoke the conditional waiver of liability after giving the applicant written notice of such revocation and a reasonable opportunity to be heard on the matter.

(h) *Authority retained by FDIC Board of Directors.* The FDIC Board of Directors retains the authority to act on any application for waiver of liability of commonly controlled depository institutions.

§ 303.246 Insurance fund conversions.

(a) *Scope.* This section contains the procedures to be followed by an insured depository institution to seek the FDIC's prior approval to engage in an insurance fund conversion that involves the transfer of deposits between the SAIF and the BIF. Optional conversion transactions, commonly referred to as Oakar transactions, pursuant to section 5(d)(3) of the FDI Act (12 U.S.C. 1815(d)(3)) which do not involve the transfer of deposits between the SAIF and the BIF are governed by the procedures set forth in subpart D (Merger Transactions) of this part.

(b) *Filing procedures.* Applicants should submit a letter application to the appropriate FDIC regional director (DOS). The filing should be signed by representatives of each institution participating in the transaction. Insurance fund conversions which are proposed in conjunction with a merger application filed pursuant to section 18(c) of the FDI Act (12 U.S.C. 1828(c)) should be included with that filing.

(c) *Content of filing.* The application should include the following information:

(1) A description of the transaction;

(2) The amount of deposits involved in the conversion transaction;

(3) A pro forma balance sheet and income statement for each institution upon consummation of the transaction; and

(4) Certification by each party to the transaction that applicable entrance and exit fees will be paid pursuant to part 312 of this chapter.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Processing.* The FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(f) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny filings for insurance fund conversions involving the transfers of deposits between the Savings Association Insurance Fund and the Bank Insurance Fund.

§ 303.247 Conversion with diminution of capital.

(a) *Scope.* This section contains the procedures to be followed by an insured federal depository institution seeking the prior written consent of the FDIC pursuant to section 18(i)(2) of the FDI Act (12 U.S.C. 1828(i)(2)) to convert from an insured federal depository institution to an insured state nonmember bank (except a District bank) where the capital stock or surplus of the resulting bank will be less than the capital stock or surplus, respectively, of the converting institution at the time of the shareholders' meeting approving such conversion.

(b) *Filing procedures.* Applicants should submit a letter application to the appropriate regional director (DOS).

(c) *Content of filing.* The application should contain the following information:

(1) A description of the proposed transaction;

(2) A schedule detailing the present and proposed capital structure; and

(3) A copy of any documents submitted to the state chartering authority with respect to the charter conversion.

(d) *Additional information.* The FDIC may request additional information at any time during the processing.

(e) *Processing.* The FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(f) *Delegation of authority*—(1) *Approvals.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve applications to convert with diminution of capital.

(2) *Denials.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director to deny applications to convert with diminution of capital.

§ 303.248 Continue or resume status as an insured institution following termination under section 8 of the FDI Act.

(a) *Scope.* This section relates to applications by depository institutions whose insured status has been terminated under section 8 of the FDI Act (12 U.S.C. 1818) for permission to continue or resume its status as an insured depository institution. This section covers institutions whose deposit insurance continues in effect for any purpose or for any length of time under the terms of an FDIC order terminating deposit insurance, but does not cover operating non-insured depository institutions which were previously insured by the FDIC, or any non-insured, non-operating depository institution whose charter has not been surrendered or revoked.

(b) *Filing procedures.* Applicants should submit a letter application to the appropriate regional director (DOS).

(c) *Content of filing.* The filing should contain the following information:

(1) A complete statement of the action requested, all relevant facts, and the reason for such requested action; and

(2) A certified copy of the resolution of the depository institution's board of directors authorizing submission of the filing.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Processing.* The FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(f) *Authority retained by FDIC Board of Directors.* The FDIC Board of Directors retains the authority to act on any application to continue or resume status as an insured institution following termination under section 8 of the FDI Act.

§ 303.249 Truth in Lending Act—Relief from reimbursement.

(a) *Scope.* This process applies to requests for relief from reimbursement pursuant to the Truth in Lending Act (15 U.S.C. 1601 *et seq.*) and Regulation Z (12 CFR part 226).

(b) *Procedures to be followed in filing initial requests for relief.* Requests for relief from reimbursement should be filed with the appropriate regional director (DCA) within 60 days after receipt of the compliance report of examination containing the request to conduct a file search and make restitution to affected customers. The filing should contain a complete and concise statement of the action requested, all relevant facts, the reasons and analysis relied upon as the basis for such requested action, and all supporting documentation.

(c) *Additional information.* The FDIC may request additional information at any time during processing of any such requests.

(d) *Processing.* The FDIC will acknowledge receipt of the request and provide the applicant with a subsequent written notification of its determination as soon as the decision is rendered.

(e) *Delegation of authority*—(1) *Denial of initial requests for relief.* Authority is delegated to the Director and Deputy Director (DCA), and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to deny requests for relief from the requirements for reimbursement under section 608(a)(2) of the Truth in Lending Simplification and Reform Act (15 U.S.C. 1607(e)(2)); provided however, that a regional director or deputy regional director is not authorized to deny any request where the estimated amount of reimbursement is greater than $25,000.

(2) *Approval of initial requests for relief.* Authority is delegated to the Director and Deputy Director (DCA), and where confirmed in writing by the director, to a deputy director or an associate director to approve requests for relief from the requirements for reimbursement under section 608(a)(2) of the Truth in Lending Simplification and Reform Act (15 U.S.C. 1607(a)(2)).

(f) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director denies requests for relief, by the appropriate regional counsel, that the action taken is not inconsistent with the Truth in Lending Simplification and Reform Act.

(g) *Procedures to be followed in filing requests for reconsideration.* Within 15 days of receipt of written notice that its request for relief has been denied, the requestor may petition the appropriate regional director (DCA) for reconsideration of such request in accordance with the procedures set forth in § 303.11(f) of this part.

§ 303.250 Modification of conditions.

(a) *Scope.* This section contains the procedures to be followed by an insured depository institution to seek the prior consent of the FDIC to modify the requirements of a prior approval of a filing issued by the FDIC.

(b) *Filing procedures.* Applicants should submit a letter application to the appropriate FDIC regional director (DOS).

(c) *Content of filing.* The application should contain the following information:

(1) A description of the original approval;

(2) A description of the modification requested; and

(3) The reason for the request.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Processing.* The FDIC will provide the applicant with a subsequent written notification of the final action as soon as the decision is rendered.

(f) *Delegation of authority.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny requests to modify the requirements of a prior approval of a filing issued by the FDIC subject to the following criteria:

(1) The Legal Division is consulted to the same extent as was required for approval of the original filing; and

(2) The approving delegate had the authority to approve the original filing.

§ 303.251 Extension of time.

(a) *Scope.* This section contains the procedures to be followed by an insured

depository institution to seek the prior consent of the FDIC for additional time to fulfill a condition required in an approval of a filing issued by the FDIC or to consummate a transaction which was the subject of an approval by the FDIC.

(b) *Filing procedures.* Applicants should submit a letter application to the appropriate regional director (DOS).

(c) *Content of filing.* The application should contain the following information:

(1) A description of the original approval;

(2) Identification of the original time limitation;

(3) The additional time period requested; and

(4) The reason for the request.

(d) *Additional information.* The FDIC may request additional information at any time during processing of the filing.

(e) *Processing.* The FDIC will provide the applicant with written notification of the final action as soon as the decision is rendered.

(f) *Delegation of authority.* (1) Except as provided in paragraph (f)(2) of this section, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director, to approve or deny requests for extensions of time within which to perform acts or fulfill conditions required by a prior FDIC action on a filing of the insured depository institution.

(2) Limits on exercise of delegated authority. (i) Extensions of time approved may not exceed one year.

(ii) Notwithstanding the delegations in paragraph (f)(1) of this section, no delegate shall have the authority to deny an extension of time request unless that delegate has the authority under this part to deny the original filing upon which the extension of time is predicated.

Subpart N—Enforcement Delegations

§ 303.260 Scope.

This subpart contains delegations of authority relating to the initiation, prosecution, and settlement of administrative enforcement actions under the FDI Act and other laws and regulations enforced by the FDIC, including investigations and subpoenas.

§ 303.261 Issuance of notification to primary regulator under section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

(a) *Book capital less than 2 percent.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director or to the appropriate regional director or deputy regional director, to issue notifications to primary regulator when the respondent depository institution's book capital is less than 2 percent of total assets; provided that authority may not be delegated to the regional director or deputy regional director whenever the respondent depository institution has issued any mandatory convertible debt or any form of Tier 2 capital (such as limited life preferred stock, subordinated notes and debentures).

(b) *Tier 1 capital less than 2 percent.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to issue notifications to primary regulator when the respondent depository institution's adjusted Tier 1 capital is less than 2 percent of adjusted part 325 total assets as defined in § 303.2(b) of this part.

(c) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director issues notifications to primary regulator, by the appropriate regional counsel, that the allegations contained in the findings of violations of law or regulation and/or unsafe or unsound practices and/or unsafe or unsound condition, if proven, constitute a basis for the issuance of a notification to primary regulator pursuant to section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

§ 303.262 Issuance of notice of intention to terminate insured status under section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to issue notices of intent to terminate insured status when the respondent depository institution has failed to correct any violations of law or regulation and/or unsafe or unsound practices and/or unsafe or unsound condition as specified in the relevant notification to primary regulator.

(b) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the allegations contained in the findings in the notice of intention to terminate insured status of violations of law or regulation and/or unsafe or unsound practices and/or unsafe or unsound condition, if proven, constitute a basis for termination of the insured status of the respondent depository institution pursuant to section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

§ 303.263 Cease-and-desist actions under section 8(b) of the FDI Act (12 U.S.C. 1818(b)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director or to the appropriate regional director or deputy regional director to issue:

(1) Notices of charges; and

(2) Cease-and-desist orders (with or without a prior notice of charges) where the respondent depository institution or individual respondent consents to the issuance of the cease-and-desist order prior to the filing by an administrative law judge of proposed findings of fact, conclusions of law and recommended decision with the Executive Secretary of the FDIC.

(b) *Joint DOS–DCA action.* The Director (DOS) and the Director (DCA) may issue a joint notice of charges or cease-and-desist order under this section, where such notice or order addresses both safety and soundness and consumer compliance matters. A joint notice or order will require the signatures of both Directors or their Deputy Directors or associate directors, regional directors or deputy regional directors.

(c) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director issues the notice of charges or the stipulated cease-and-desist order, by the appropriate regional counsel, that the allegations contained in the notice of charges, if proven, constitute a basis for the issuance of a section 8(b) order, or that the stipulated cease-and-desist order is authorized under section 8(b) of the FDI Act, and, upon its effective date, shall be a cease-and-desist order which has become final for purposes of enforcement pursuant to the FDI Act.

§ 303.264 Temporary cease-and-desist orders under section 8(c) of the FDI Act (12 U.S.C. 1818(c)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS) and to the Director and Deputy Director (DCA), and where confirmed in writing

by the appropriate Director, to an associate director, to issue temporary cease-and-desist orders.

(b) *Joint DOS-DCA action.* The Director (DOS) and the Director (DCA) may issue a joint temporary cease-and-desist order where such order addresses both safety and soundness and consumer compliance matters. A joint notice or order will require the signatures of both Directors or their Deputy Directors or associate directors.

(c) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action is not inconsistent with section 8(c) of the FDI Act (12 U.S.C. 1818(c)) and the temporary cease-and-desist order is enforceable in a United States District Court.

§ 303.265 Removal and prohibition actions under section 8(e) of the FDI Act (12 U.S.C. 1818(e)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS) or the Director and Deputy Director (DCA) and, where confirmed in writing by the appropriate Director, to an associate director, to issue:

(1) Notices of intention to remove an institution-affiliated party from office or to prohibit an institution-affiliated party from further participation in the conduct of the affairs of an insured depository institution pursuant to sections 8(e)(1) and (2) of the FDI Act (12 U.S.C. 1818(e)(1) and (2)), and temporary orders of suspension pursuant to section 8(e)(3) of the FDI Act (12 U.S.C. 1818(e)(3)); and

(2) Orders of removal, suspension or prohibition from participation in the conduct of the affairs of an insured depository institution where the institution-affiliated party consents to the issuance of such orders prior to the filing by an administrative law judge of proposed findings of fact, conclusions of law and a recommended decision with the Executive Secretary of the FDIC.

(b) *Joint DOS-DCA action.* The Director (DOS) and the Director (DCA) may issue joint notices and orders pursuant to this section where such notice or order addresses both safety and soundness and consumer compliance matters. A joint notice or order will require the signatures of both directors or their deputy directors or associate directors.

(c) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the allegations contained in the notice of intent, if proven, constitute a basis for the issuance of a notice of intent pursuant to section 8(e) of the FDI Act, or that the stipulated section 8(e) order is not inconsistent with section 8(e) of the FDI Act, and, upon issuance, shall be an order which has become final for purposes of enforcement pursuant to the FDI Act.

§ 303.266 Suspension and removal action under section 8(g) of the FDI Act (12 U.S.C. 1818(g)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to issue orders of suspension or prohibition to an institution-affiliated party who is charged in any information, indictment, or complaint, or who is convicted of or enters a pretrial diversion or similar program, as to any criminal offense cited in or covered by section 8(g) of the FDI Act, when such institution-affiliated party consents to the suspension or prohibition.

(b) *Delegation of authority where suspension or prohibition mandated.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to issue orders of suspension and prohibition to any institution-affiliated party who is charged in any information, indictment, or complaint, or who is convicted or enters a pretrial diversion or similar program, as to any criminal offense involving mandatory suspension or prohibition under sections 8(g)(1)(A)(ii) and (C)(ii) of the FDI Act (12 U.S.C. 1818(g)(1)(A)(ii) and (C)(ii)), whether or not such institution-affiliated party consents to the suspension or prohibition.

(c) *Joint DOS-DCA action.* The Director (DOS) and the Director (DCA) may issue joint orders pursuant to this section where such order addresses both safety and soundness and consumer compliance matters. A joint order will require the signatures of both Directors or their Deputy Directors or associate directors.

(d) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with section 8(g) of the FDI Act (12 U.S.C. 1818(g)) and the order is enforceable in a United States District Court pursuant to sections 8(i) and 8(j) of the FDI Act (12 U.S.C. 1818(i) and (j)).

§ 303.267 Termination of insured status under section 8(p) of the FDI Act (12 U.S.C. 1818(p)).

(a) *General.* Authority is delegated to the Executive Secretary to issue consent orders terminating the insured status of insured depository institutions that have ceased to engage in the business of receiving deposits other than trust funds pursuant to section 8(p) of the FDI Act (12 U.S.C. 1818(p)).

(b) *DOS and legal concurrence.* The authority delegated under this section shall be exercised only upon the recommendation and concurrence of the Director or Deputy Director (DOS) or, when confirmed in writing by the Director, an associate director, and upon the certification of the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with section 8(p) of the FDI Act (12 U.S.C. 1818(p)).

§ 303.268 Termination of insured status under section 8(q) of the FDI Act (12 U.S.C. 1818(q)).

(a) *General.* Authority is delegated to the Executive Secretary to issue consent orders terminating the insured status of an insured depository institution where the liabilities of the insured institution for deposits shall have been assumed by another insured depository institution or depository institutions, whether by way of merger, consolidation, or other statutory assumption, or pursuant to contract, pursuant to section 8(q) of the FDI Act (12 U.S.C. 1818(q)).

(b) *DOS and legal concurrence.* The authority delegated under this section shall be exercised only upon the recommendation and concurrence of the Director or Deputy Director (DOS) or, when confirmed in writing by the Director, an associate director, and upon the certification of the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with section 8(q) of the FDI Act (12 U.S.C. 1818(q)).

§ 303.269 Civil money penalties.

(a) *General.* Except as provided otherwise in this section, authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to issue:

(1) Notice of assessment of civil money penalties; and

(2) Final orders to pay (with or without a prior notice of assessment of civil money penalty) where the insured depository institution or institution-affiliated party consents to the issuance of the order to pay and waives, as applicable, receipt of a notice of assessment of civil money penalty and the right to an administrative hearing.

(b) *Legal concurrence.* The authority delegated under paragraph (a) of this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the allegations contained in the notice of assessment, if proven, constitute a basis for assessment of civil money penalties, or that the stipulated final order to pay is authorized under the FDI Act, and upon its effective date, shall be an order to pay which has become final for purposes of enforcement pursuant to the FDI Act.

(c) *Joint DOS–DCA action.* The Director (DOS) and the Director (DCA) may issue joint notices pursuant to paragraph (a) of this section where such notice addresses both safety and soundness and consumer compliance matters. A joint notice will require the signatures of both Directors or their Deputy Directors or associate directors.

(d) *Required reports.* (1) Authority is delegated to the General Counsel or his or her designee for the levying and enforcement of civil money penalties under:

(i) Section 7(a)(1) of the FDI Act (12 U.S.C. 1817(a)(1)) for the late, inaccurate, false or misleading filing of Reports of Condition and Reports of Income;

(ii) Section 8(i) of the FDI Act (12 U.S.C. 1818(i)) for the late, inaccurate, false or misleading filing of Home Mortgage Disclosure Act (HMDA) reports;

(iii) Section 8(i) of the FDI Act (12 U.S.C. 1818(i)) for the late, inaccurate, false or misleading filing of Community Reinvestment Act (CRA) loan data reports; and

(iv) Such other reports as the Board of Directors may require.

(2) In the exercise of this delegated authority, the General Counsel or his or her designee shall consult with the appropriate Director, Deputy Director, or associate director before imposing any penalty.

§ 303.270 Notices of assessment under section 5(e) of the FDI Act (12 U.S.C. 1815(e)).

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to issue notices of assessment of liability to commonly controlled insured depository institutions for the estimated amount of loss to the deposit insurance funds.

(b) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with section 5(e) of the FDI Act (12 U.S.C. 1815(e)).

§ 303.271 Prompt corrective action directives and capital plans under section 38 of the FDI Act (12 U.S.C. 1831o) and part 325 of this chapter.

(a) *General—Notices, directives and orders.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to accept, reject, require new or revised capital restoration plans, or make any other determinations with respect to the implementation of capital restoration plans and, in accordance with subpart Q of part 308 of this chapter, to issue:

(1) Notices of intent to issue capital directives;

(2) Directives to insured state nonmember banks that fail to maintain capital in accordance with the requirements contained in part 325 of this chapter;

(3) Notices of intent to issue prompt corrective action directives, except directives issued pursuant to section 38(f)(2)(F)(ii) of the FDI Act (12 U.S.C. 1831(f)(2)(F)(ii));

(4) Directives to insured depository institutions pursuant to section 38 of the FDI Act (12 U.S.C. 1831o), with or without the consent of the respondent bank to the issuance of the directive, except directives issued pursuant to section 38(f)(2)(F)(ii) of the FDI Act (12 U.S.C. 1831o(f)(2)(F)(ii));

(5) Directives to insured depository institutions requiring immediate action or imposing proscriptions pursuant to section 38 of the FDI Act (12 U.S.C. 1831o) and part 325 of this chapter, and in accordance with the requirements contained in § 308.201(a)(2) of this chapter;

(6) Notices of intent to reclassify insured banks pursuant to §§ 325.103(d) and 308.202 of this chapter;

(7) Directives to reclassify insured banks pursuant to §§ 325.103(d) and 308.202 of this chapter with the consent of the respondent bank to the issuance of the directive; and

(8) Orders on request for informal hearings to reconsider reclassifications and designate the presiding officer at the hearing pursuant to § 308.202 of this chapter.

(b) *Notices—Dismissal of director and officer.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to:

(1) Issue notices of intent to issue a prompt corrective action directive ordering the dismissal from office of a director or senior executive officer pursuant to section 38(f)(2)(F)(ii) of the FDI Act (12 U.S.C. 1831o(f)(2)(F)(ii)) and in accordance with the requirements contained in § 308.203 of this chapter;

(2) Issue directives ordering the dismissal from office of a director or senior executive officer pursuant to section 38(f)(2)(F)(ii) of the FDI Act (12 U.S.C. 1831o(f)(2)(F)(ii)); and

(3) Issue orders of dismissal from office of a director or senior executive officer pursuant to section 38(f)(2)(F)(ii) of the FDI Act (12 U.S.C. 1831o(f)(2)(F)(ii)) where the individual consents to the issuance of such order prior to the filing of a recommendation by the presiding officer with the FDIC.

(c) *Reclassification of institution other than on basis of capital.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to:

(1) Act on recommended decisions of presiding officers pursuant to a request for reconsideration of a reclassification in accordance with the requirements contained in § 308.202 of this chapter; and

(2) Act on requests for rescission of a reclassification.

(d) *Appeals of immediately effective PCA directives.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to act on appeals from immediately effective directives issued pursuant to section 38 of the FDI Act (12 U.S.C. 1831o) and § 308.201 of this chapter.

(e) *Informal hearings.* Authority is delegated to the Executive Secretary of the FDIC to issue orders for informal hearings and designate presiding officers on directives issued pursuant to section 38(f)(2)(F)(ii) of the FDI Act (12 U.S.C. 1831o(f)(2)(F)(ii)).

(f) *Legal concurrence.* The authority delegated under this section shall be exercised only upon the concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director issues a notice, directive, or order, by the appropriate regional counsel, that the action taken is

not inconsistent with section 38 of the FDI Act (12 U.S.C. 1831o) and part 325 of this chapter.

§ 303.272 Investigations under section 10(c) of the FDI Act (12 U.S.C. 1820(c)).

(a) *Authority of division directors.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), to the Director and Deputy Director of the Division of Resolutions and Receiverships, and where confirmed in writing by the appropriate Director, to an associate director, or to the appropriate regional director and deputy regional director, to issue an order of investigation pursuant to section 10(c) of the FDI Act (12 U.S.C. 1820(c)) and subpart K of part 308 of this chapter (12 CFR 308.144 through 308.150).

(b) *Authority of General Counsel.* Authority is delegated to the General Counsel, and where confirmed in writing by the General Counsel, to his or her designee, to issue an order of investigation pursuant to sections 8 through 13 of the FDI Act (12 U.S.C. 1818–1823), as appropriate, and subpart K of part 308 of this chapter (12 CFR 308.144 through 308.150).

(c) *Concurrence in certain situations.* In issuing an order of investigation that pertains to an open insured depository institution or an institution making application to become an insured depository institution, or a post-conservatorship or post-receivership order of investigation, the authority delegated under this section shall be exercised only upon the concurrent execution of the order of investigation by the Director or Deputy Director (DOS), or the Director or Deputy Director (DCA), or the Director or Deputy Director of the Division of Resolutions and Receiverships, their respective associate directors, and the General Counsel or his or her designee. In the case of a joint order of investigation, such authority shall be exercised only upon the concurrent execution of the order of investigation by both Directors or Deputy Directors, or their associate directors, and upon the certification and execution of the order by the General Counsel or his or her designee.

§ 303.273 Unilateral settlement offers.

(a) *General.* Authority is delegated to the Director and Deputy Director (DOS), to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to accept, deny or enter into negotiations for or regarding settlement and settlement offers with insured depository institutions, or with an institution-affiliated party, pertaining to or arising in connection with a proceeding under part 308 of this chapter. In cases where a proceeding under part 308 of this chapter was issued jointly by DOS and DCA, both Directors or Deputy Directors, or their associate directors, must agree to accept, deny or enter into negotiations regarding settlement and settlement offers with insured depository institutions or with an institution-affiliated party.

(b) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with the FDI Act.

§ 303.274 Acceptance of written agreements.

(a) *Written agreements under section 8(a) of the FDI Act.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, to accept or enter into any written agreements with insured depository institutions, or any institution-affiliated party pertaining to any matter which may be addressed by the FDIC pursuant to section 8(a) of the FDI Act (12 U.S.C. 1818(a)).

(b) *Written agreements in lieu of cease-and-desist orders.* Authority is delegated to the Director and Deputy Director (DOS) and to the Director and Deputy Director (DCA), and where confirmed in writing by the appropriate Director, to an associate director, to accept or enter into any written agreements with insured depository institutions, or any institution-affiliated party pertaining to any safety and soundness or consumer compliance matter which may be addressed by the FDIC pursuant to section 8(b) of the FDI Act (12 U.S.C. 1818(b)) or any other provision of the FDI Act which addresses safety and soundness or consumer compliance matters. In cases which would address both safety and soundness and consumer compliance matters, the Directors, or their designees, may accept or enter into joint written agreements with insured depository institutions or any institution-affiliated party.

(c) *Written agreements as conditions attendant to FDIC filings contained in this part.* Authority is delegated to the Director and Deputy Director (DOS), and to the Director and Deputy Director (DCA) and, where confirmed in writing by the appropriate Director, to an associate director, or to the appropriate regional director or deputy regional director, to accept or enter into any written agreements with insured depository institutions, any institution-affiliated party or any other petitioner which contains conditions precedent to the FDIC's non-objection to a filing pursuant to this part.

(d) *Legal concurrence.* The authority delegated under this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, that the action taken is not inconsistent with the FDI Act.

§ 303.275 Modifications and terminations of enforcement actions and orders.

(a) *Termination of section 8(a) (12 U.S.C. 1818(a)) orders and agreements.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to terminate outstanding section 8(a) orders and agreements and to terminate actions and agreements which are pending pursuant to section 8(a) of the FDI Act when the depository institution is closed by a federal or state authority or merges into another institution.

(b) *Termination of section 8(a) (12 U.S.C. 1818(a)) notification to primary regulator issued by Board of Directors.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to terminate notifications to primary regulator issued by the Board of Directors pursuant to section 8(a) of the FDI Act where the respondent depository institution is in material compliance with such notification or for good cause shown.

(c) *Termination of section 8(a) (12 U.S.C. 1818(a)) notice of intent to terminate insured status.* In cases where the Board of Directors has issued a notice of intent to terminate insured status pursuant to section 8(a) of the FDI Act, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to terminate the actions pending pursuant to such notice of intent to terminate insured status where the respondent depository institution is in material compliance with the applicable notification to primary regulator or for good cause shown.

(d) *Sections 8(b) and 8(c)(12 U.S.C. 1818(b) and (c)) actions and orders.* (1) Authority is delegated to the Director and Deputy Director (DOS) and to the Director and Deputy Director (DCA), as appropriate and, where confirmed in writing by the appropriate Director, to an associate director, or to the appropriate regional director or deputy regional director, to terminate outstanding section 8(b) and section 8(c) orders and agreements and to terminate actions and agreements which are pending pursuant to sections 8(b) and 8(c) of the FDI Act when the depository institution is closed by a federal or state authority or merges into another institution. In cases where a joint order was issued by DOS and DCA, both Directors, or their Deputy Directors or associate directors, or the appropriate regional directors or deputy regional directors, must execute the order of termination.

(2) Authority is delegated to the Director and Deputy Director (DOS) and to the Director and Deputy Director (DCA), as appropriate, and where confirmed in writing by the appropriate Director, to an associate director, or to the appropriate regional director or deputy regional director, to terminate outstanding section 8(b) orders issued by the Board of Directors either where material compliance with the section 8(b) order has been achieved by the respondent depository institution or individual respondent or for good cause shown. In cases where an order issued by the Board of Directors addresses both safety and soundness and consumer compliance matters, both Directors or Deputy Director, or the designees of the Directors, must execute the order of termination.

(e) *Modification and termination of section 8(e) (12 U.S.C. 1818(e)) orders and actions.* Authority is delegated to the Director and Deputy Director (DOS) and the Director and Deputy Director (DCA), as appropriate, and where confirmed in writing by the appropriate Director, to an associate director, to modify or terminate outstanding section 8(e) orders and pending actions and to grant consent under section 8(e)(7)(B) of the Act (12 U.S.C. 1818(e)(7)(B)) for the modification or termination of an outstanding section 8(e) order issued by another Federal financial institution regulatory agency where:

(1) The respondent has demonstrated his or her fitness to participate in any manner in the conduct of the affairs of an insured depository institution;

(2) The respondent has shown that his or her participation would not pose a risk to the institution's safety and soundness; or

(3) The respondent has proven that his or her participation would not erode public confidence in the institution.

(f) *Modification and termination of section 8(g) (12 U.S.C. 1818(g)) orders and actions.* Pursuant to section 8(j) of the FDI Act (12 U.S.C. 1818(j)), authority is delegated to the Director and Deputy Director (DOS) and the Director and Deputy Director (DCA), as appropriate, and where confirmed in writing by the appropriate Director, to an associate director, to approve requests for modifications or terminations of section 8(g) orders issued by either the Board of Directors or under delegated authority.

(g) *Other matters not specifically addressed.* For all outstanding or pending notices, actions, orders, directives and agreements not specifically addressed in this subpart, the delegations of authority contained in this subpart shall include the authority to modify or terminate any outstanding or pending notice, order, directive or agreement issued pursuant to delegated authority, as may be appropriate.

(h) *Termination of pending actions—general.* Any pending enforcement action may be dismissed or terminated by the Director or Deputy Director of DOS or DCA, as appropriate, at any time prior to the commencement of a hearing on the merits by an administrative law judge. Once a hearing on the merits has been convened by an administrative law judge, a pending enforcement action may be dismissed or terminated by stipulation or consent of the affected parties no later than 14 days after the administrative law judge has closed the record of the hearing. Only the FDIC Board of Directors may terminate or dismiss an enforcement action more than 14 days after the record has been closed by an administrative law judge.

(i) *Legal concurrence.* Any dismissals, modifications or terminations pursuant to this section shall be exercised only upon concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director acts under delegated authority, by the appropriate regional counsel, that the action taken is not inconsistent with the FDI Act.

§ 303.276 Enforcement of outstanding enforcement orders.

After consultation with the Director (DOS) or the Director (DCA), or a Deputy Director or an associate director, or the appropriate regional director or deputy regional director, as may be appropriate, the General Counsel or designee is authorized to initiate and prosecute any action to enforce any effective and outstanding order or temporary order issued under 12 U.S.C. 1817, 1818, 1820, 1828, 1829, 1831*l*, 1831o, 1972, or 3909, or any provision thereof, in the appropriate United States District Court.

§ 303.277 Compliance plans under section 39 of the FDI Act (12 U.S.C. 1831p–1) (standards for safety and soundness) and part 308 of this chapter.

(a) *Compliance plans.* Authority is delegated to the Director and Deputy Director (DOS), and where confirmed in writing by the Director, to an associate director, or to the appropriate regional director or deputy regional director, to accept, to reject, to require new or revised compliance plans, or to make any other determinations with respect to the implementation of compliance plans pursuant to subpart R of part 308 of this chapter.

(b) *Notices, orders, and other action.* Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director, to:

(1) Issue notices of intent to issue an order requiring the bank to correct a safety and soundness deficiency or to take or refrain from taking other actions pursuant to section 39 of the FDI Act (12 U.S.C. 1831p-1) and in accordance with the requirements contained in § 308.304(a)(1) of this chapter;

(2) Issue an order requiring the bank immediately to correct a safety and soundness deficiency or to take or refrain from taking other actions pursuant to section 39 of the FDI Act (12 U.S.C. 1831p–1) and in accordance with the requirements contained in § 308.304(a)(2) of this chapter; and

(3) Act on requests for modification or rescission of an order.

(c) *Legal concurrence—compliance plans.* The authority delegated under this section as to compliance plans shall be exercised only upon the concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her designee, or, in cases where a regional director or deputy regional director accepts, rejects or requires new or revised compliance plans or makes any other determinations with respect to compliance plans, by the appropriate regional counsel, that the action taken is not inconsistent with the FDI Act.

(d) *Legal concurrence—notices and orders.* The authority delegated under this section as to notices and orders shall be exercised only upon the concurrent certification by the General Counsel or, where confirmed in writing by the General Counsel, by his or her

designee that the allegations contained in the notice of intent, if proven, constitute a basis for the issuance of a final order pursuant to section 39 of the FDI Act or that the issuance of a final order is not inconsistent with section 39 of the FDI Act or that the stipulated section 39 order is not inconsistent with section 39 of the FDI Act and is an order which has become final for purposes of enforcement pursuant to the FDI Act.

§ 303.278 Enforcement matters where authority is not delegated.

Without limiting the Board of Directors' authority, the Board of Directors has retained the authority to act upon the following enforcement matters:

(a) Notifications to primary regulator under section 8(a) of the FDI Act (12 U.S.C. 1818(a)) when the respondent bank's book capital is at or above 2 percent of total assets and adjusted Tier 1 capital is at or above 2 percent of adjusted part 325 total assets as defined in § 303.2(b) of this part;

(b) Orders terminating insured status under section 8(a) of the FDI Act (12 U.S.C. 1818(a));

(c) Cease-and-desist orders under section 8(b) of the FDI Act (12 U.S.C. 1818(b)) when the respondent depository institution or individual does not consent to the issuance of such orders;

(d) Temporary orders of suspension and prohibition under section 8(e) of the FDI Act (12 U.S.C. 1818(e));

(e) Orders of removal, suspension or prohibition from participation in the conduct of the affairs of an insured depository institution under section 8(e) of the FDI Act (12 U.S.C. 1818(e)) when the individual does not consent to the issuance of such orders;

(f) Orders of suspension or prohibition to an indicted director, officer or person participating in the conduct of the affairs of an insured depository institution and orders of removal or prohibition to a convicted director, officer or person participating in the conduct of the affairs of an insured depository institution under section 8(g) of the FDI Act (12 U.S.C. 1818(g)) when such director, officer or person does not consent to the suspension or removal;

(g) Final orders to pay civil money penalties where respondents do not consent to the assessment of civil money penalties and hearings have been held;

(h) Denials of requests for modifications or terminations of orders issued pursuant to section 8(g) of the FDI Act;

(i) Grants or denials of requests for reinstatement to office, whether or not an informal hearing has been requested, pursuant to § 308.203 of this chapter; and

(j) Grants or denials of requests for waivers of liability of commonly controlled insured depository institutions as to assessments under section 5(e) of the FDI Act (12 U.S.C. 1815(e)).

PART 337—UNSAFE AND UNSOUND BANKING PRACTICES

2. The authority citation for part 337 is revised to read as follows:

Authority: 12 U.S.C. 375a(4), 375b, 1816, 1818(a), 1818(b), 1819, 1820(d)(10), 1821f, 1828(j)(2), 1831, 1831f–l.

3. Section 337.6 is amended by revising paragraph (a)(5)(iii), adding a sentence at the end of paragraph (c), removing paragraphs (d) and (e), and redesignating paragraphs (g) and (h) as (d) and (e), respectively, to read as follows:

§ 337.6 Brokered deposits.

(a) * * *

(5) * * *

(iii) Notwithstanding paragraph (a)(5)(ii) of this section, the term *deposit broker* includes any insured depository institution that is not well capitalized, and any employee of any such insured depository institution, which engages, directly or indirectly, in the solicitation of deposits by offering rates of interest (with respect to such deposits) which are significantly higher than the prevailing rates of interest on deposits offered by other insured depository institutions in such depository institution's normal market area.

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(c) * * * For filing requirements, consult 12 CFR 303.243.

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PART 341—REGISTRATION OF TRANSFER AGENTS

4. The authority citation for part 341 continues to read as follows:

Authority: Secs. 2, 3, 17, 17A and 23(a), Securities Exchange Act of 1934, as amended (15 U.S.C. 78b, 78c, 78q, 78q–1 and 78w(a)).

5. Section 341.7 is added to read as follows:

§ 341.7 Delegation of authority.

(a) Except as provided in paragraph (b) of this section, authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and appropriate regional director and deputy regional director, to act on disclosure matters under and pursuant to sections 17 and 17A of the Securities Exchange Act of 1934 (15 U.S.C. 78).

(b) Authority to act on disclosure matters is retained by the Board of Directors when such matters involve exemption from registration requirements pursuant to section 17A(c)(1) of the Securities Exchange Act of 1934 (15 U.S.C. 78q–1(c)(1)).

PART 346—FOREIGN BANKS

6. The authority citation for part 346 continues to read as follows:

Authority: 12 U.S.C. 1813, 1815, 1817, 1819, 1820, 3103, 3104, 3105, 3108.

7. Section 346.19 of subpart C is amended by adding a new paragraph (e)(14) to read as follows:

§ 346.19 Pledge of assets.

* * * * *

(e) * * *

(14) *Delegation of authority.* (i) Authority is delegated to the Director and Deputy Director of the Division of Supervision and, where confirmed in writing by the Director, to an associate director and the appropriate regional director and deputy regional director of the region in which the insured branch is located, to enter into pledge agreements with foreign banks and depositories under this section. This authority also shall extend to the power to revoke such approval and require the dismissal of the depository.

(ii) Authority is delegated to the General Counsel or designee to modify the terms of the model deposit agreement used under this section.

* * * * *

PART 348—MANAGEMENT OFFICIAL INTERLOCKS

8. The authority citation for part 348 continues to read as follows:

Authority: 12 U.S.C. 3207, 12 U.S.C. 1823(k).

9. Section 348.9 is added to read as follows:

§ 348.9 Delegation of authority.

(a) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director and appropriate regional director and deputy regional director, to approve or deny requests to establish management official interlocks pursuant to § 348.6 or section 205(8) of the Depository Institutions Management Interlocks Act (except that a regional director or deputy regional director may deny such a request only if the request was made pursuant to 348.6(b)(4)); and

(b) Authority is delegated to the Director and Deputy Director (DOS) and, where confirmed in writing by the Director, to an associate director to deny a request to establish a management official interlock pursuant to any provision of either § 348.6 or section 205(8) of the Depository Institutions Management Interlocks Act.

PART 359—GOLDEN PARACHUTE AND INDEMNIFICATION PAYMENTS

10. The authority citation for part 359 continues to read as follows:

Authority: 12 U.S.C. 1828(k).

11. Section 359.6 is revised to read as follows:

§ 359.6 Filing instructions.

Requests to make excess nondiscriminatory severance plan payments pursuant to § 359.1(f)(2)(v) and golden parachute payments permitted by § 359.4 shall be submitted in writing to the appropriate regional director (DOS). For filing requirements, consult 12 CFR 303.244. In the event that the consent of the institution's primary federal regulator is required in addition to that of the FDIC, the requesting party shall submit a copy of its letter to the FDIC to the institution's primary federal regulator. In the case of national banks, such written requests shall be submitted to the OCC. In the case of state member banks and bank holding companies, such written requests shall be submitted to the Federal Reserve district bank where the institution or holding company, respectively, is located. In the case of savings associations and savings association holding companies, such written requests shall be submitted to the OTS regional office where the institution or holding company, respectively, is located. In cases where only the prior consent of the institution's primary federal regulator is required and that agency is not the FDIC, a written request satisfying the requirements of this section shall be submitted to the primary federal regulator as described in this section.

By order of the Board of Directors.

Dated at Washington, DC., this 23rd day of September, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–26235 Filed 10–8–97; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Applications for Deposit Insurance

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Proposed statement of policy.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994, the FDIC is revising its Statement of Policy on ''Applications for Deposit Insurance.'' These revisions include changes to FDIC's policies regarding initial capitalization when a de novo bank is organized by certain well managed and well capitalized holding companies. Policies regarding stock benefit plans are amended and regional directors are given more discretion to act under delegated authority. Changes are also made to eliminate outdated information and to reflect current polices and practices that have not previously been incorporated into the Statement of Policy.

DATES: Comments must be submitted on or before January 7, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, D.C. 20429. Comments may be hand delivered to the guard station located at the rear of the 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 at the FDIC Public Information Center, Room 100, 801 17th Street NW, Washington, D.C., between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Cary H. Hiner, Associate Director, Division of Bank Supervision, (202) 898–6814; Jesse G. Snyder, Assistant Director, Division of Supervision, (202) 898–6915; Mark S. Schmidt, Assistant Director, Division of Supervision, (202) 898–6915; or Susan van den Toorn, Counsel, Regulation and Legislation Section, Legal Division, (202) 898–8707, FDIC, 550 17th Street, N.W., Washington, D. C. 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA) (12 U.S.C. 4803(a)) requires the FDIC to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the FDIC to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies. Also as part of the CDRIA review, on December 6, 1995, the FDIC published in the **Federal Register** a Notice of opportunity to comment on specific FDIC regulations and written policies. See 60 FR 62345. In response to that request, the FDIC received one comment regarding the Statement of Policy on ''Applications for Deposit Insurance'' (Statement of Policy). The commenter urged the FDIC to re-evaluate its position with regard to stock benefit plans established to compensate organizers and investors who place funds at risk during the organizational phase. Specifically, the commenter stated that the FDIC has objected to stock options proposed to be awarded to organizers who have placed funds at risk and noted that the Office of the Comptroller of the Currency (OCC) and the Federal Reserve Board (FRB) do not object to such plans. The commenter urged the FDIC to take a position similar to the OCC and the FRB. The issues raised by the commenter are addressed below in the discussion of stock benefit plans and in the Statement of Policy.

Also as a part of the CDRIA review, the FDIC has determined that the Statement of Policy remains an important communication device with the banking industry. However, certain information has become outdated, while some issues of current importance either are not addressed or are not adequately addressed. As a consequence, the basic organizational structure of the Statement of Policy has been retained, while much of the content has been revised.

Four significant changes to the Statement of Policy are described below. In each of these instances, the change will provide the appropriate FDIC regional director, Division of Supervision (DOS), with the authority to approve deposit insurance applications which previously would have been forwarded to the FDIC's Washington Office for review and decision.

Wholly Owned Subsidiary of a Holding Company

The current Statement of Policy requires an initial capitalization in an amount that is sufficient to provide an 8 percent Tier 1 leverage capital ratio throughout the first three years of operation. The revised Statement of Policy provides that, in certain circumstances, the amount of the initial capital injection for a de novo institution may be reduced to a minimum of $2,000,000, or an amount that is sufficient to provide an 8.0 percent Tier 1 leverage capital ratio at the end of the first year of operation, whichever is greater. This option will be available when the proposed depository institution is to be formed as a wholly owned subsidiary of a holding company which meets the standards established for an ''eligible holding company,'' as set forth in § 303.22 of the FDIC's regulations. However, the holding company would also be required to provide a written commitment to maintain the proposed depository institution's Tier 1 leverage capital ratio at no less than 8.0 percent throughout the first three years of operation. This revision will allow a well managed holding company to provide less initial capital than would have been required under the former standard. This change is considered appropriate in recognition of the ability of the FDIC to reasonably quantify the financial capacity of the parent organization, and to allow the holding company to more efficiently allocate the resources of the entire organization. This amendment will permit the appropriate FDIC regional director (DOS) to act on proposals that contain these provisions when the other factors necessary for delegated authority have been met.

Operating Insured Offices

In certain instances, the applicant may request that the benchmark for evaluating the adequacy of capital be established such that the resultant proposed depository institution would be classified as well capitalized, as defined by its primary federal regulator. This provision would become applicable when the proposal involves the formation of a depository institution through the acquisition of an existing insured operating office (or offices). Criteria established for this lower initial capital benchmark would be that the acquisition involves substantially all of the assets and liabilities of the operating insured office, that the applicant provide reasonable evidence that the de novo institution's operations will be stabilized at inception, and that the proponent for the applicant be either an eligible holding company or an established banking group. The Statement of Policy uses an identified chain banking group as an example of one type of ''established banking group.'' However, the term is intended to cover a group of individuals that have served as directors or officers of an operating insured depository institution.

For either a chain banking group or a group of individuals to be considered an established group, the association must be in existence for at least three years. This provision has been added to the Statement of Policy in recognition that deposit insurance for a depository institution being established from operating offices does not present the same risks to the insurance funds as does the chartering of a start-up de novo institution. This provision also seeks to remove capital requirement inequities that may have existed under prior procedures with respect to certain corporate reorganization activities. This amendment will permit the appropriate FDIC regional director (DOS) to act on proposals that contain these provisions when the other factors necessary for delegated authority have been met.

Stock Financing by Insiders

Guidelines for borrowing arrangements by insiders have been revised. The reference to borrowing arrangements by an individual insider of more than 75 percent of the purchase price of the stock subscribed, or more than 50 percent of the purchase price of the aggregate stock subscribed by the insiders as a group, has been retained as a point of emphasis. However, the Statement of Policy has been amended by deleting the statement that borrowing arrangements in excess of the referenced percentage limits will ordinarily be presumed to be excessive. The burden of providing appropriate supporting information regarding borrowing arrangements will remain with the affected insiders. However, this amendment will permit the appropriate FDIC regional director (DOS) to evaluate all insider borrowing arrangements on their own merits, without having a set limit for those that will be considered excessive or otherwise inappropriate. This amendment will permit the appropriate FDIC regional director (DOS) to act on the proposal when insider borrowing arrangements are inconsequential to the total proposal, or are otherwise not detrimental, when the other factors necessary for delegated authority have also been met.

Similarly, borrowings by a holding company to capitalize a proposed depository institution will be evaluated in the context of the holding company's consolidated operations, rather than based on a 50 percent limit of the total initial capital of the proposed depository institution. However, the borrowing arrangement would need to meet any leverage guidelines established by the holding company's primary federal regulator and be reasonable. This amendment will permit the appropriate FDIC regional director (DOS) to act on a proposal that involves holding company debt financing of more than 50 percent, when the other factors necessary for delegated authority have been met.

Stock Benefit Plans

It is becoming increasingly common for organizers of de novo depository institutions to propose stock benefit plans. Such plans often include not only active officers, but also directors and, in some cases, organizers. Guidance in the current Statement of Policy on Applications for Deposit Insurance states that: ''It is anticipated that options or bonuses will be tied to specific performance criteria and will be limited to active management of the institution.''

This proposal provides for participation of both active officers and outside directors in stock benefit plans, although it is anticipated that such plans will focus primarily on active officers. It is also recognized that plans may be established to compensate organizers who placed funds at risk to finance the organization or who have provided professional or other services during the organizational phase. FDIC will separately review such plans designed to compensate organizers for services rendered.

The proposed directors and officers are a critical element in evaluating a proposed depository institution's application for deposit insurance, and the FDIC has found that management stability is generally an essential element for the ultimate success of a de novo depository institution. Therefore stock benefit plans which are being adopted in conjunction with the establishment of a depository institution should encourage the continued involvement in the depository institution by key management officials.

Guidelines are included in the Statement of Policy to provide standards to be used in evaluating the appropriateness of stock benefit plans. These guidelines are considered necessary to provide the applicant with basic guidance as well as to promote consistency within the FDIC itself. Some concepts are retained from the former Statement of Policy, such as a maximum 10 year limit on options. FDIC's current practice, although not explicitly stated in the current policy statement, of requiring that the strike price be established at no less than fair market value at the time of the grant, has now been explicitly stated. New concepts have been added which emphasize that the plan should encourage the continued involvement of the proposed management. It is believed that a vesting period covering the first three years of operation would be appropriate to assure continued involvement. A three year vesting was selected based on the FDIC's experience that a three year period provides reasonable assurance that the business plan will have been fully implemented and stabilized operations achieved. An additional concept adopted is a requirement that a stock benefit plan provide for an exercise or forfeiture clause which may be invoked by the depository institution's primary federal regulator in the event the capital falls below minimum requirements. This is believed necessary to ensure that the dilutive effects of outstanding stock options will not make it unduly difficult for an institution in need of additional capital to increase capitalization in a timely manner. The OCC also has an established policy of requiring exercise or forfeiture clauses in certain instances.

Stock benefit plans designed to compensate incorporators for personal funds placed at risk during the organization or for services rendered during the organization will be viewed somewhat differently than plans for active management and directors. Plans designed to compensate for past services need not be subject to vesting periods or restrictions on transferability, but FDIC will review the duration of the rights, strike price, and exercise or forfeiture clauses in the same manner as for plans designed to reward continuing management service. In addition, the FDIC will consider the incorporator's time, expertise, and financial commitment to the proposal and the amount and basis of any cash payments made or to be made to the incorporators for services rendered or funds placed at risk.

Stock appreciation rights and similar plans that involve a cash payment based directly on the market value of the depository institution's stock have been specifically identified as objectionable. These types of plans can result in an expense which would reduce the depository institution's capital. Such compensation plans cannot be quantified in relation to the capital adequacy factor and could be detrimental to the overall capital of a depository institution, particularly in its formative years.

If the proposed insured depository institution is to be a subsidiary of a de novo holding company, and a stock benefit plan is being proposed at the holding company level, that stock benefit plan will be reviewed by the FDIC in the same manner as a plan

involving stock issued by the proposed depository institution.

The comments contained in this Statement of Policy relate solely to stock benefit plans which are being proposed in conjunction with the filing of a deposit insurance application and the establishment of an insured depository institution. The comments and guidelines are not intended to be applicable to established operating insured depository institutions. It is believed that this proposal would bring FDIC's policies into closer alignment with those of the other state and federal bank regulatory agencies.

Other Changes

In addition to these four major areas, other changes are being proposed to clarify issues that have arisen or to remove outdated or duplicative information. Noteworthy changes include the following:

- In conjunction with the FDIC's recent rescission of its Statement of Policy regarding Applications, Legal Fees, and Other Expenses (62 FR 15479, April 1, 1997), concise comments relative to fees incident to an application have been incorporated into the revised Statement of Policy.
- The Statement of Policy is amended to replace the statement that ''no dividends are to be paid until all initial losses have been recaptured* * *'', with ''during the first three years of operation, cash dividends shall be paid only from net operating profits* * *'' The Statement of Policy retains the requirement that no dividends be paid until an appropriate allowance for loan and lease losses has been established and overall capital is adequate. This amendment reflects the FDIC's current practice and provides reasonable accommodation to possible Subchapter S Corporation applicants.
- The Statement of Policy has been amended to authorize the appropriate FDIC regional director (DOS) to waive financial information for proposed officers and directors when the proposed depository institution is being formed as a wholly owned subsidiary of a holding company. This was adopted in recognition that, when the proposed depository institution is being formed as a wholly owned subsidiary of a holding company, personal financial information may not be not meaningful.
- Other amendments to the Statement of Policy relating to proposed management include deleting the statement that the chief executive officer is expected to be a qualified and experienced lending officer, and deleting a requirement that a majority of the proposed directors will reside within, or have significant business interests within 100 miles of the proposed depository institution. It is expected that a qualified lending officer will be provided for in the management structure. However, the chief executive officer need not be that person. Also, while the FDIC encourages local involvement in proposed depository institutions, a specific residency requirement is not considered necessary.
- The Statement of Policy has also been revised to require that the applicant commit the depository institution to obtain an audit by an independent public accountant annually for only a three year period, rather than the first five years. This will provide consistency with the other federal regulators regarding audit coverage requirements for de novo depository institutions.

This Statement of Policy is applicable only to applications for deposit insurance, and it is not intended to establish policy for other applications or actions undertaken by established operating insured depository institutions.

Public Comment

In addition to seeking public comments on the above revisions to the Statement of Policy, the FDIC also solicits specific comment on the issue of whether deposit insurance should be conferred upon certain applicants that are owned by public entities, specifically governmental units. The FDIC is concerned that due to their public ownership, such depository institutions present unique supervisory concerns which do not exist with privately-owned depository institutions. Leadership of a governmental unit is subject to change through elections and other means. The FDIC has concerns about the institution's ability to operate independently of the political process, a lack of continuity in the depository institution's policies, management and oversight which could result from changes in the public entity's leadership, and the institution's ability to raise capital through non-traditional sources. Moreover, such institutions may be formed to engage primarily in non-profit or charitable activities such as the promotion of local affordable housing. This raises the prospect of deposit insurance coverage being used for purposes other than those for which the system was created, namely, to promote the stability of the nation's financial system and to protect depositors' funds. See section 1 of the FDI Act (12 U.S.C. 1811), see also 77 Cong. Rec. 3837, 3840, 3923, 3924, 3925 (1933).

In light of these concerns, the FDIC will scrutinize an application for deposit insurance by a publicly-owned applicant very closely. The agency is unlikely to resolve satisfactorily all of the statutory factors which must be considered under section 6 of the FDI Act (12 U.S.C. 1816) in evaluating such an application. The FDIC is considering whether to add language to that effect to the Statement of Policy. The FDIC specifically solicits comment on this issue and whether language should be added to the Statement of Policy which addresses the question. The FDIC also requests comment on the advisability in general of conferring deposit insurance upon applicants which are owned by governmental units.

Banks that are owned by foreign governments and their subdivisions and banks that are owned or controlled by Native American tribes or bands will not be subject to the heightened scrutiny given to other types of publicly-owned depository institutions. Overarching legal and policy considerations, unique to these two categories of insurance applicants, outweigh any concerns that the FDIC may have regarding the ownership of such depository institutions by governmental entities. The respective legal and policy considerations for each category of depository institution are discussed in detail below.

With respect to banks that are owned by foreign governments and their subdivisions, the governing principle of the International Banking Act of 1978 (the IBA) (12 U.S.C. 3101 *et seq.*), the federal statute that governs the participation by foreign banks in domestic markets, is the concept of ''national treatment.'' This concept holds that a foreign bank operating in a particular nation should be accorded operating privileges which provide such banks with the opportunity for competitive equality with their host country counterparts. S. Rep. No. 95–1073 at 18 (1978), reprinted in 1978 U.S.C.C.A.N. 1421, 1438.

Congress adhered to the principle of national treatment in devising the IBA to help ensure that U.S. depository institutions operating overseas received equal treatment with their host country competitors. The financial systems of different nations have varying concentrations of privately-and publicly-owned enterprises. When seeking to promote the overseas operations of U.S. depository institutions in foreign countries through the principle of national treatment, the United States cannot draw a distinction

between a nation that has a bank owned by the government and a nation that does not. National treatment by its very logic requires that all foreign depository institutions, whether publicly-or privately-owned, receive the same, consistent treatment when operating in the United States. This includes eligibility for deposit insurance which is often a condition of either a state or federal charter. For these reasons, an applicant for deposit insurance which is owned by a foreign government will not be subjected to heightened scrutiny by the FDIC simply because it is publicly owned.

Native American tribes or bands that own or control depository institutions can also be distinguished from a conventional governmental unit that seeks to open or acquire a depository institution. This is because under federal law, Native American tribes and bands function as both governmental and economic, for-profit entities. The Indian Reorganization Act of 1934 (the IRA) (25 U.S.C. 461 *et seq.*) authorizes not only the creation of tribal governments (see section 16 of the IRA, 12 U.S.C. 476), but also provides for the creation of tribal business corporations pursuant to section 17 of the IRA (25 U.S.C. 477). At the same time, however, a tribal government organized under section 16 of the IRA is not precluded from engaging in business activities. See *S. Unique Ltd.* v. *Gila River Pima-Maricopa Indian Community,* 138 Ariz. 384, 674 P.2d 1376 (Ct. App. 1984). Both tribal governments and corporations are restricted by the IRA with respect to their ability to sell, mortgage, or lease Native American trust or restricted land, but are otherwise free to engage directly in economic activity. This situation is in contrast to conventional governmental units which seldom engage in direct economic activity for profit. For this reason, the FDIC considers Native American tribes and bands that own or control a depository institution to be more analogous to private, for-profit entities than to governmental units in the context of their ownership or control. The FDIC therefore will not subject an applicant for deposit insurance which is owned or controlled by an Native American tribe or band to heightened scrutiny simply because of that ownership.

The Board of Directors of the FDIC hereby proposes the following revised Statement of Policy on Applications for Deposit Insurance.

Applications for Deposit Insurance

Introduction

The Board of Directors of the FDIC is charged by statute with the responsibility of acting upon applications for federal deposit insurance by all depository institutions [1] including any national bank, district bank, state bank, federal savings association, state savings association, savings bank, or trust company. In addition, the Board of the FDIC will also act upon applications for federal deposit insurance by an industrial bank (or similar depository institution which the Board of Directors finds to be operating substantially in the same manner as an industrial bank), or any other depository institution which is engaged in the business of receiving deposits, other than trust funds.

An insured depository institution which wishes to continue its insured status after withdrawing from the Federal Reserve System, or when converting from a mutual to a stock form of ownership by the chartering of an interim savings association under the provisions of section 10(o) of the Home Owners Loan Act, also must file an application with the FDIC for deposit insurance.

Procedures

Forms and instructions for applying for deposit insurance may be obtained from any regional office of the FDIC Division of Supervision (DOS). Completed applications should be filed with the appropriate regional office as that term is defined in § 303.2(g) of the FDIC's rules and regulations. Incorporators of proposed new depository institutions should file their applications with the FDIC and the appropriate chartering authority at the same time. Information provided to the chartering authority that is also needed as part of the deposit insurance application may be provided to the FDIC by appending a copy of the information to the FDIC application. Although use of the FDIC application form is not required, the material submitted to the FDIC must contain all information requested in the FDIC application form, unless otherwise indicated by FDIC. All incorporators must sign the FDIC's deposit insurance application certification page (pages 1 and 2 of the application form). It is strongly recommended that a representative(s) of the organizing group meet with the chartering authority and FDIC prior to filing an application to reach an understanding of the information requirements of each agency. It is believed this practice would facilitate processing and eliminate unnecessary delays. Information requirements may not be as extensive for applications sponsored by existing holding companies or other well established banking groups. Final action may be taken by the FDIC prior to final action by other regulatory authorities in those cases in which the FDIC has determined that there is no material disagreement on the action to be taken.

The procedures governing the administrative processing of an application for deposit insurance are contained in part 303, subpart B, of the FDIC's rules and regulations (12 CFR part 303). Processing of an application will not commence until it is substantially complete. An incomplete application may be returned to the applicant. The applicant must satisfy all terms of a conditional approval prior to deposit insurance becoming effective.

The policies contained herein are applicable for all proposed de novo depository institutions and operating institutions applying for deposit insurance, with the exception of applications submitted for the sole purpose of acquiring assets and assuming liabilities of an insured institution in danger of default. Policies are modified in those situations to reflect the urgent nature of the transaction. Guidance for those situations is contained in a separate section of this policy statement.

Subpart B of part 303 contains special filing and processing procedures for a state member bank which seeks to continue its insured status upon termination of membership in the Federal Reserve System and for interim institutions chartered to facilitate mergers.

Proposed New Depository Institutions

In considering applications for deposit insurance for a proposed new depository institution, the FDIC must evaluate each application in relation to the factors prescribed in section 6 of the Federal Deposit Insurance Act (hereafter the Act) (12 U.S.C. 1816). Those factors are:

[1] In the case of any interim federal depository institution that is chartered by the appropriate federal banking agency, the depository institution shall be an insured depository institution upon the issuance of the institution's charter by the agency. An application for federal deposit insurance generally is not required even if the federal interim is the surviving charter of a merger with another insured depository institution. *See* 12 CFR 303.62(b)(2) and the FDIC's Statement of Policy on Bank Merger Transactions (section 4.2). Any depository institution whose insured status is continued pursuant to section 4 of the Federal Deposit Insurance Act is not required to apply to continue its insured status. 12 U.S.C. 1814.

- The financial history and condition of the depository institution;
- The adequacy of its capital structure;
- Its future earnings prospects;
- The general character and fitness of its management;
- The risk presented by such depository institution to the deposit insurance fund;
- The convenience and needs of the community to be served by the depository institution; and
- Whether its corporate powers are consistent with the purposes of the Act.

The applicant will receive deposit insurance if all of these statutory factors plus the considerations required by the National Historic Preservation Act and the National Environmental Policy Act of 1969 are resolved favorably. Additional guidance regarding the National Historic Preservation Act and the National Environmental Policy Act may be found in the respective FDIC Statements of Policy for each of these statutes.

If the proposal contemplates the simultaneous establishment of a holding company, the application should discuss and disclose the proposed activities of the parent holding company as well as those of the proposed bank.

In those instances where the proposal involves the ownership of the depository institution as a subsidiary of an existing bank or thrift holding company, the FDIC will consider the financial and managerial resources of the parent organization in assessing the overall proposal and in evaluating the statutory factors prescribed in section 6 of the Act. In such circumstances, the application for deposit insurance should contain a copy of any information submitted to the holding company's primary federal regulator. Subpart B of part 303 of the FDIC's regulations discusses certain expedited procedures that may be available to eligible depository institutions or eligible holding companies (as those terms are defined in the regulation).

The FDIC may conduct examinations and/or investigations to develop essential information with respect to deposit insurance applications. The need to conduct an investigation, and its scope, will be determined by the appropriate regional director (DOS). Every effort will be made to coordinate any FDIC investigation with those conducted by other regulators.

The FDIC has formulated guidelines for evaluating deposit insurance applications which are designed to ease administration, prevent arbitrary judgment, and assure uniform and fair treatment to all applicants. A discussion of these guidelines follows.

Statutory Factors

1. Financial History and Condition

Proposed and newly organized depository institutions have no financial history to serve as a basis for determining qualifications for deposit insurance. Thus, the primary areas of consideration under this statutory factor are the ability of proponents to provide financial support to the new institution, investment in fixed assets, including leasing arrangements, and insider transactions. Lease transactions shall be reported in accordance with Financial Accounting Standards Board Statement 13 (Accounting for Leases). Applicants are expected to provide procedures, security devices, and safeguards at least equivalent to the minimums specified in the Bank Protection Act of 1968 (12 U.S.C. 1881–1884).

(a) Investment in Fixed Assets and Leases—The applicant's aggregate direct and indirect fixed asset investment, including lease obligations, must be reasonable in relation to its projected earnings capacity, capital, and other pertinent matters of consideration. Applicants are cautioned against the purchase of any fixed assets or entering into any noncancelable construction contracts, lease agreements, or other binding arrangements related to the proposal unless and until the FDIC approves the application.

(b) Insider Transactions—Any financial arrangement or transaction involving the applicant and an insider should be documented by the applicant to demonstrate that: (1) The proposed transaction with insiders is made on substantially the same terms as those prevailing at the time for comparable transactions with non-insiders and does not involve more than normal risk or present other unfavorable features to the applicant depository institution; and (2) the transaction must be approved in advance by a majority of the depository institution's incorporators. In addition, full disclosure of any arrangements with an insider must be made to all proposed directors and prospective shareholders. An insider means a person who is proposed to be a director, officer, or incorporator of an applicant; a shareholder who directly or indirectly controls 10 percent or more of a class of the applicant's outstanding voting stock; or the associates or interests of any such person.

2. Adequacy of the Capital Structure

Normally, the initial start-up capital of a proposed depository institution should be sufficient to provide a Tier 1 capital to assets leverage ratio (as defined in the appropriate capital regulation of the institution's primary federal regulator) of not less than 8.0% throughout the first three years of operation. In addition, the depository institution must maintain an adequate allowance for loan and lease losses.

The adequacy of the capital structure of a newly organized depository institution is closely related to its deposit volume, fixed asset investment and the anticipated future growth in liabilities. Deposit projections made by the applicant must, therefore, be fully supported and documented. Projections should be based on established growth patterns in the specific market, and initial capitalization should be provided accordingly. Special purpose depository institutions (such as credit card banks) should provide projections based on the type of business to be conducted and the potential for growth of that business. Initial capital should normally be in excess of $2,000,000, net of any pre-opening expenses that will be charged to the institution's capital after it commences business.

(a) Initial offering of stock—All stock of a particular class in the initial offering should be sold at the same price, and have the same voting rights. Proposals which allow the insiders to acquire a separate class of stock with greater voting rights are generally unacceptable. Insiders should not be offered stock at a price more favorable than the price for other subscribers. A price disparity provides insiders with a means to gain control disproportionate to their investment.

When securities are sold to the public, the disclosure of all material facts is essential. The FDIC's Statement of Policy regarding Offering Circulars provides additional guidance. A copy of the offering circular prepared by the applicant, together with the stock solicitation material and subscription agreement, should be submitted to the FDIC when they become available.

(b) Wholly owned subsidiary of a holding company—If the applicant is being established as a wholly owned subsidiary of an eligible holding company (as defined in part 303, subpart B), the FDIC will consider the financial resources of the parent organization as a factor in assessing the adequacy of the proposed initial capital injection. In such cases, the appropriate regional director (DOS) may find favorably with respect to the adequacy of capital factor, when the initial capital injection is sufficient to provide for a Tier 1 leverage capital ratio of at least 8.0% at the end of the first year of

operation, based on a realistic business plan, or the initial capital injection meets the $2,000,000 minimum capital standard set forth in this Statement of Policy, or any minimum standards established by the chartering authority, whichever is greater. However, the holding company shall also provide a written commitment to maintain the proposed institution's Tier 1 leverage capital ratio at no less than 8.0 percent throughout the first three years of operation.

(c) Operating insured offices—If the proposal involves the acquisition of an insured operating office, or offices, the applicant may request that the benchmark for evaluating the adequacy of capital be an amount necessary for the resultant newly chartered institution to be classified as well capitalized, as defined by its primary federal regulator. In such cases, the appropriate regional director (DOS) may find favorably with respect to the capital factor based on a favorable finding with respect to the following:

- There is a realistic three year business plan which evidences stabilized operations at inception;
- The proposal involves substantially all assets and deposits attributable to the respective insured operating office(s); and
- The proponent is either an eligible holding company (as defined in part 303, subpart B) or is a banking group that the FDIC determines has demonstrated its ability to successfully manage an insured depository institution. (A qualified banking group should have an established association of at least three years. A chain banking group which is recognized as such by the FDIC is one type of banking group that is contemplated in this paragraph.)

(d) Stock financing by insiders—Financing arrangements by insiders of their investment in stock of the proposed new depository institution will also be carefully reviewed. Financing arrangements by an insider to purchase stock will be considered acceptable only if the party financing the stock can demonstrate the ability to service the debt without reliance on dividends or other forms of compensation from the applicant. When stock financing arrangements of insiders are anticipated, information should be submitted with the application demonstrating that adequate alternative independent sources of debt servicing are available. Direct or indirect financing arrangements by insiders of more than 75 percent of the purchase price of the stock subscribed to by any one individual, or more than 50 percent of the purchase price of the aggregate stock subscribed by the insiders as a group, will require supporting comments in the application regarding the reason that the financing arrangements should be considered acceptable. If the insider financing arrangements are not considered appropriate, the FDIC may find unfavorably on the adequacy of the capital structure.

When the proposed depository institution is being established as a subsidiary of an existing holding company, the funding source being utilized by the holding company for its capital contribution will be evaluated in the context of the holding company's consolidated operations.

In such cases, the FDIC will need to be provided with assurance that the holding company's proposed leverage is within the guidelines of its primary federal regulator.

No loans for stock purchases are to be refinanced by the newly established institution. Deposits or other funds of the proposed depository institution at correspondent banks are not to be used as compensating balances for loans to insiders. During the first three years of operations, cash dividends shall be paid only from net operating profits, and shall not be paid until an appropriate allowance for loan and lease losses has been established and overall capital is adequate.

3. Future Earnings Prospects

Before approving an application for deposit insurance, the FDIC must have reasonable assurance that the new institution can be operated profitably. Therefore, the incorporators will need to demonstrate through realistic and supportable estimates that, within a reasonable period (normally three years), the earnings of the applicant will be sufficient to provide an adequate profit.

The applicant must also maintain its books and records in accordance with the principles of accrual accounting.

4. General Character and Fitness of the Management

To satisfy the FDIC's criteria under this factor, the evidence must support a management rating which, in an operating institution, would be tantamount to a rating of 2 or better under the Uniform Financial Institution Rating System.[2] Since in most instances the management of a proposed depository institution will not have an operating record as a functioning unit, the individual directors and officers will be evaluated largely on the basis of the following:

- Financial institution and other business experience;
- Duties and responsibilities in the proposed depository institution;
- Personal and professional financial responsibility;
- Reputation for honesty and integrity; and
- Familiarity with the economy, financial needs, and general character of the community in which the depository institution will operate.

All proposed depository institutions shall provide at least a five-member board of directors. The identity and qualifications of the proposed full-time chief executive officer should be made known to the FDIC as soon as possible, preferably when the application is filed with the appropriate FDIC regional director (DOS). Proponents must advise the FDIC, in writing, of any change in the directorate, senior active management, or a change in the ownership of stock by any person of 10% or more of the total shares of either the depository institution or its holding company prior to opening.

(a) Fees and expenses—The commitment to or payment of unreasonable or excessive fees and other expenses incident to an application will reflect adversely upon the management of the applicant institution. Fees and other organizational expenses incurred or committed to should be fully supported.

Expenses for professional or other services rendered by insiders will receive special review for any indication of self-dealing to the detriment of the bank and its other shareholders. As a matter of practice, the FDIC expects full disclosure to all directors and shareholders of any arrangement with an insider.

In no case will an FDIC application be approved where the payment of a fee, in whole or in part, is contingent upon any act or forbearance by the FDIC or by any other federal or state agency or official.

(b) Stock benefit plans—Stock benefit plans, including stock options, stock warrants, and similar stock based compensation plans will be reviewed by FDIC and must be disclosed to all potential subscribers. A description of any such plans proposed should be included in the application submitted to the regional director. It is expected that stock benefit plans will be primarily focused on active management of the institution, although some participation by outside directors is not objectionable. The structure of stock benefit plans should encourage the continued

[2] A 2 rating under the Uniform Financial Institution System is generally indicative of a satisfactory record of performance in light of the institution's particular circumstances.

involvement of the participants, and serve as an incentive for the successful operation of the institution. It is recognized that plans may be proposed to compensate organizers for funds placed at risk during the organization phase or as remuneration for services provided.

Stock benefit plans should contain no feature that would encourage speculative or high risk activities, serve as an obstacle or otherwise impede the sale of additional stock to the general public, or be structured in such a manner as to serve as a conduit to convey control of a depository institution to the insiders. Listed below are factors that the FDIC will consider in reviewing stock benefit plans proposed for directors and active officers:

- The duration of rights granted should be limited, and in no event should the exercise period exceed ten years;
- Rights granted should encourage the recipient to remain involved in the proposed depository institution. For example, a vesting of approximately equal percentages each year over the initial three years of operations is a type of provision that would be appropriate to ensure such continued involvement. This requirement may be waived for participants awarded only a nominal number of shares.
- Rights granted should not be transferable by the participant;
- The exercise price of stock rights shall not be at less than the fair market value of the stock at the time that the rights are granted;
- Rights under the plan must be exercised or expire within a reasonable time after termination as an active officer, employee or director; and
- Stock benefit plans should contain a provision allowing the institution's primary federal regulator to direct the institution to require plan participants to exercise or forfeit their stock rights if the institution's capital falls below the minimum requirements, as determined by its primary state or federal regulator.

The FDIC will separately review stock benefit plans established to compensate incorporators who have placed personal funds at risk to finance the organization of the institution or who have provided professional or other services in conjunction with the organization. In reviewing the reasonableness of such plans, the FDIC will not require vesting or restrictions on transferability, but will review the duration of the rights, strike price and exercise or forfeiture clauses in the same manner as discussed above. In addition, the FDIC will consider:

- The incorporator's time and expertise, and financial commitment to the proposal; and
- The amount and basis of any cash payments which will be made to the incorporator for services rendered or as return on funds placed at risk.

It is recognized that the incorporators may wish to adopt different types of compensation plans which are structured to meet the unique circumstances of the proposed depository institution. In evaluating benefit and compensation plans for insiders, the FDIC will look to the substance of the proposal. Those proposals that are determined to be substantively stock based plans will be evaluated based on the foregoing stock benefit plan criteria. Stock appreciation rights and other similar plans that include a cash payment to the recipient based directly on the market value of the depository institution's stock are unacceptable.

If the proposal involves the formation of a de novo holding company and a stock benefit plan is being proposed at the holding company level, that stock benefit plan will be reviewed by the FDIC in the same manner as a plan involving stock issued by the proposed depository institution.

(c) Background and biographical information—Insiders must file financial and biographical information in connection with the deposit insurance application. The FDIC may request a report from the Federal Bureau of Investigation or other investigatory agencies on these individuals. Fingerprinting of individuals may be required. Background checks and fingerprinting may be waived by the appropriate FDIC regional director (DOS) for individuals who are currently associated with, or have had a recent past association with, an insured depository institution. When the proposed depository institution is being established as a wholly owned subsidiary of an eligible holding company, the appropriate FDIC regional director (DOS) may waive financial information for those persons who are being proposed as directors or officers of the applicant. Background checks conducted by other federal financial institution regulators in connection with charter applications are generally adequate for the FDIC if the other regulators agree to notify the FDIC of instances in which further investigation is warranted.

In the event any present or prospective director, officer, employee, controlling stockholder, or agent of the applicant has been convicted of any criminal offense involving dishonesty, breach of trust, or money laundering, or has agreed to enter into a pretrial diversion or similar program in connection with a prosecution of such offense, the applicant must obtain the FDIC's written consent, under section 19 of the Act (12 U.S.C. 1829), before any such person may serve in one or more of those capacities. Guidelines regarding section 19 applications may be obtained from the appropriate FDIC regional office (DOS).

Proponents should be aware of the prohibitions against interlocking management officials which are applicable to depository institutions and depository institution holding companies and which are contained in the Depository Institution Management Interlocks Act (12 U.S.C. 3201).

(d) Fidelity insurance, policies, and audit coverage—An insured depository institution should maintain sufficient fidelity bond coverage on its active officers and employees to conform with generally accepted industry practices. Primary coverage of no less than $1 million is ordinarily expected. Approval of the application may be conditioned upon acquisition of adequate fidelity coverage prior to opening for business.

Applicants are expected to develop appropriate written investment, loan, funds management and liquidity policies. Establishment of an acceptable audit program is required for proposed depository institutions. Applicants for deposit insurance coverage are expected to commit the depository institution to obtain an audit by an independent public accountant annually for at least the first three years after deposit insurance coverage is granted. The FDIC may determine,[3] on a case-by-case basis, that a separate audit is unnecessary where the applicant is owned by another company and the proposed depository institution will undergo an audit performed by an independent public accountant as part of an audit of the consolidated financial statements of its parent company.

5. Risk Presented to the Bank Insurance Fund or Savings Association Insurance Fund

This factor is intended to be broadly interpreted. For example, this factor may be resolved unfavorably based on an unsound business plan. The FDIC expects that an applicant will submit a business plan commensurate with the capabilities of its management and the financial commitment of the

[3] In a situation in which the FDIC is not to be the primary federal regulator, these determinations will be made in consultation with the primary federal regulator.

incorporators.[4] Applicants must demonstrate the following:

- Adequate policies, procedures, and management expertise to operate the proposed depository institution in a safe and sound manner;
- Ability to achieve a reasonable market share;
- Reasonable earnings prospects;
- Ability to attract and maintain adequate capital; and
- Responsiveness to community needs.

Operating plans that rely on high risk lending, a special purpose market, or significant funding from sources other than core deposits or that otherwise diverge from conventional bank-related financial services will require specific documentation as to the suitability of the proposed activities for an insured institution. Similarly, additional documentation of plans is required where markets to be entered are intensely competitive or economic conditions are marginal.

6. Convenience and Needs of the Community To Be Served

The essential considerations in evaluating this factor are the deposit and credit needs of the community to be served, the nature and extent of the opportunity available to the applicant in that location, and the willingness and ability of the applicant to serve those financial needs.

The applicant must clearly define the community it intends to serve and provide information on that community, including economic and demographic data and a description of the competitive environment. The applicant should also define the services to be offered in relation to the needs of the community. The proposed depository institution's Community Reinvestment Act documentation, including any applicable public file information, prepared in accordance with the requirements of the institution's primary federal regulator, plays an integral part in the FDIC's evaluation of the convenience and needs of the community to be served.

7. Consistency of Corporate Powers

Pursuant to section 24 of the Act (12 U.S.C. 1831a), no insured state bank may engage as principal in any type of activity that is not permissible for a national bank unless the FDIC has determined that the activity would pose no significant risk to the appropriate deposit insurance fund and the state bank is, and continues to be, in compliance with applicable capital standards prescribed by its primary federal banking agency. Similarly, the Home Owners' Loan Act (12 U.S.C. 1464) provides that a state savings association may not engage in any type of activity that is not permissible for a federal savings association unless the FDIC has determined that the activity would pose no significant risk to the affected deposit insurance fund and the savings association is, and continues to be, in compliance with the capital standards for the association. Applicants shall agree in the application not to exercise prohibited powers, whether granted by charter or statute, after deposit insurance has been granted, unless prior approval has been obtained from its federal regulator.

State nonmember banks may not exercise trust powers without the prior written approval of the FDIC.

Operating Noninsured Institutions

This section discusses the evaluation of applications for federal deposit insurance submitted by operating noninsured institutions. The FDIC's criteria for evaluating applications submitted by operating institutions are generally the same as those for proposed depository institutions.

The FDIC must consider the seven factors found in section 6 of the Act, which are discussed above.

The condition of an applicant institution will be determined from all available information and will generally include an on-site examination as part of the investigation process. Results of the examination should reflect an institution that is fundamentally sound, although some modest weaknesses may exist. The nature and severity of deficiencies found should not be material, and the institution must be stable and able to withstand business fluctuations.

Capital ratios will be calculated using financial statements prepared in accordance with the ''Instructions—Consolidated Reports of Condition and Income'' or ''Thrift Financial Reports'' in use for FDIC-insured institutions at the time. An applicant's capital adequacy will be measured in relation to the capital ratios established in the capital regulations of the institution's primary federal regulator. Based on an analysis of the type and quality of the institution's assets, the kind of powers exercised, the institution's funding sources, or other factors, an initial capital level higher than the minimum levels prescribed may be required. The analysis will include consideration of such matters as whether the applicant is relatively new,[5] has embarked upon a substantive change in powers exercised, or has experienced erratic growth patterns in recent years.

As part of the application investigation process, the FDIC will discuss with the applicant its future operating intentions. If any change in its kind or level of activity is expected following, or as a result of, the approval of its FDIC membership, the applicant may be requested to submit a plan for maintaining adequate capital in the future.

Unless waived in writing by the FDIC, an applicant shall have a full scope audit conducted by an independent public accountant prior to submitting an application and shall submit a copy of the auditor's report as part of the application.

Section 24 of the Act (12 U.S.C. 1831a) limits the powers of insured state banks, and the Home Owners' Loan Act (12 U.S.C. 1464) limits the powers of state savings associations. If the institution is exercising any powers not authorized under the applicable statute, the application should contain an agreement and plan for eliminating the activity as soon as possible, or a separate application should be submitted seeking the FDIC's consent to continue the activity.

Proposed Depository Institutions Formed for the Sole Purpose of Acquiring Assets and Assuming Liabilities of an Insured Institution in Default

Because of the urgent nature of this type of transaction, the procedures described above for insuring proposed depository institutions are modified when the institution is being formed for the sole purpose of acquiring assets and assuming liabilities of an insured institution in danger of default. Such institutions are approved based on the statutory factors contained in section 6 of the Act; however, the procedures for resolving these factors are modified significantly.

The financial history and condition of the institution is determined to a great extent on the quality of assets purchased and the types of liabilities assumed in the transaction.

The minimum capital requirement for these transactions is such that the resultant depository institution would

[4] Any significant deviation from the business plan within the first three years of operation must be reported by the insured depository institution to the appropriate federal regulator before consummation of the change.

[5] This statement of policy provides that the initial capital for a new or proposed depository institution should be sufficient to provide a leverage ratio of Tier I capital to total estimated assets of at least 8.0% throughout the first three years of operations. This standard shall also be applied to a recently organized institution applying for insurance.

be ''adequately capitalized,'' as defined in the capital regulations of its primary federal regulator, which should be augmented by an adequate allowance for loan and lease losses. It is emphasized that this is a minimum standard, and a higher capital level may be required. The initial capital requirements may be based on a realistic projection of the estimated retained deposits. However, the proposed depository institution will be required to provide a written commitment to achieve the minimum capital position shortly after consummation if the volume of deposits is underestimated.

Proponents should contact the appropriate FDIC regional office (DOS) as soon as possible if they intend to bid on a failing institution. Due to the time constraints involved with this type of transaction, information submissions and applications will be abbreviated. Generally, a letter request accompanied by copies of applications filed with other federal or state regulatory authorities will be sufficient. Other information will be requested only as needed by the appropriate FDIC official.

Relationships With Other Federal Regulators

Nothing in these guidelines is intended to relieve the applicant of any requirements imposed by a depository institution's primary federal regulator. Any differences in requirements between the FDIC and the institution's primary federal regulator will be resolved during the investigation process.

By order of the Board of Directors.

Dated at Washington, DC, this 23rd day of September, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–26234 Filed 10–8–97; 8:45 am]

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FEDERAL DEPOSIT INSURANCE CORPORATION

Bank Merger Transactions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed statement of policy.

SUMMARY: The FDIC is proposing to revise its Statement of Policy on Bank Merger Transactions by updating it to reflect legislative and other developments that have occurred since the Statement of Policy was last revised in 1989. The proposed revision also gives additional guidance by including new provisions and clarifying some existing provisions. The proposal is a part of the FDIC's systematic review of its regulations and written policies under the Riegle Community and Regulatory Improvement Act of 1994 and is intended to be read in conjunction with the merger provisions of the FDIC's proposed amendments dealing with applications filed with the FDIC, which also appears in this issue of the **Federal Register**.

DATES: Comments must be received by January 7, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. Comments may be hand delivered to the guard station located at the rear of the 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 at the FDIC Public Information Center, Room 100, 801 17th Street NW, Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Kevin W. Hodson, Review Examiner, Division of Supervision, (202) 898–6919; Martha Coulter, Counsel, Legal Division, (202) 898–7348, Federal Deposit Insurance Corporation, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI Act), 12 U.S.C. 4803(a), requires that each of the federal banking agencies (the FDIC, the Office of the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Office of Thrift Supervision) conduct a review of its regulations and written policies, for two general purposes. These purposes are: (1) To streamline and modify the regulations and policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability; and (2) to remove inconsistencies and outmoded and duplicative requirements.

As part of this review, the FDIC has determined that its Statement of Policy on Bank Merger Transactions (Policy Statement or Statement) should be revised. The primary purpose of the revision is to update the Statement to reflect statutory changes and other developments that have taken place since its last revision in 1989. In addition, certain clarifications and refinements are being proposed, as well as new provisions intended to give guidance in areas not previously addressed by the 1989 Statement. The proposed revisions are discussed more fully below.

Recent Developments. Among the proposed revisions to the Statement are those resulting from statutory changes, including the CDRI Act, the Riegle-Neal Interstate Banking and Branching Efficiency Act of 1994 (Interstate Act), and the Financial Institutions Reform, Recovery, and Enforcement Act of 1989 (FIRREA).[1] Section 321(b) of the CDRI Act reduced the post-approval, pre-consummation waiting period for certain merger transactions from 30 days to 15 days (see 12 U.S.C. 1828(c)(6)). Section 102 of the Interstate Act, codified at 12 U.S.C. 1831u, provided for interstate bank mergers. FIRREA broadened the coverage of the Bank Merger Act, 12 U.S.C. 1828(c), to include savings associations and eliminate the Federal Savings and Loan Insurance Corporation (FSLIC).[2]

Each of these changes caused related references in the 1989 Statement to become out-dated or incomplete, a situation the proposed new Statement corrects. For example, because the Bank Merger Act now applies to thrift institutions as well as banks, the proposed Statement replaces the term ''bank'' with ''depository institution.'' It also deletes a reference to the FSLIC. In addition, the proposed Statement includes references to interstate mergers and to the CDRI Act's 15-day post-approval waiting period.

In addition to statutory changes, there have been other developments that warrant revision of the 1989 Statement. For example, the 1989 Statement refers to the use of ''IPC'' deposits (deposits of individuals, partnerships, and corporations) in FDIC merger analysis. However, IPC deposit data is no longer collected by the FDIC. Accordingly, the proposed revisions indicate that the FDIC now uses ''total deposits'' in evaluating the competitive effects of a proposed merger.

Another development was the 1995 amendment of the FDIC's regulations implementing the Community Reinvestment Act (CRA) (*see* 60 FR 22156 (May 4, 1995)). Changes the FDIC made to its CRA regulations include elimination of the requirement for CRA statements and revision of the CRA performance standards to be applied by the FDIC. These changes are reflected in the proposed new Statement.

[1] The citations for these statutes are, respectively, Pub. L. 103–325, 108 Stat. 2160; Pub. L. 103–328, 108 Stat. 2338; and Pub. L. 101–73, 103 Stat. 183.

[2] FIRREA sections 201 and 221.

Other developments affecting the Statement include the proposed amendment by the FDIC of its Bank Merger Act regulations in 12 CFR part 303, which appear elsewhere in this issue of the **Federal Register**. Among these proposed amendments (which would comprise new subpart D to part 303) is a new expedited processing procedure for applications meeting certain eligibility criteria. Another amendment to the merger regulations would be replacement of the term ''phantom'' merger with the term ''interim'' merger. These changes have been incorporated into the proposed new Statement. In addition, the Statement's citations to the FDIC's merger regulations would be revised consistent with the new section designations in the proposed new part 303.

Additions, Deletions and Clarifications. In addition to the updates discussed above, the Statement would be expanded to address several elements not previously covered. These include optional conversion transactions (commonly referred to as Oakar transactions) under 12 U.S.C. 1815(d)(3), branch closings in connection with merger transactions, and interstate and interim mergers. Also included is a new section addressing legal fees and other expenses, which has been transferred from the FDIC's recently-rescinded Statement of Policy on Applications, Legal Fees, and Other Expenses (*see* 62 FR 15479 (April 1, 1997)).

The proposed Statement includes a number of clarifications and refinements, as well. For example, a new sentence in the initial paragraph would incorporate the FDIC's existing view that transactions that do not involve a transfer of deposit liabilities typically do not require prior FDIC approval under the Bank Merger Act, unless the transaction involves the acquisition of all or substantially all of an institution's assets. Other such clarifications include pluralization of the term ''relevant geographic market'' (to read ''relevant geographic market(s)'') to make clear that a merger can involve more than one distinct market area.

The proposed Statement further includes a number of minor, non-substantive wording changes intended only to refine or clarify. None of these minor changes reflects any change in the FDIC's merger-analysis practices or policies.

The FDIC has found in its experience that few if any issues regarding the FDIC's obligations under the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321 *et seq.*) or the National Historic Preservation Act (NHPA) (16 U.S.C. 470 *et seq.*) are presented in the context of bank merger transactions. Since the FDIC is in the process of reviewing its policies on NEPA and NHPA, the FDIC believes it is not advisable to include a reference to NEPA and NHPA in the Statement of Policy at this time.

The proposed Statement is set forth below. It is intended to be read in conjunction with the proposed new merger provisions of part 303 (Applications) of the FDIC's regulations, notice of which is published elsewhere in this issue of the **Federal Register**.

For the above reasons, the FDIC proposes the following Statement of Policy:

Proposed FDIC Statement of Policy on Bank Merger Transactions

I. Introduction

Section 18(c) of the Federal Deposit Insurance Act (12 U.S.C. 1828(c)), popularly known as the Bank Merger Act, requires the prior written approval of the FDIC before any insured depository institution may:

(1) Merge or consolidate with, purchase or otherwise acquire the assets of, or assume any deposit liabilities of, another insured depository institution if the resulting institution is to be a state nonmember bank, or

(2) Merge or consolidate with, assume liability to pay any deposits or similar liabilities of, or transfer assets and deposits to, a noninsured bank or institution.

Institutions undertaking one of the above described ''mergers'' or ''merger transactions'' must file an application with the FDIC. Transactions that do not involve a transfer of deposit liabilities typically do not require prior FDIC approval under the Bank Merger Act, unless the transaction involves the acquisition of all or substantially all of an institution's assets.

The Bank Merger Act prohibits the FDIC from approving any proposed merger that would result in a monopoly, or which would further a combination or conspiracy to monopolize or to attempt to monopolize the business of banking in any part of the United States. Similarly, the Bank Merger Act prohibits the FDIC from approving a proposed merger whose effect in any section of the country may be substantially to lessen competition, or which in any other manner would be in restraint of trade. An exception may be made in the case of a merger whose effect would be to substantially lessen competition, tend to create a monopoly, or otherwise restrain trade, if the FDIC finds that the anticompetitive effects of the proposed transaction are clearly outweighed in the public interest. For example, the FDIC may approve a merger to prevent the probable failure of one of the institutions involved.

In every proposed merger transaction, the FDIC must also consider the financial and managerial resources and future prospects of the existing and proposed institutions, and the convenience and needs of the community to be served.

II. Application Procedures

1. Application filing. Application forms and instructions may be obtained from any FDIC Division of Supervision regional office. Completed applications and any other pertinent materials should be filed with the appropriate regional director as specified in § 303.2(g) of the FDIC rules and regulations (12 CFR 303.2(g)). The application and related materials will be reviewed by regional office staff for compliance with applicable laws and FDIC rules and regulations. When all necessary information has been received, the application will be processed and a decision rendered by the regional director pursuant to the delegations of authority set forth in § 303.66 of the FDIC rules and regulations (12 CFR 303.66) or the application will be forwarded to the FDIC's Washington office for processing and decision.

2. Expedited processing. Section 303.64 of the FDIC rules and regulations (12 CFR 303.64) provides for expedited processing, which the FDIC will grant to eligible applicants. In addition to the eligible institution criteria provided for in section 303.2 (12 CFR 303.2), § 303.64 provides expedited processing criteria specifically applicable to proposed merger transactions.

3. Publication of notice. The FDIC will not take final action on a merger application until notice of the proposed merger is published in a newspaper or newspapers of general circulation in accordance with the requirements of section 18(c)(3) of the Federal Deposit Insurance Act. See § 303.65 of the FDIC rules and regulations (12 CFR 303.65). The applicant must furnish evidence of publication of the notice to the regional director following compliance with the publication requirement. (See § 303.7(b) of the FDIC rules and regulations (12 CFR 303.7(b)).)

4. Reports on competitive factors. As required by law, the FDIC will request reports on the competitive factors involved in a proposed merger from the Attorney General, the Comptroller of the

Currency, the Board of Governors of the Federal Reserve System, and the Director of the Office of Thrift Supervision. These reports must ordinarily be furnished within 30 days, and the applicant will, if it so requested, be given an opportunity to submit comments to the FDIC on the contents of the competitive factors reports.

5. Notification of the Attorney General. After the FDIC approves any merger transaction, the FDIC will immediately notify the Attorney General. Generally, unless it involves a probable failure or an emergency exists requiring expeditious action, a merger may not be consummated until 30 calendar days after the date of the FDIC's approval. However, the FDIC may prescribe a 15-day period, provided the Attorney General concurs with the shorter period.

6. Merger decisions available. Applicants for consent to merge may find additional guidance in the reported bases for FDIC approval or denial in prior merger cases compiled in the FDIC's annual ''Merger Decisions'' report. Reports may be obtained from the FDIC Office of Corporate Communications, Room 100, 801 17th Street NW., Washington, DC 20434.

III. Evaluation of Merger Applications

The FDIC's intent and purpose is to foster and maintain a safe, efficient, and competitive banking system that meets the needs of the communities served. With these broad goals in mind, the FDIC will apply the specific standards outlined in this statement of policy when evaluating and deciding proposed merger transactions.

Competitive Factors

In deciding the competitive effects of a proposed merger transaction, the FDIC will consider the extent of existing competition between and among the merging institutions, other depository institutions, and other providers of similar or equivalent services in the product markets within the relevant geographic market(s).

1. Relevant Geographic Market

The relevant geographic market(s) includes the areas in which the offices to be acquired are located and the areas from which those offices derive the predominant portion of their loans, deposits, or other business. The relevant geographic market also includes the areas where existing and potential customers impacted by the proposed merger may practically turn for alternative sources of banking services. In delineating the relevant geographic market, the FDIC will also consider the location of the acquiring institution's offices in relation to the offices to be acquired.

2. Product Market

The relevant product market(s) includes the banking services currently offered by the merging institutions and to be offered by the resulting institution. In addition, the product market may also include the functional equivalent of such services offered by other types of competitors, including other depository institutions, securities firms, or finance companies. For example, share draft accounts offered by credit unions may be the functional equivalent of demand deposit accounts. Similarly, captive finance companies of automobile manufacturers may compete directly with depository institutions for automobile loans, and mortgage bankers may compete directly with depository institutions for real estate loans.

3. Analysis of Competitive Effects

In its analysis of the competitive effects of a proposed merger transaction, the FDIC will focus particularly on the type and extent of competition that exists and that will be eliminated, reduced, or enhanced by the proposed merger. The FDIC will also consider the competitive impact of providers located outside a relevant geographic market where it is shown that such providers individually or collectively influence materially the nature, pricing, or quality of services offered by the providers currently operating within the geographic market.

The FDIC's analysis will focus primarily on those services that constitute the largest part of the businesses of the merging institutions. In its analysis, the FDIC will use whatever analytical proxies are available that reasonably reflect the dynamics of the market, including deposit and loan totals, the number and volume of transactions, contributions to net income, or other measures. Initially, the FDIC will focus on the respective shares of total deposits [3] held by the merging institutions and the various other participants with offices in the relevant geographic market(s), unless the other participants' loan, deposit, or other business varies markedly from that of the merging institutions. Where it is clear, based on market share considerations alone, that the proposed merger would not significantly increase concentration in an unconcentrated market, a favorable finding will be made on the competitive factor.

Where the market shares of merger participants are not clearly insignificant, the FDIC will also consider the degree of concentration within the relevant geographic market(s) using the Herfindahl-Hirschman Index (HHI) [4] as a primary measure of market concentration. For purposes of this test, a reasonable approximation for the relevant geographic market(s) consisting of one or more predefined areas may be used. Examples of such predefined areas include counties, the Bureau of the Census Metropolitan-Statistical Areas (MSAs), or Rand-McNally Ranally Metro Areas (RMAs).

The FDIC normally will not deny a proposed merger transaction on antitrust grounds (absent objection from the Department of Justice) where the post-merger HHI in the relevant geographic market(s) is 1,800 points or less or, if more than 1,800, reflects an increase of less than 200 points from the pre-merger HHI. Where a proposed merger fails this initial concentration test, the FDIC will consider more closely the various competitive dynamics at work in the market, taking into account a variety of factors that may be especially relevant and important in a particular proposal, including:

- The number, size, financial strength, quality of management, and aggressiveness of the various participants in the market;
- The likelihood of new participants entering the market based on its attractiveness in terms of population, income levels, economic growth, and other features;
- Any legal impediments to entry or expansion; and
- Definite entry plans by specifically identified entities.

In addition, the FDIC will consider the likelihood that other prospective new entrants might enter the market by less direct means; for example, electronic banking with local advertisement of the availability of such services. This consideration will be particularly important where there is evidence that the mere possibility of such entry tends to encourage competitive pricing and to maintain the

[3] In many cases, total deposits will adequately serve as a proxy for overall share of the banking business in the relevant geographic market(s); however, the FDIC may also consider other analytical proxies.

[4] The HHI is a statistical measure of market concentration and is also used as the principal measure of market concentration in the Department of Justice's Merger Guidelines. The HHI for a given market is calculated by squaring each individual competitor's share of total deposits within the market and then summing the squared market share products. For example, the HHI for a market with a single competitor would be: $100^2 = 10{,}000$; for a market with five competitors with equal market shares, the HHI would be: $20^2+20^2+20^2+20^2+20^2 = 2{,}000$.

quality of services offered by the existing competitors in the market.

The FDIC will also consider the extent to which the proposed merger would likely create a stronger, more efficient institution able to compete more vigorously in the relevant geographic market.

4. Consideration of the Public Interest

The FDIC will deny any proposed merger whose overall effect would be likely to reduce existing competition substantially by limiting the service and price options available to the public in the relevant geographic market(s), unless the anticompetitive effects of the proposed merger are clearly outweighed in the public interest by the convenience and needs of the community to be served. For this purpose, the applicant must show by clear and convincing evidence that any claimed public benefits would be both substantial and incremental and generally available to seekers of banking services in the relevant geographic market. Moreover, the applicant must show that the expected benefits cannot reasonably be achieved through other, less anticompetitive means.

Where a proposed merger is the only reasonable alternative to the probable failure of an insured depository institution, the FDIC may approve an otherwise anticompetitive merger. The FDIC will usually not consider a less anticompetitive alternative that is substantially more costly to the FDIC to be a reasonable alternative unless the potential costs to the public of approving the anticompetitive merger are clearly greater than those likely to be saved by the FDIC.

Prudential Factors

The FDIC does not wish to create larger weak institutions or to debilitate existing institutions whose overall condition, including capital, management, and earnings, is generally satisfactory. Consequently, apart from competitive considerations, the FDIC normally will not approve a proposed merger where the resulting institution would fail to meet existing capital standards, continue with weak or unsatisfactory management, or whose earnings prospects, both in terms of quantity and quality, are weak, suspect, or doubtful. In assessing capital adequacy and earnings prospects, particular attention will be paid to the adequacy of the allowance for loan and lease losses. In evaluating management, the FDIC will rely to a great extent on the supervisory histories of the institutions involved and of the executive officers and directors that are proposed for the resultant institution. In addition, the FDIC may review the adequacy of management's disclosure to shareholders of the material aspects of the merger transaction to ensure that management has properly fulfilled their fiduciary duties.

Convenience and Needs Factor

The FDIC will consider the extent to which the proposed merger is likely to improve the service to the general public through such capabilities as higher lending limits, new or expanded services, reduced prices, increased convenience in utilizing the services and facilities of the resulting institution, or other means. In assessing the convenience and needs of the community served, the FDIC, as required by the Community Reinvestment Act, will also note and consider each institution's Community Reinvestment Act performance evaluation record. An unsatisfactory record may form the basis for denial or conditional approval of an application.

IV. Related Considerations

1. Interstate bank mergers. Where a proposed transaction is an interstate merger between insured banks, the FDIC will consider the additional factors provided for in section 44 of the Federal Deposit Insurance Act, 12 U.S.C. 1831u.

2. Interim merger transactions. An interim institution is a state- or federally-chartered institution that does not operate independently, but exists, normally for a very short period of time, solely as a vehicle to accomplish a merger transaction. In cases where the establishment of a new or interim institution is contemplated in connection with a proposed merger transaction, the applicant should contact the FDIC to discuss any relevant deposit insurance requirements. In general, a merger transaction (other than a purchase and assumption) involving an *insured* depository institution and a federal interim depository institution will not require an application for deposit insurance, even if the *federal* interim depository institution will be the surviving institution.

3. Optional conversion transactions. Section 5(d)(3) of the Federal Deposit Insurance Act, 12 U.S.C. 1815(d)(3), provides for ''optional conversions'' (commonly known as Oakar transactions) which, in general, are mergers that involve a member of the Bank Insurance Fund and a member of the Savings Association Insurance Fund. These transactions are subject to specific rules regarding deposit insurance coverage and premiums. Applicants may find additional guidance in § 327.31 of the FDIC rules and regulations (12 CFR 327.31).

4. Branch closings. Where banking offices are to be closed in connection with the proposed merger transaction, the FDIC will review the merging institutions' conformance to any applicable requirements of section 42 of the FDI Act concerning notice of branch closings as reflected in the Interagency Policy Statement Concerning Branch Closing Notices and Policies.

5. Legal fees and other expenses. The commitment to pay or payment of unreasonable or excessive fees and other expenses incident to an application reflects adversely upon the management of the applicant institution. The FDIC will closely review expenses for professional or other services rendered by present or prospective board members, major shareholders, or other insiders for any indication of self-dealing to the detriment of the institution. As a matter of practice, the FDIC expects full disclosure to all directors and shareholders of any arrangement with an insider. In no case will the FDIC approve an application where the payment of a fee, in whole or in part, is contingent upon any act or forbearance by the FDIC or by any other federal or state agency or official.

By order of the Board of Directors.

Dated at Washington, D.C., this 23rd day of September, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–26233 Filed 10–8–97; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Applications To Establish a Domestic Branch (Includes Remote Service Facilities); Rescission of Statement of Policy

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rescission of statement of policy.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), the FDIC proposes to rescind its Statement of Policy ''Applications to Establish a Domestic Branch (Includes Remote Service Facilities)'' (Statement of Policy).

The Statement of Policy provides information and guidance to state nonmember banks planning to establish

a domestic branch. However, the information and guidance contained in the Statement of Policy is out of date.

The FDIC proposes to rescind the Statement of Policy because the proposed revisions to its applications regulation, published elsewhere in today's **Federal Register** update requirements and sufficiently address all required application procedures.

DATES: Comments must be submitted on or before January 7, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 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, NW., Washington, DC 20429, between 9:00 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Jesse G. Snyder, Assistant Director, (202) 898–6915, Division of Supervision; Susan van den Toorn, Counsel, (202) 898–8707, Legal Division, FDIC, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI (12 U.S.C. 4803(a)) requires the FDIC to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the FDIC to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies.

The FDIC developed the Statement of Policy to provide general supervisory information and guidance to state nonmember banks relative to the application process and the evaluation of statutory factors in establishing domestic branches. The FDIC last amended the Statement of Policy September 8, 1980. 2 FDIC Law, Regulations, Related Acts (FDIC) 5105.

In the time since the Statement of Policy was last amended, the application process for establishing domestic branches has changed significantly. As a result, the supervisory information and guidance contained in the Policy Statement, which although general in nature, are now out-of-date.

As part of the FDIC's comprehensive review of its applications process, the FDIC is proposing to amend part 303 elsewhere in today's **Federal Register**. The proposed revisions to part 303 sufficiently address all required application procedures. Commenters are invited to review subpart C of part 303 in conjunction with the proposal to rescind the Statement of Policy.

For the above reasons, the FDIC proposes to rescind the following Statement of Policy:

Applications To Establish a Domestic Branch (Includes Remote Service Facilities)

A. Introduction

Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d); hereafter the (Act) requires the prior written consent of the Corporation before any State nonmember insured bank may establish and operate any new domestic branch, as defined in section 3(o) of the Act (12 U.S.C. 1813(o)). In analyzing branch applications, the Corporation must evaluate each application in relation to the six statutory factors prescribed in section 6 of the Act (12 U.S.C. 1816) as well as the requirements of the National Historic Preservation Act, the National Environmental Policy Act of 1969, and the Community Reinvestment Act. The six statutory factors under section 6 of the Act are: the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of its management, the convenience and needs of the community to be served by the bank, and whether its corporate powers are consistent with the purposes of the Act.

Generally, the Corporation believes that active competition between banks and other financial institutions, when conducted within applicable law and in a safe and sound manner, is in the public interest. Accordingly, applications to establish branches by well managed and adequately capitalized banks with a record of responsive service to their communities will generally be approved.

Federal appellate court decisions have determined that the term ''branch'' includes remote service facilities. In March 1979, the Corporation adopted regulations which reflect these decisions and recognize remote service facilities as branches if they are owned or leased by the applicant. An abbreviated application form has been designed and procedures implemented which lessen the administrative burden for both the banks and the FDIC. Banks which enter a sharing arrangement, not involving leasing or ownership of the facility, do not have to obtain FDIC approval; shared facilities or shared systems of terminals are not regarded as branches for the sharing bank.

B. Procedures

Application forms to establish branches, including remote service facilities, and instructions for their completion may be obtained from the regional office of the FDIC region in which the main office of the applicant is located. Upon receipt of an application which is found complete, the regional director will notify the bank, in writing, that the application has been accepted for filing and the date thereof. The procedures governing the administrative processing of branch and remote service facility applications are contained in part 303 of the Corporation's rules and regulations (12 CFR part 303), particularly §§ 303.2, 303.10, 303.11, 303.12, and 303.14. Section 303.14 sets forth, among other things, the procedures controlling establishment of a public file, publication requirements, and consideration of comments and protests received in connection with an application.

The Corporation will normally not render a decision on any application for a branch or remote service facility which is subject to state approval until the state authority has approved or expressed its intent to approve the proposal; however, applicants are urged to submit their applications to the Corporation at the same time an application is forwarded to the state authority in order to promote concurrent and more timely processing of the proposal.

Notification of the granting or denial of an application will be provided together with a statement supporting the decision. Under § 303.10(e), within 15 days of receipt of notice that its application has been denied, an applicant may petition the Board of Directors for reconsideration of the application. Opinions will be published when the Corporation determines that the decision represents a new or change in policy or presents issues of general importance to the public or the banking industry.

Under § 303.14(i) of the Corporation's rules and regulations, where the Board of Directors, based upon available information at the time, plans to deny an application and no hearing has been held under § 303.14(e), the Director of the Division of Bank Supervision may

be instructed to notify the applicant in writing of the tentative denial. The applicant has 15 days from receipt of the notice to file a written request to amend the application or to submit information in rebuttal of the deficiencies noted. Upon filing of such a request, the applicant has 30 days to amend its application or to provide rebuttal information.

An application to establish a remote service facility is required to be filed only for the applicant's initial facility and the procedures for traditional branch applications are followed. In order to establish any subsequent remote service facility, the applicant need only notify the regional director of its intention and comply with the appropriate publication requirements. Unless otherwise notified by the regional director, the remote service facility may be established 30 days after the last publication date. If the regional director determines that the notification warrants further consideration, he shall advise the applicant within the 30-day period that additional information is needed and that the remote service facility may not be established until the Corporation issues a formal order.

C. Statutory Factors—Application To Establish a Domestic Branch Other Than Remote Service Facility

1. Financial History and Condition

In connection with applications for branches the emphasis will be placed on the financial history and condition of the existing bank rather than the proposed branch. The establishment of branches, particularly where these involve the development of new markets, normally encompasses risks or a degree of management attention which banks that are experiencing financial difficulties are not generally prepared to undertake. Banks with excessive volumes of subquality assets, significant liquidity problems, or other problems threatening the soundness of the institution would fall in this category.

Under this factor, as well as under the general character of management factor, the current asset condition of the bank and its compliance with applicable laws and regulations are primary areas of consideration. Other primary areas of consideration here are investment in fixed assets, including leases, and insider transactions, all of which also impact importantly on the evaluation of the general character of management factor. Lease transactions shall be reported in accordance with Financial Accounting Standards Board Statement 13 as required by the Instructions for the Preparation of Consolidated Report of Income and Condition.

(a) Investment in Fixed Assets and Leases—The applicant's aggregate direct and indirect fixed asset investment, including lease obligations, must be reasonable in relation to its projected earnings capacity, capital and other pertinent bases for consideration. Except where state law obviates the need, lease agreements should contain a bankruptcy termination clause acceptable to the Corporation. An example of such clause may be obtained from the regional office.

It is recommended that applicants not purchase any fixed assets or enter into any noncancelable construction contracts, lease agreements, or other binding arrangements related to the proposed branch unless and until the Corporation approves the application. The Corporation expects applicants to follow closely the representations made in the application regarding fixed asset arrangements. If any substantive changes become necessary in fixed asset arrangements, including increases of 10% or more in the cost of any major category of fixed assets (such as land, building, or furniture fixtures and equipment), after submission of the application, applicant must promptly advise the regional director of these changes. Major changes could result in reconsideration.

(b) Insider Transactions—-Any financial arrangement or transaction involving the applicant, its directors, officers, 5% shareholders, or their associates and interests (hereafter referred to as ''insiders'') should ordinarily be avoided. If there are arrangements or transactions of that type, the applicant must demonstrate clearly that any proposed transactions with insiders are made on substantially the same terms as those prevailing at the time for comparable transactions with non-insiders and do not involve more than normal risk or present other unfavorable features to the applicant bank. In addition, full disclosure of any arrangements with an insider must be made to all directors and shareholders and, in the event any new capital offering is to be made, included in any new capital offering material distributed in connection with the application.

Whenever any transaction between the applicant and an insider involves the purchase of real property or a construction contract, the purchase price must be supported by an independent appraisal or in the case of a construction contract by competitive bids. Further, with respect to any lease arrangement between the applicant and an insider, the applicant must submit reliable evidence showing that the lease arrangement is as beneficial to the applicant as the purchase of the property and direct ownership. Normally, this type of lease arrangement will also be required to include terms protecting the bank against unreasonable escalation of payments under the lease and granting the bank the option to purchase the property during the life of the lease on appropriate terms.

2. Adequacy of Capital Structure

The establishment of branches generally involves an expansion of deposits and/or an increase in expenses not immediately offset by additional income. This normally results in some dissipation of relative capital strength. Capital, earnings, and retention of earnings should be sufficient to support the current level of operations as well as the proposed expansion. In the case of capital deficiencies not considered overly extreme, the bank should set forth a plan which will improve capital to an extent which will more than offset any deterioration expected as a result of the branch proposed.

Generally, the applicant bank's adjusted capital and reserves, including written commitments for additional capital funds, should be adequate relative to its adjusted gross assets. In the case of a commercial bank, regional directors may approve an application to establish a branch where the applicant's adjusted capital and reserves, including written commitments for additional capital funds, is not less than 7.5% of its adjusted gross assets. For mutual or guaranty savings banks, regional directors may grant approval where the adjusted capital and reserves ratio is not less than 6%. Such factors as the quality of assets, earnings capacity, volume of risk assets, liquidity, capability of management, and other factors affecting the relative strength of a bank will exert either positive or negative influences on the level of capital protection needed. In all instances where the adjusted capital and reserves ratio of the applicant is less than the applicable level set forth above, the determination of the adequacy of that ratio will be made in the Washington Office.

3. Future Earnings Prospects

This factor will be measured in terms of the ability of overall bank earnings to absorb the anticipated expenses resulting from the proposal. In all cases, anticipated future earnings for the bank as a whole should be adequate, after expenses, to absorb normal losses, pay reasonable dividends, and provide some meaningful contribution to capital. In

the case of newly organized banks which are seeking branches, the proposed branch should not unduly delay the original forecast for achieving profitability.

4. General Character of Management

To be acceptable under this factor a management must have demonstrated, or be expected to demonstrate, an ability to operate the bank in a manner which is free of excessive criticism or concern as to the overall soundness and viability of the institution. The management must also display, or be willing to acquire, the degree of depth necessary to permit the establishment of additional offices. The appraisal of management ability and depth will take into consideration the size and activities of the existing bank, the expected scope of activity of the proposed branch, and the extent of impact the branch is expected to have on the bank's overall operation. In summary, the Corporation views the quality of a bank's management as critical to its overall success and will seriously question the expansion of the bank via the branch route if the quality of management is not considered adequate prior to the proposed expansion.

The Board of Directors of the Corporation has adopted a Statement of Policy regarding legal fees and other expenses incident to applications for deposit insurance, consent to establish branches or relocate main or branch offices, and mergers. In brief, this policy states that, since prudent management will not commit a bank seeking a new branch to excessive expenses, the payment of unreasonable or excessive fees incident to applications is considered by the Corporation to reflect adversely upon management of the applicant bank, irrespective of whether payments have been ratified or otherwise approved by formal action by the incorporators or shareholders. The Corporation will not question fees for legal services or other organizational expenses solely because of an amount but will consider the reasonableness of fees in relation to the services performed. Applicants are required to furnish the amounts of fees for such services which have been incurred and estimates of additional fees to be incurred in connection with the proposed transaction. All fees for legal, organizational or similar services should be disclosed whether directly or indirectly related to the application pending before the Corporation. If legal or other organizational fees appear to be excessive in relation to fees for comparable services, or if the volume of services performed exceeds that usually incurred with respect to comparable applications, supportive documentation will be required. In the case of legal fees, such documentation may consist of materials such as itemized time sheets showing the time actually expended by counsel on the applications concerned, the hourly rate charged, and the specific circumstances, including unusual complexities, the necessity for agency or court appearances, and the like necessitating the time expended. In reviewing legal fees for reasonableness, the following factors will ordinarily serve as guides:

(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the services obtained;

(b) The fee customarily charged in the locality for similar legal services;

(c) The time limitations imposed by the client or by the circumstances; and

(d) The experience and ability of the lawyer or lawyers performing the services.

Even though a fee may be wholly or partially absorbed by another entity such as a holding company, that fee or organizational expense will nonetheless be reviewed by the Corporation under the terms of this policy statement in view of the fact that the commitment for the fee or organizational expense is a commitment of management of the proposed or existing institution. Expenses for legal or other services rendered by organizers, present or prospective board members or major shareholders will receive special scrutiny in this regard for any evidence of self-dealing to the detriment of the bank and its other shareholders. As a matter of practice, the FDIC requires full disclosure to all directors and shareholders of any fee in excess of $5,000 paid to insiders or their interests. In no case, states the policy, will an FDIC application be approved when the payment of a fee, in whole or in part, is contingent upon any act or forebearance by the Corporation or by any other federal or state agency or official.

The applicant bank should at all times maintain sufficient surety bond coverage on its active officers and employees to conform with generally accepted banking practices and should at all times maintain an excess employee dishonesty bond in the amount of $1 million or more if the primary blanket bond coverage is less than $1 million.

5. Convenience and Needs of the Community To Be Served

It should be noted that the provisions of the Community Reinvestment Act are especially relevant in evaluating this statutory factor. Guidelines on the Community Reinvestment Act may be obtained from the appropriate regional office.

The essential considerations in evaluating this factor are the legitimate deposit and credit needs of the community to be served and the nature and extent of the banking opportunity available to the applicant in that location and the willingness and ability of the applicant to serve those needs.

In keeping with the Corporation's policy of promoting competition among financial institutions, this factor will generally be considered favorably when there is a reasonable assurance of successful operation of the branch (as measured by future earning prospects). However, competitive considerations will also include an assessment of whether the applicant is already a dominant bank in a particular market and has applied for the purpose of saturating that market as well as whether the potential viability of a newly organized bank within a market would be threatened significantly by a proposed branch.

The applicant bank must clearly define the community it intends to serve and provide the type of information on that community discussed below. It is emphasized, however, that the degree of detail that must be provided may vary depending on the size, type of service and location of the facility proposed. For example, the same amount of detail would not be required for an extension of an existing facility, or for the establishment of a limited service facility in the same community as an existing office of the bank, as would be required for the establishment of a full service branch in a different community.

(a) Economic Data—The economic condition and growth potential of the area in which the branch proposes to operate, both presently and in the near term, are important in evaluating the business potential available to the branch, the amount of that business it can reasonably expect to secure, and the probable success of the operation. Indicators of the available business would include, but not be limited to, a description of the principal industrial, trade, or agricultural activity as well as the annual value of the primary products in the geographic area. In addition, trends in employment, residential and commercial construction, sales, company payrolls, and businesses established are also important indicators.

(b) Demographic Data—Population figures within the community or trade area as well as the surrounding areas are

important determinants in considering convenience and needs. These population figures should include not only the present population but also data on population trends for the future. Population characteristics such as income, age distribution, educational level, occupation, and stability should be considered.

(c) Competition—Some consideration will be given to the adequacy or inadequacy of existing bank facilities in the community and in nearby communities. The growth rate and size of banks and other financial institutions in the community or trade area may provide meaningful indications of the economic condition of the area and the potential business for a branch. Other financial institutions such as savings and loan associations, credit unions, finance companies, mortgage companies and insurance companies may be considered competing institutions to the extent their services parallel those of the branch.

(d) Other Supporting Data—The extent of new or proposed residential, commercial and industrial development and construction is a significant secondary consideration in resolving the convenience and needs factor. Evidence of plans for development of shopping centers, apartment complexes and other residential subdivisions, factories, or other major facilities near the proposed site of the branch are also relevant.

6. Consistency of Corporate Powers

This factor will rarely be applicable to branch proposals, except in those instances where a bank may contemplate some additional corporate power, not normally exercised by banks, in connection with its application.

D. Statutory Factors—Application or Notification To Establish Remote Service Facility

In view of the nature of the remote service facility, including that it offers limited service and is generally an unmanned electronic unit, the six statutory factors will not be applied to the same degree and extent as in the case of a traditional branch. For instance, with respect to the earnings factor, detailed projections of deposits, income and expenses are not necessary. A determination that operating expenses of the facility will not burden the bank's future earnings will generally suffice. Similarly, detailed or extensive economic information and demographic data are not required when considering the convenience and needs factor.

By order of the Board of Directors.

Dated at Washington, DC, this 23rd day of September, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–26232 Filed 10–8–97; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Liability of Commonly Controlled Depository Institutions

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed statement of policy.

SUMMARY: The FDIC is revising the Statement of Policy on Liability of Commonly Controlled Depository Institutions (Statement of Policy) which sets forth the procedures and guidelines the FDIC uses in assessing or waiving liability against commonly controlled depository institutions under section 5(e) of the Federal Deposit Insurance Act. The revised Statement of Policy removes the application procedures for requesting a conditional waiver of the cross-guaranty liability and incorporates those same procedures into a proposed section of the FDIC's applications regulation published for comment elsewhere in today's **Federal Register**.

DATES: Comments must be received by January 7, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street NW, Washington, DC 20429. Comments may be hand delivered to the guard station located at the rear of the 17th Street building (located on F Street), on business days between 7 a.m. and 5 p.m. (FAX number (202) 898–3838; Internet address: comments@FDIC.gov). Comments may be inspected and photocopied at the FDIC Public Information Center, Room 100, 801 17th Street NW, Washington, DC, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Jesse Snyder, Assistant Director of Operations, Division of Supervision (202) 898–6915, or Grovetta N. Gardineer, Counsel, Legal Division, (202) 736–0665, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429.

SUPPLEMENTARY INFORMATION: Effective April 1, 1997, the Board of Directors of the FDIC revised the Statement of Policy Regarding Liability of Commonly Controlled Depository Institutions, 62 FR 15480. Such liability is a consequence of section 5(e) of the Federal Deposit Insurance Act (Act), 12 U.S.C. 1815(e), which was added by the passage of section 206(a)(7) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989. Section 5(e) created liability for commonly controlled insured depository institutions for losses incurred or anticipated by the FDIC in connection with (i) the default of a commonly controlled insured depository institution; or (ii) any assistance provided by the FDIC to any commonly controlled insured depository institution in danger of default. The purpose of section 5(e) is to ensure that the assets of healthy depository institution subsidiaries within the same holding company structure, or of a healthy institution which controls a failing institution, will be available to the FDIC to help offset the cost of resolving the failed subsidiary. While the FDIC seeks to recover its losses associated with failing institutions, it also seeks to encourage the acquisition of troubled institutions by those capable of rehabilitating them and to avoid instances in which the assessment of liability against an otherwise healthy institution will cause its failure, thus exposing the FDIC and the insurance funds to greater loss.

The revised Statement of Policy contained information regarding the content of requests for conditional waiver of cross guaranty liability. The revised Statement of Policy also indicated that any changes in part 303 of the FDIC's rules may necessitate further revisions to the policy statement. The decision has been made by the FDIC that all information regarding applications be addressed in revised part 303 of the FDIC Rules and Regulations (Rules). Accordingly, the application procedures for requesting a conditional waiver of cross guaranty liability are being moved to part 303. The appropriate section of part 303 that discusses conditional waiver applications will be referenced in the revised Statement of Policy.

The Statement of Policy provides for the issuance of a Notice of Assessment of Liability, Findings of Fact and Conclusions of Law, an Order to Pay and a Notice of Hearing, a good faith estimate of the FDIC's loss, and the determination of the method and schedule of repayment. The liability under the statute attaches at the time of default of a commonly controlled depository institution. The FDIC, in its discretion, may assess liability for the losses incurred by the default or for any assistance provided by the FDIC to a commonly controlled institution in danger of default. Generally, liability

will be assessed against an institution except in instances of the acquisition of a distressed institution by an unaffiliated entity prior to the default of a commonly controlled institution. A conditional waiver of the liability will be considered when, as determined within the sole discretion of the Board of Directors of the FDIC, the exemption is in the best interests of either of the insurance funds administered by the FDIC or where a waiver facilitates an alternative that is in the best interests of the FDIC. Institutions that believe that an assessment of liability would be inappropriate are required to submit supporting documentation. The contents of an application for requesting a conditional waiver of liability will be located in proposed § 303.245 of the FDIC's Rules, 12 CFR 303.245. Commenters are invited to review the proposed Statement of Policy in conjunction with proposed § 303.245 published elsewhere in today's **Federal Register**.

For the above reasons, the FDIC proposes the following Statement of Policy:

Liability of Commonly Controlled Depository Institutions

Introduction

Section 5(e) of the Federal Deposit Insurance Act, as added by section 206(a)(7) of the Financial Institutions Reform, Recovery, and Enforcement Act of 1989, creates liability for commonly controlled insured depository institutions for losses incurred or anticipated by the Federal Deposit Insurance Corporation (FDIC) in connection with: (i) The default of a commonly controlled insured depository institution; or (ii) any assistance provided by the FDIC to any commonly controlled insured depository institution in danger of default. In addition to certain statutory exceptions and exclusions contained in sections 5(e)(6), (7) and (8), the Act also permits the FDIC, in its discretion, to exempt any insured depository institution from this liability if it determines that such exemption is in the ''best interests of the Bank Insurance Fund or the Savings Association Insurance Fund''.

The liability of an insured depository institution attaches at the time of default of a commonly controlled institution. It is completely within the discretion of the FDIC whether or not to issue a notice of assessment to the liable institution for the estimated amount of the loss incurred by the FDIC.

Guidelines for Conditional Waiver of Liability

The FDIC may, in its discretion, choose not to assess liability based upon analysis of a particular situation, and it may entertain requests for waivers from affiliated or unaffiliated parties of an institution in default or in danger of default. The determination of whether an exemption is in the best interests of either insurance fund rests solely with the Board of Directors of the FDIC (Board). Should the Board make such a determination, a waiver will be issued setting forth terms and conditions that must be met in order to receive an exemption from liability (conditional waiver of liability). The following guidelines apply to conditional waivers of liability under the provisions of this section:

(1) A conditional waiver of liability will be considered in those cases where the waiver facilitates an alternative that would be in the best interests of the FDIC; for example, the conditional waiver may be granted when requisite additional capital and managerial resources are being provided which substantially lessen exposure to the affected insurance fund. When conditional waivers are granted to an otherwise unaffiliated acquire of a failing or failed institution they will be granted for a fixed period, generally not to exceed a period of time reasonably required for existing problems to be identified and resolved.

(2) If one or more institutions in a commonly controlled relationship is otherwise solvent, well-managed and viable, it may be in the best interest of the FDIC to waive or reduce claims against such entities. In determining whether a conditional waiver is appropriate, consideration will be given to actions of a holding company which contribute to or diminish the FDIC's losses, as well as proposals to strengthen other weakened institutions, if any.

(3) Procedures to request a conditional waiver of liability are contained in § 303.245 of the FDIC's Rules and Regulations, 12 CFR 303.245.

(4) In cases where an insured depository institution is sold to an acquire with no financial interest, directly or indirectly, in the institution prior to the acquisition, it is the general policy of the FDIC to forego the issuance of a notice of assessment to the acquire and its affiliated institutions in the event of a default of an insured depository institution formerly affiliated with the acquired institution. The FDIC will review all such transactions prior to making a final determination to forego the issuance of the notice of assessment.

Guidelines for Assessment of Liability

Whenever the FDIC determines that assessment of liability in connection with a commonly controlled insured depository institution(s) is appropriate, a Notice of Assessment of Liability, Findings of Fact and Conclusions of Law, Order to Pay, and Notice of Hearing (Notice of Assessment) will be served upon the liable institution. In assessing the amount of the FDIC's loss and the liable institution(s) method of payment, the following guidelines shall apply:

(1) A good faith estimate of the amount of loss the FDIC will incur shall be based upon (a) the actual sale or calculation of loss from a review by the FDIC of the assets and liabilities of the institution prior to default or the granting of assistance; or (b) any other cost estimate bases as explained in the Notice of Assessment.

(2) If there is more than one commonly controlled depository institution to be assessed, each such institution is jointly and severally liable for all losses; however, the FDIC shall make a good faith estimate of the liability of each institution as determined by (a) first assessing an initial amount on a pro rata capital basis that brings about parity in the capital ratios of the liable institutions and (b) then apportioning any residual assessment on a pro-rata size basis utilizing the most recent Report of Condition. Any final assessment can be based on the estimated liability of each institution by the FDIC and/or negotiations with the liable institutions.

(3) In the event that any liable institution is closed prior to paying an assessment, the amount assessed or to have been assessed against that institution may be assessed against the remaining liable institution(s).

(4) The FDIC, after consulting with the appropriate Federal and State financial institutions regulatory agencies, shall establish in each case a schedule for payment which may include a lump sum reimbursement, as well as procedures for receipt of such payment.

(5) Once liability has attached, the FDIC will consider information similar to that provided with a request for a conditional waiver of liability in determining the amount of the estimated loss to be assessed. Such information may also include suggested payment plans.

By order of the Board of Directors.

Dated at Washington, DC, this 23rd day of September, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–26231 Filed 10–8–97; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Applications To Relocate Main Office or Branch Statement of Policy (Includes Remote Service Facilities; Rescission of Policy Statement)

AGENCY: Federal Deposit Insurance Corporation (FDIC).

ACTION: Proposed rescission of statement of policy.

SUMMARY: As part of the FDIC's systematic review of its regulations and written policies under section 303(a) of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRI), the FDIC proposes to rescind its Statement of Policy ''Applications to Relocate a Main Office or Branch (Includes Remote Service Facilities)'' (Statement of Policy).

The Statement of Policy provides information and guidance to state nonmember banks planning to relocate the bank's main office or a branch. The information and guidance is out-of-date. The FDIC proposes to rescind the Statement of Policy because proposed revisions to its applications regulation published elsewhere in today's **Federal Register** update the requirements and sufficiently address all required application procedures to relocate a main office or a branch.

DATES: Comments must be submitted on or before January 7, 1998.

ADDRESSES: Send written comments to Robert E. Feldman, Executive Secretary, Attention: Comments/OES, Federal Deposit Insurance Corporation, 550 17th Street, NW., Washington, DC 20429. Comments may be hand-delivered to the guard station at the rear of the 17th Street building (located on F Street), on business days between 7 a.m. and 5 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, NW., Washington, DC 20429, between 9 a.m. and 4:30 p.m. on business days.

FOR FURTHER INFORMATION CONTACT: Jesse G. Snyder, Assistant Director, (202/898–6915), Division of Supervision; Susan van den Toorn, Counsel, (202/898–8707), Legal Division, FDIC, 550 17th Street, NW, Washington, DC 20429.

SUPPLEMENTARY INFORMATION: The FDIC is conducting a systematic review of its regulations and written policies. Section 303(a) of the CDRI (12 U.S.C. 4803(a)) requires the FDIC to streamline and modify its regulations and written policies in order to improve efficiency, reduce unnecessary costs, and eliminate unwarranted constraints on credit availability. Section 303(a) also requires the FDIC to remove inconsistencies and outmoded and duplicative requirements from its regulations and written policies. As part of this review, the FDIC has determined that the Statement of Policy is outmoded, and that the FDIC's written policies can be streamlined by its elimination.

The FDIC developed the Statement of Policy to provide general supervisory information and guidance to state nonmember banks relative to the application process and the evaluation of statutory factors in relocating main office or branches. The FDIC last amended the Statement of Policy September 8, 1980. 2 FDIC Law, Regulations, and Related Acts (FDIC) 5125.

In the time since the Statement of Policy was last amended, the application process for relocating branches and main offices has changed significantly. As a result, the supervisory information and guidance contained in the Policy Statement, which although general in nature, are now out-of-date.

As part of the FDIC's comprehensive review of its applications process, elsewhere in today's **Federal Register**, the FDIC is proposing to amend part 303. The proposed revisions to part 303 cover the relocation of main offices and branches in sufficient detail so as to address the required application procedures. Commenters are invited to review subpart C of proposed part 303 in conjunction with the proposal to rescind the Statement of Policy.

For the above reasons, the FDIC proposes to rescind the following Statement of Policy:

Applications To Relocate Main Office or Branch (Includes Remote Service Facilities)

A. Introduction

Section 18(d) of the Federal Deposit Insurance Act (12 U.S.C. 1828(d); hereafter the (Act) requires the prior written consent of the Corporation before any state nonmember insured bank may move its main office or any branch. In analyzing these applications, the Corporation must evaluate each application in relation to the six statutory factors prescribed in section 6 of the Act (12 U.S.C. 1816) as well as the requirements of the National Historic Preservation Act, the National Environmental Policy Act of 1969, and the Community Reinvestment Act. The six statutory factors under section 6 of the Act are: the financial history and condition of the bank, the adequacy of its capital structure, its future earnings prospects, the general character of management, the convenience and needs of the community to be served by the bank, and whether its corporate powers are consistent with the purposes of the Act.

The degree and extent to which the six statutory factors are applied in reviewing relocation applications depend largely upon the nature and purpose of the relocation which, in the majority of instances, are of two basic types: (1) Relocations to a different primary market area; and (2) relocations within the same primary market area. It is noteworthy that the Corporation will analyze all relocation applications from the standpoint of the convenience and needs of the community the office is leaving as well as the community to which it is moving.

B. Procedures

Application forms to relocate and instructions for their completion may be obtained from the regional office of the FDIC region in which the main office of the applicant is located. Upon receipt of an application which is found complete, the regional director will notify the bank, in writing, that the application has been accepted for filing and the date thereof. The procedures governing the administrative processing of relocation applications are contained in part 303 of the Corporation's rules and regulations (12 CFR part 303), particularly §§ 303.3, 303.10, 303.11, 303.12, and 303.14. Section 303.14 sets forth, among other things, the procedures controlling establishment of a public file, publication requirements, and consideration of comments and protests received in connection with an application.

The Corporation will normally not render a decision on any relocation application until the State Authority has approved or expressed its intent to approve the proposal; however, applicants are encouraged to submit their applications to the Corporation at the same time an application is forwarded to the State Authority in order to promote concurrent and more timely processing of the proposal.

Notification of the granting or denial of an application will be provided together with a statement supporting the decision. Under § 303.10(e) within 15

days of receipt of notice that its application has been denied, the applicant may petition the Board of Directors for reconsideration of the application. Opinions will be published when the Corporation determines that the decision represents a new or change in policy or presents issues of general importance to the public or the banking industry.

Under § 303.14(i) of the Corporation's rules and regulations, where the Board of Directors, based upon available information at the time, plans to deny an application and no hearing has been held under § 303.14(e), the Director of the Division of Bank Supervision may be instructed to notify the applicant in writing of the tentative denial. The applicant has 15 days from receipt of the notice to file a written request to amend the application or to submit information in rebuttal of the deficiencies noted. Upon filing of such a request, the applicant has 30 days to amend its application or to provide rebuttal information.

There is no application form for the relocation of a remote service facility. The regulations issued by the Corporation in March 1979 provide that an applicant merely notify the regional director of its intention, comply with the appropriate publication requirements and, unless notified otherwise by the regional director, the remote service facility may be relocated 30 days after the last publication date.

C. Statutory Factors—Application To Relocate to Different Primary Market Area

1. Financial History and Condition

In connection with applications for relocation to a different primary market area the emphasis will, of course, be placed on the financial history and condition of the existing bank. The relocation of an office to a different primary market area normally encompasses risks or a degree of management attention which banks that are experiencing financial difficulties are not generally prepared to undertake. Banks with excessive volumes of subquality assets, significant liquidity problems, or other problems threatening the soundness of the institution would fall in this category.

Under this factor, as well as under the general character of management factor, the current asset condition of the bank and its compliance with applicable laws and regulations are primary areas of consideration. Other primary areas of consideration here are investment in fixed assets, including leases, and insider transactions, all of which also impact importantly on the evaluation of the general character of management factor. Lease transactions shall be reported in accordance with Financial Accounting Standards Board Statement 13 as required by the Instructions for the Preparation of Consolidated Report of Income and Condition.

(a) Investment in Fixed Assets and Leases—The applicant's aggregate direct and indirect fixed asset investment, including lease obligations, must be reasonable in relation to its projected earnings capacity, capital and other pertinent bases for consideration. Except where state law obviates the need, lease agreements should contain a bankruptcy termination clause acceptable to the Corporation. An example of such clause may be obtained from the regional office.

It is recommended that applicants should not purchase any fixed assets or enter into any noncancelable construction contracts, lease agreements, or other binding arrangements related to the proposed relocation unless and until the Corporation approves the application.

The Corporation expects applicants to follow closely the representations made in the application regarding fixed asset arrangements. If any substantive changes become necessary in fixed asset arrangements, including increases of 10% or more in the cost of any major category of fixed assets (such as land, building, or furniture fixtures and equipment), after submission of the application, applicant must promptly advise the regional director of these changes as well as its plans for the old quarters. Major changes may result in reconsideration.

(b) Insider Transactions—Any financial arrangement or transaction involving the applicant, its directors, officers, 5% shareholders, or their associates and interest (hereafter referred to as ''insiders'') should ordinarily be avoided. If there are arrangements or transactions of that type, the applicant must demonstrate clearly that any proposed transactions with insiders are made on substantially the same terms as those prevailing at the time for comparable transactions with noninsiders and do not involve more than normal risk or present other unfavorable features to the applicant bank. In addition, full disclosure of any arrangements with an insider must be made to all directors and shareholders and, in the event any new capital offering is to be made, included in any new capital offering material distributed in connection with the application.

Whenever any transaction between the applicant and an insider involves the purchase of real property or a construction contract, the purchase price must be supported by an independent appraisal or in the case of a construction contract by competitive bids. Further, with respect to any lease arrangement between the applicant and an insider, the applicant must submit reliable evidence showing that the lease arrangement is as beneficial to the applicant as the purchase of the property and direct ownership. Normally, this type of lease arrangement will also be required to include terms protecting the bank against unreasonable escalation of payments under the lease and granting the bank the option to purchase the property during the life of the lease on appropriate terms.

2. Adequacy of Capital Structure

The relocation of an office to a different primary market area generally involves an expansion of deposits and/or an increase in expenses not immediately offset by additional income. This normally results in some dissipation of relative capital strength. Consequently, banks contemplating a relocation must possess an adequate level of capital protection or, in the case of capital deficiencies not considered overly extreme, set forth a plan which will improve capital to more than offset any deterioration which may flow from the relocation.

The applicant's adjusted capital and reserves, including written commitments for additional capital funds, should be adequate relative to its adjusted gross assets. The adjusted capital and reserves is computed by deducting from total capital and reserves all assets and nonbook liabilities classified ''loss'' and 50% of those classified ''doubtful'' at the last examination of the applicant. Such facts as the quality of assets, prospective earnings capacity, volume of risk assets, liquidity, capability of management, and other factors affecting the relative strength of a bank will exert either positive or negative influences on the level of capital protection.

3. Future Earnings Prospects

This factor will be considered both in terms of the relocation and the applicant bank as a whole. This factor will be measured in terms of the ability of overall bank earnings to absorb the anticipated expenses resulting from the proposal. In addition, anticipated future earnings for the bank as a whole should be adequate, after expenses, to absorb normal losses, pay reasonable dividends, and provide some meaningful contribution to capital.

4. General Character of Management

To be acceptable under this factor a management must, except in exigent circumstances, have demonstrated, or be expected to demonstrate, an ability to operate the bank in a manner which is free of excessive criticism or concern as to the overall soundness and viability of the institution. In summary, the Corporation views the quality of a bank's management as critical to its overall success and will seriously question the relocation of an office to a different primary market area if the quality of management is not considered adequate prior to the proposed relocation.

The Corporation will not question fees for legal services or other organizational expenses solely because of an amount but will consider the reasonableness of fees in relation to the services performed. Applicants are required to furnish the amounts of fees for such services which have been incurred and estimates of additional fees to be incurred in connection with the proposed transaction. All fees for legal, organizational or similar services should be disclosed whether directly or indirectly related to the application pending before the Corporation. If legal or other organizational fees appear to be excessive in relation to fees for comparable services, or if the volume of services performed exceeds that usually incurred with respect to comparable applications, supportive documentation will be required. In the case of legal fees, such documentation may consist of materials such as itemized time sheets showing the time actually expended by counsel on the applications concerned, the hourly rate charged, and the specific circumstances, including unusual complexities, the necessity for agency or court appearances, and the like necessitating the time expended. In reviewing legal fees for reasonableness, the following factors will ordinarily serve as guides:

(a) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the services obtained;

(b) The fee customarily charged in the locality for similar legal services;

(c) The time limitations imposed by the client or by the circumstances; and

(d) The experience and ability of the lawyer or lawyers performing the services.

Even though a fee may be wholly or partially absorbed by another entity such as a holding company, that fee or organizational expense will nonetheless be reviewed by the Corporation under the terms of this policy statement in view of the fact that the commitment for the fee or organizational expense is a commitment of management of the proposed or existing institution. Expenses for legal or other services rendered by organizers, present or prospective board members or major shareholders will receive special scrutiny in this regard for any evidence of self-dealing to the detriment of the bank and its other shareholders. As a matter of practice, the FDIC requires full disclosure to all directors and shareholders of any fee in excess of $5,000 paid to insiders or their interests.

In no case, states the policy, will an FDIC application be approved when the payment of a fee, in whole or in part, is contingent upon any act or forebearance by the Corporation or by any other federal or state agency or official.

The applicant bank should at all times maintain sufficient surety bond coverage on its active officers and employees to conform with generally accepted banking practices and should at all times maintain an excess employee dishonesty bond in the amount of $1 million or more if primary blanket bond coverage is less than $1 million.

5. Convenience and Needs of the Community To Be Served

It should be noted that the provisions of the Community Reinvestment Act are especially relevant in evaluating this statutory factor. Guidelines on the Community Reinvestment Act may be obtained from the appropriate regional office.

The essential considerations in evaluating this factor are the legitimate deposit and credit needs of the community to be served and the nature and extent of the banking opportunity available to the applicant in that location and the willingness and ability of the applicant to serve those needs. Largely because of the requirements of the Community Reinvestment Act, the Corporation will also evaluate this factor in terms of the impact of the proposal on the community which the office is leaving to ascertain the adequacy of banking services there in light of the move. The ensuing discussion of this factor deals mainly with the community to which the office is moving.

In keeping with the Corporation's policy of promoting competition among financial institutions, this factor will generally be considered favorably when there is reasonable assurance of successful operation of the office to be relocated (as measured by future earning prospects). However, competitive considerations will also include whether the potential viability of a newly organized bank within a market would be threatened significantly by a proposed relocation.

The applicant bank must clearly define the community it intends to serve and provide the type of information on that community discussed below. It is emphasized, however, that the degree of detail that must be provided may vary depending on the size and type of service to be offered at the proposed relocation site.

(a) Economic Data—The economic condition and growth potential of the area to which the bank proposes to relocate, both presently and in the near term, are important in evaluating the business potential available, the amount of that business that it can reasonably expect to secure, and the probable success of the operation. Indicators of the available business would include, but not be limited to, a description of the principal industrial, trade, or agricultural activity as well as the annual value of the primary products in the geographic area. In addition, trends in employment, residential and commercial construction, sales, company payrolls, and businesses established are also important indicators.

(b) Demographic Data—Population figures within the new community or trade area as well as the surrounding areas are important determinants in considering convenience and needs. These population figures should include not only the present population but also data on population trends for the future. Population characteristics such as income, age distribution, educational level, occupation, and stability should be considered.

(c) Competition—Some consideration will be given to the adequacy or inadequacy of existing bank facilities in the community and in nearby communities. The growth rate and size of bank and other financial institutions in the community or trade area may provide meaningful indications of the economic condition of the area and the potential business for the office to be relocated. Other financial institutions such as savings and loan associations, credit unions, finance companies, mortgage companies and insurance companies may be considered competing institutions to the extent their services parallel those of the proposed newly located office.

(d) Other Supporting Data—The extent of new or proposed residential, commercial and industrial development and construction is a significant secondary consideration in resolving the

convenience and needs factor. Evidence of plans for development of shopping centers, apartment complexes and other residential subdivisions, factories, or other major facilities near the proposed site of the proposed newly located office are also relevant.

6. Consistency of Corporate Powers

This factor will rarely be applicable to relocation proposals, except in those instances where a bank may contemplate some additional corporate power, not normally exercised by banks, in connection with its application.

D. Statutory Factors—Application To Relocate Within Same Market Area

Normally, office relocations within the same primary market area are of a short geographic distance and are intended to expand or improve services to the consumer. In addition, such relocations are, in most cases, regarded by the Corporation of less significance than moves to different primary market areas. Thus, relocations within the same primary market area generally entail some adjustment and less stringent application of the standards and the six statutory factors discussed in section C above. Accordingly, in assessing these types of applications the Corporation focuses largely on the following factors:

(a) Whether any real estate or other transactions involve any insiders of the applicant and, if so, whether any insider would realize a profit or other advantage which would not normally accrue to noninsiders in comparable transactions;

(b) The impact of fixed asset or other additional expenses associated with the proposal on the bank's capital adequacy and earnings capacity;

(c) Whether the bank has or agrees to obtain sufficient surety bond coverage of its officers and employees to conform with generally accepted banking practices and maintains or will maintain an excess employee dishonesty bond in the amount of $1 million or more, if the primary blanket bond coverage is less than $1 million; and

(d) Whether the application involves special factors, which, in the opinion of the Board of Directors, have substantial bearing on its final determination. For example, although the factors described in paragraphs (a), (b), and (c) above are favorable, the Corporation may nevertheless deny the application because of the overall serious financial condition of the applicant bank.

E. Statutory Factors—Relocate Remote Service Facility

In view of the nature of the remote service facility, the six statutory factors will not be applied to the same degree and extent as in the case of a traditional branch. For instance, with respect to the earnings factor, detailed projections of deposits, income and expenses, are not necessary. A determination that operating expenses will not burden the bank's future earnings will generally suffice. Similarly, detailed or extensive economic information and demographic data are not required when considering the convenience and needs factor.

By order of the Board of Directors.

Dated at Washington, D.C. this 23rd day of September, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–26230 Filed 10–8–97; 8:45 am]

BILLING CODE 6714–01–P

federal register

Thursday
October 9, 1997

Part III

Department of Health and Human Services

Health Resources and Services Administration

Availability of the HRSA Competitive Grants Preview; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Availability of the HRSA Competitive Grants Preview

AGENCY: Health Resources and Services Administration.

ACTION: General Notice.

SUMMARY: HRSA announces the availability of the HRSA Competitive Grants Preview publication for Fall 1997. This edition of the Preview is a comprehensive review of HRSA's Fiscal Year 1998 programs.

The purpose of the Preview is to provide the general public with a single source of program and application information related to the Agency's annual grant planning review. The Preview is designed to replace multiple **Federal Register** notices which traditionally advertised the availability of HRSA's discretionary funds for its various programs. In this edition of the Preview, HRSA's programs which provide funding for loan repayments and scholarships to individuals have been included in the section ''Additional HRSA Programs.'' It should be noted that other program initiatives responsive to new or emerging issues in the health care area and unanticipated at the time of publication of the Preview, may be advertised through the **Federal Register** mechanism from time-to-time. Deadlines or other requirements appearing in the **Federal Register** are not changed by this notice.

The Preview contains a description of competitive and additional programs scheduled for review in Fiscal Year 1998 and includes instructions on how to access the Agency for information and receive application kits for all programs announced. Specifically, the following information is included in the Preview: Program Title, Legislative Authority, Purpose, Eligibility, Estimated Amount of Competition, Estimated Number of Awards, Funding Priorities and/or Preferences, Projected Award Date, Application Deadline, Application Kit Availability, Catalog of Federal Domestic Assistance (CFDA) program identification number, and programmatic contact.

This Fall 1997 issue of the Preview relates to funding under HRSA discretionary authorities and programs as follows:

HIV/AIDS Programs

- Ryan White Title III Outpatient Early Intervention.
- Ryan White Title III HIV Planning Grants.
- Ryan White Title IV Coordinated HIV Services and Access to Research—Geographic Areas With Currently Funded Title IV Projects.
- Ryan White Title IV Coordinated HIV Services and Access to Research—New Geographic Areas.
- Ryan White Title IV Adolescent Services
- Ryan White HIV Service Delivery Models.

Health Professions Programs

- Nurse Anesthetists: (1) Program Grants; (2) Traineeships; and (3) Fellowships.
- Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds.
- Nurse Practitioner/Nurse Midwife.
- Professional Nurse Traineeships.
- Advanced Nurse Education.
- Nursing Special Projects.
- Predoctoral Training in Family Medicine.
- Departments of Family Medicine.
- Allied Health Project Grants.
- Residencies and Advanced Education in the Practice of General Medicine.
- Residency Training in Preventive Medicine.
- Physician Assistants Training.
- Geriatric Education Centers.
- Health Careers Opportunity Program.
- Centers of Excellence.
- State-Supported Model Area Health Education Centers.
- Basic Core Area Health Education Centers.
- Minority Faculty Fellowship Program.

Rural Health Programs

- Rural Outreach Grant Program.
- Rural Network Development Grant Program.

Maternal and Child Health Programs

- Maternal and Child Health Research Cycle.
- Genetic Services.
- Children with Special Health Care Needs (CSHCN) Medical Home/Family Professional Partnership Initiative.
- Managed Care for Children with Special Health Care Needs.
- Children with Special Health Care Needs—Adolescent Transition.
- Sudden Infant Death Syndrome (SIDS)/Other Infant Death (OID) Program.
- Long Term Training in Nursing.
- Long Term Training in Nutrition.
- Long Term Training in Leadership Education in Neurodevelopmental and Related Disabilities.
- Continuing Education and Development.
- Healthy Tomorrows Partnership for Children.
- State Mortality Morbidity Review Support Program.
- Community Integrated Service Systems to Support Children In/Out of Home Care.
- Emergency Medical Services for Children, Implementation Grants.
- Emergency Medical Services for Children, Partnership Grants.
- Emergency Medical Services for Children, Targeted Issue Grants.
- Traumatic Brain Injury State Implementation Grants.
- Traumatic Brain Injury State Planning Grants.

Primary Health Care Programs

- Community and Migrant Health Centers.
- Public Housing Primary Care.
- Grants to States for Loan Repayment Programs.
- Grants to States for Community Scholarship Programs.

Additional HRSA Programs

- Scholarships for Disadvantaged Students Program.
- Faculty Loan Repayment Program.
- Nurse Education Loan Repayment Program.

Certain other information including, how to obtain and use the Preview, and grant terminology also may be found in the Preview.

ADDRESSES: Individuals may obtain the HRSA Preview by calling toll free number, 1–888–333–HRSA. The HRSA Preview may also be accessed on the World Wide Web on the HRSA Home Page at: http://www.hrsa.dhhs.gov.

Dated: October 2, 1997.

Claude Earl Fox,

Acting Administrator.

Attachment A

Message from our Acting Administrator . . .

The symbols illustrated on the cover and throughout the Preview represent ACCESS. In this Preview, we are increasing ACCESS for you by including scholarship and loan repayment announcements and providing e-mail addresses for programmatic technical assistance.

HRSA means ACCESS. ACCESS to . . .

- Quality health care for underserved and vulnerable populations.
- Primary care education and practice.
- A comprehensive system of health care resources.

• The systems of care for mothers, children and their families.

• The trained provider.

• The expert consultant through telemedicine reaching rural areas.

HRSA has only one reason to be * * * somewhere there is a community, somewhere there is an individual who needs our services and we are here to help fill that need. For those in need of health care, the Health Resources and Services Administration provides support to programs that place health care services and health professionals where they are least available.

At HRSA, the individual and the community are our first priority. Please join with us as we strive to provide ACCESS to quality health services for all Americans.

Claude Earl Fox.

DHHS Service Standards for Partnership With Grantees

The Department of Health and Human Services (HHS) and its grantees (primarily States, local governments, academic institutions, non-profit community organizations, and Indian tribes and tribal organizations) are partners in delivering quality services and supporting research to improve the lives of the American people. The following initial standards express our commitment to making this partnership as cooperative and effective as possible. We look forward to your suggestions as we develop these standards and improve our partnership.

We will:

(1) Invite our partners to collaborate in the development of HHS program policies and procedures.

(2) Emphasize program outcomes rather than process.

(3) Create no new unfunded mandates through policy or process changes.

(4) Provide prompt, courteous service and accessible information.

(5) Process waiver requests from States as quickly as possible, generally within 120 days.

(6) Provide technical assistance to help our partners meet program goals.

(7) Work with our partners to assure integrity in the use of public funds.

(8) Assist our partners to develop their own standards of customer service.

PROGRAMS AT A GLANCE

Program	Deadline
HIV/AIDS Programs	
Ryan White Title III Outpatient Early Intervention	10/10/97
Ryan White Title III HIV Planning Grants	05/01/98
Ryan White Title IV Coordinated HIV Services and Access to Research—Geographic Areas With Currently Funded Title IV Projects.	04/01/98
Ryan White Title IV Coordinated HIV Services and Access to Research—New Geographic Areas	04/01/98
Ryan White Title IV Adolescent Services	04/01/98
Ryan White HIV Service Delivery Models 04/01/98.	
Health Professions Programs	
Nurse Anesthetist Program Grants	02/02/98
Traineeships, and Fellowships	12/01/97
Nursing Education Opportunities for Individuals from Disadvantaged Backgrounds	11/24/97
Nurse Practitioner/Nurse Midwifery	12/19/97
Professional Nurse Traineeships	11/03/97
Advanced Nurse Education	02/02/98
Nursing Special Projects	01/16/98
Predoctoral Training in Family Medicine	11/07/97
Departments of Family Medicine	03/16/98
Allied Health Project Grants	02/17/98
Residencies and Advanced Education in the Practice of General Dentistry	12/01/97
Residency Training in Preventive Medicine	12/15/97
Physician Assistants Training	12/22/97
Geriatric Education Centers	12/19/97
Health Careers Opportunity Program	01/30/98
Centers of Excellence	03/27/98
State-Supported Model AHEC	01/09/98
Basic Core Area Health Education Centers	01/09/98
Minority Faculty Fellowship Program	01/30/98
Rural Health Programs	
Rural Outreach Grant Program	03/16/98
Rural Network Development Grant Program	03/16/98
Maternal and Child Health Programs	
Maternal and Child Health Research	03 and 08/01/98
Genetic Services	04/30/98
Children with Special Health Care Needs (CSHCN) Medical Home/Family Professional Partnership Initiative	04/01/98
Managed Care for CSHCN	03/10/98
CSHCN Adolescent Transition	04/01/98
Sudden Infant Death Syndrome (SIDS)/Other Infant Death (OID) Program	02/27/98
Long Term Training in Nursing	03/16/98
Long Term Training in Nutrition	03/16/98
Long Term Training in Leadership Education, in Neurodevelopmental and Related Disabilities	03/16/98

PROGRAMS AT A GLANCE—Continued

Program	Deadline
Continuing Education and Development	07/01/98
Healthy Tomorrows Partnership for Children	04/30/98
State Mortality Morbidity Review Support Program	03/31/98
Community Integrated Service Systems to Support Children In/Out of Home Care	04/30/98
Emergency Medical Services for Children, Implementation Grants	04/13/98
Emergency Medical Services for Children, Partnership Grants	04/13/98
Emergency Medical Services for Children, Targeted Issue Grants	04/13/98
Traumatic Brain Injury State Implementation Grants	03/30/98
Traumatic Brain Injury State Planning Grants	03/30/98
Primary Health Care Programs	
Community and Migrant Health Centers	Varies
Public Housing Primary Care	Varies
Grants To States For Loan Repayment Programs	04/01/98
Grants To States For Community Scholarship Programs	05/01/98
Additional HRSA Programs	
Scholarships for Disadvantaged Students Program	04/15/98
Faculty Loan Repayment Program	06/30/98
Nurse Education Loan Repayment Program	08/31/98

How to Obtain and Use the Preview

It is recommended that you read the introductory materials, terminology section, and individual program category descriptions before contacting the general number 1–888–333–HRSA. Likewise, we urge applicants to fully assess their eligibility for grants before requesting kits. This will greatly facilitate our ability to assist you in placing your name on the mailing list and identifying the appropriate application kit(s) or other information you may wish to obtain. As a general rule, no more than one kit per category will be mailed to applicants. However, applicants may reproduce kit materials to meet their needs.

To Obtain a Copy of the Preview

To have your name and address added to, or deleted from, the Preview mailing list, please call the toll free number 1–888–333–HRSA or e-mail us at hrsa.gac@ix.netcom.com

To Obtain an Application Kit

Upon review of the program descriptions, please determine which category or categories of application kit(s) you wish to receive and contact the 1–888–333–HRSA number to register on the specific mailing list. Application kits are generally available 60 days prior to application deadline. If kits are already available, they will be mailed to you right away.

World Wide Web Access

The Preview is available on the HRSA Home Page via World Wide Web at: http://www.hrsa.dhhs.gov Application materials are currently available for downloading in the current cycle for some HRSA programs. HRSA's goal is to post application forms and materials for all programs.

You can download this issue of the Preview in Adobe Acrobat format (.pdf) from HRSA's web site at: http://www.hrsa.dhhs.gov/preview.htm. Also, you can register on-line to be sent specific grant application materials by following the instructions on the web page. Your mailing information will be added to our database and material will be sent to you when it becomes available.

Grant Terminology

Application Deadlines

Applications will be considered ''on time'' if they are either received on or before the established deadline date or sent on or before the deadline date given in the program announcement or in the application kit materials.

Authorizations

These are provided immediately preceding groupings of program categories. They are the citations of provisions of the laws authorizing the various programs.

CFDA Number

The Catalog of Federal Domestic Assistance (CFDA) is a government-wide compendium of Federal programs, projects, services, and activities which provide assistance.

Cooperative Agreement

A financial assistance mechanism used when substantial Federal programmatic involvement with the recipient during performance is anticipated by the awarding office.

Eligibility

Authorizing legislation and programmatic regulations specify eligibility for individual grant programs. In general, assistance is provided to nonprofit organizations and institutions, State and local governments and their agencies, and occasionally to individuals. For-profit organizations are eligible to receive awards under financial assistance programs unless specifically excluded by legislation.

Estimated Amount of Competition

The amount listed is provided for planning purposes and is subject to the availability of funds.

Funding Priorities and/or Preferences

Special priorities or preferences are those which the individual programs have identified for the funding cycle. Some programs give preference to organizations which have specific capabilities such as telemedicine networking, or established relationships with managed care organizations. Preference may be given to achieve an equitable geographic distribution.

Matching Requirements

Several HRSA categories require a matching amount, or percentage of the total project support to come from sources other than Federal funds. Matching requirements are generally mandated in the authorizing legislation for specific categories. Also, matching requirements may be administratively required by the awarding office.

Review Criteria

The following are generic review criteria applicable to HRSA programs:

- That the estimated cost to the Government of the project is reasonable considering the anticipated results.
- That project personnel or prospective fellows are well qualified by training and/or experience for the support sought and the applicant organization or the organization to provide training to a fellow, has adequate facilities and manpower.
- That, insofar as practical, the proposed activities (scientific or other), if well executed, are capable of attaining project objectives.
- That the project objectives are identical with or are capable of achieving the specific program objectives defined in the program announcement.
- That the method for evaluating proposed results includes criteria for determining the extent to which the program has achieved its stated objectives and the extent to which the accomplishment of objectives can be attributed to the program.
- That, in so far as practical, the proposed activities, when accomplished are replicable, national in scope and include plans for broad dissemination.

The specific review criteria used to review and rank applications are included in the individual guidance material provided with the application kits. Applicants should pay strict attention to addressing these criteria as they are the formal basis upon which their applications will be judged.

Technical Assistance

All programs provide technical assistance. There are also programs which have scheduled workshops and conference calls as indicated by the ''magnifying glass''. A contact person is listed for each program and their e-mail address provided. If you have questions concerning individual programs, please contact the person listed.

HIV/AIDS Programs

The HRSA HIV/AIDS Bureau consolidates activities authorized under the Ryan White Comprehensive AIDS Resources (CARE) Act which were previously carried out within all of the agency's bureaus. The CARE Act programs now conducted through the HIV/AIDS Bureau are designed to improve the quality and ensure availability of access to health care and other support services for individuals and families affected by HIV disease, especially those who would otherwise be unable to receive care.

The programs of the HRSA HIV/AIDS Bureau include the following:

Funding to eligible metropolitan areas (EMAs) hardest hit by the HIV/AIDS epidemic (Title I). Last year, 49 eligible metropolitan areas received formula funding determined by the seriousness of the epidemic, and were eligible to compete for supplementary funding;

Formula funding to States and territories to improve the quality, availability, and organization of health care and support services for people living with HIV disease (Title II). Title II also includes the AIDS Drug Assistance Program (ADAP), which funds efforts to make available existing and new drug therapies for people living with HIV in every State and territory;

Competitive funding to public and private nonprofit entities for outpatient early intervention and primary care services (Title III). Grants were made to Community Health Centers/Migrant Health Centers, hospitals and city and county health departments, family planning clinics, and programs for the homeless;

Funding to public and private nonprofit entities for demonstration projects to coordinate services to, and provide enhanced access to research, for children, youth, women, and families (Title IV); and

Support for the Special Projects of National Significance (SPNS) program which includes the development and assessment of innovative service delivery models; the Dental Reimbursement Program which provides retrospective funding for dental schools providing services to people living with AIDS during the previous year, and AIDS Education and Training Centers which train health professionals to provide care to people living with HIV.

Technical Assistance

The HRSA HIV/AIDS Bureau provides several types of technical assistance to prospective applicants and ongoing technical assistance to grantees. This technical assistance includes contact with Project Officers, meetings carried out on local, regional, and national levels, telephone conference calls, and simplified information on grants applications and procedures.

Outpatient Early Intervention Services With Respect to HIV Disease (Ryan White Title III)

Authorization

Sections 2651–2667 of the Public Health Service Act, 42 U.S.C. 300ff–51–330ff–67.

Purpose

The purpose of Title III funding is to provide on an outpatient basis, high quality early intervention services/primary care to individuals with HIV infection. This is accomplished by increasing the present capacity and capability of eligible ambulatory health service entities. These expanded services become a part of a continuum of HIV prevention and care for individuals who are at risk for HIV infection or are HIV infected. All Title III programs must provide HIV counseling and testing, counseling and education on living with HIV, appropriate medical evaluation and clinical care, and other essential services such as oral health care, outpatient mental health services and nutritional services, and appropriate referrals for specialty services.

Eligibility

Eligible applicants are Migrant Health Centers, Community Health Centers, Health Care for the Homeless Programs, Family Planning Organizations, Comprehensive Hemophilia Diagnostic and Treatment Centers, Federally Qualified Health Centers, and Public or non-profit private entities that currently provide comprehensive primary care services to people living with HIV/AIDS.

Limited Competition

Applicants are limited to currently funded Ryan White Title III programs whose project periods expire in FY 1998 and new organizations proposing to serve the same populations currently being served by these existing Title III programs. Applications are also requested from new organizations that propose to serve new areas. These will be considered for FY 1998, should new funding become available.

Review Criteria

The criteria are justification of need, organizational capabilities and expertise, adequacy of proposed program plan, coordination with other programs, program evaluation, appropriateness and justification of the budget, adherence to program guidance.

Estimated Amount of Competition

$35,000,000

Estimated Number of Awards

97

Projected Award Date: FY 1998
Contact: 1–888–333–HRSA
Application Availability: 7/10/97
Application Deadline: 10/10/97
CDFA Number: 93.918

Contact Person: Deborah Parham, dparham@hrsa.dhhs.gov

Existing Ryan White Title III Service Areas *

AZ:
Phoenix
Tucson
AR:
Pine Bluff
AL:
Mobile
Anniston
Montgomery
AK:
Anchorage
CA:
Santa Cruz
San Francisco
Los Angeles (2)
San Fernando
Santa Ana
San Bernardino
San Jose
Fremont
San Marcos
LaMont
CT:
Bridgeport (2)
New Haven
DC:
Washington
FL:
Key West
Miami (2)
Pompano Beach
Palm Beach
Immokalee
GA:
Atlanta (2)
Savannah
Waycross
Augusta
IA:
Des Moines
IL:
Chicago (4)
Rockford
IN:
Indianapolis
KS:
Wichita
MA:
Northampton
Provincetown
Dorchester
Worchester
New Bedford
Boston
MI:
Detroit (2)
MO:
Springfield
Kansas City
MT:
Billings
NC:
Asheville
Durham
NJ:
Newark
Paterson
New Brunswick
NM:
Alburquerque
NV:
Reno
Las Vegas
NY:
New York City (6)
Bronx (2)
Brooklyn (2)
Rochester
Buffalo
Queens
Peekskill
Syracuse
Albany
OH:
Cincinnati
OK:
Tulsa
PA:
Philadelphia (3)
Allentown
Pittsburgh
Chester
York
PR:
Humacao
San Juan
Mayaguez
Lares
Gurabo
RI:
Providence
TX:
Houston
Dallas
Fort Worth
Austin
San Antonio
UT:
Salt Lake City

* Applications are also requested from new organizations that propose to serve new areas. These will be considered for FY 1998 should new funding become available.

Ryan White Title III HIV Planning Grants

Authorization

Part C of Title XXVI of the Public Health Service as Amended by the Ryan White Care Act Amendments of 1996, Public Law 104–146, 42 U.S.C. 300ff–51—300ff–67.

Purpose

Ryan White Title III HIV Planning Grants are discretionary grants to support communities and health care service entities in their preparations to provide a high quality and comprehensive scope of primary health care services for people in underserved areas who are living with HIV or at risk of infection. Funds are to be used to mobilize and organize community resources, and to strengthen their organizational capacity so that HIV primary health care services can be established or strengthened. Grant recipients are expected to: engage and coordinate with suitable community organizations to plan for HIV primary care services; conduct an assessment for the proposed service area; develop a plan of action to address priority needs; and undertake the necessary preparations to become operational.

The Ryan White Title III HIV Planning Grants are intended to assist health care service entities to qualify for grant support under the Ryan White Title III Early Intervention Services Program.

Eligibility

Eligible applicants are public or private, nonprofit entities who are not currently grant recipients of the Ryan White Title III Early Intervention Services Program and are current primary care service providers to populations at risk for HIV disease; community health centers under Section 330 or the PHS Act; migrant health centers under Section 330 (g) of the PHS Act; health care for the homeless grantees under section 330(h) of the PHS Act; family planning grantees under Section 1001 of the PHS Act, other than States; comprehensive hemophilia diagnostic and treatment centers; or federally qualified health centers under Section 1905 (1)(2)(B) of the Social Security Act.

Funding Priorities and/or Preferences

In awarding the grants, preference will be given to entities that provide primary care services in rural or underserved communities and in communities where other Ryan White funds are not available.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$700,000

Estimated Number of Awards

15

Projected Award Date: 08/98

Contact: 1–888–333–HRSA

Application Availability: 03/02/98

Application Deadline: 05/01/98

CFDA Number: 93.918

Contact Person: Deborah Parham dparham@hrsa.dhhs.gov

Ryan White Title IV Grants for Coordinated HIV Services and Access to Research for Infants, Children, Youth, Women and Families—Geographic Areas With Currently Funded Title IV Projects

Authorization

Section 2671 of the Ryan White Care Act, as amended by Public Law 104–146, 42 U.S.C. 300ff–51–330ff–67.

Purpose

The purpose of the Title IV funding is to improve access to primary medical care, research, and support services for children, youth, women and families infected with HIV. Funded projects will link clinical research and other research with comprehensive care systems, and improve and expand the coordination of a system of comprehensive care for women, infants, children and youth who are infected/affected by HIV. Funds will be used to support programs that (1) cross establish systems of care to coordinate service delivery, HIV prevention efforts, and clinical research and other research activities; and (2) address the intensity of service needs, high costs, and other complex barriers to comprehensive care and research experienced by underserved, at-risk and limited populations. Activities under these grants should address the goals of enrolling and maintaining clients in HIV primary care; increasing client access to research by linking HIV/AIDS clinical research trials and activities with comprehensive care; fostering the development and support of comprehensive, community-based and family centered care infrastructures, and emphasizing prevention within the care system including the prevention of perinatal HIV transmission.

Eligibility

Eligible organizations are public or private non-profit entities that provide or arrange for primary care.

Limited Competition

Applicants are limited to currently funded Title IV programs whose project periods expire in FY 1998 and new organizations in geographic areas currently served by Title IV that are proposing to serve the same areas currently being served by these existing projects. These areas are: Brooklyn(2), NY; Bronx, NY; Manhattan, NY; Washington, DC; Atlanta, GA; Tampa/St. Petersburg, FL; Dallas, TX; St. Louis, MO; Denver, CO; Los Angeles, CA; and Wisconsin.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$10,000,000

Estimated Number of Awards

12

Funding Priorities and/or Preferences

Funding in this category will be given to projects that support a comprehensive, coordinated system of HIV care serving either infants, children, youth, women or families and are linked with or have initiated activities to link with clinical trials or other research.

Projected Award Date: 08/01/98
Contact: 1–888–333–HRSA
Application Availability: 02/02/98
Application Deadline: 04/01/98
CFDA Number: 93.153A
Contact Person: Michael Kaiser, mkaiser@hrsa.dhhs.gov

Ryan White Title IV Grants for Coordinated Services and Access to Research for Infants, Children, Youth, Women and Families—New Geographic Areas

Authorization

Section 2671 of the Ryan White Care Act, as amended by Public Law 104–146, 42 U.S.C. 300ff–51–330ff–67.

Purpose

Organizations should be able to demonstrate expertise in the coordination or provision of comprehensive medical and social services to children, youth, women and families. The purpose of the Title IV funding is to improve access to primary medical care, research, and support services for children, youth, women and families infected with HIV. Funded projects will link clinical research and other research with comprehensive care systems, and improve and expand the coordination of a system of comprehensive care for women, infants, children and youth who are infected/affected by HIV. Funds will be used to support programs that (1) cross establish systems of care to coordinate service delivery, HIV prevention efforts, and clinical research and other research activities; and (2) address the intensity of service needs, high costs, and other complex barriers to comprehensive care and research experienced by underserved, at-risk and limited populations. Activities under these grants should address the goals of: enrolling and maintaining clients in HIV primary care; increasing client access to research by linking HIV/AIDS clinical research trials and activities with comprehensive care; fostering the development and support of comprehensive, community-based and family centered care infrastructures; and emphasizing prevention within the care system including the prevention of perinatal HIV transmission.

Eligibility

Eligible organizations are public or private non-profit entities that provide or arrange for primary care.

Limited Competition

This initiative is targeted to applicants in geographic areas not currently served by Title IV. Geographic areas that are currently receiving Ryan White Title IV support are listed below. Title IV projects located in the underlined cities are approaching the end of their project period therefore, applicants may submit applications for these geographic areas in response to preceding announcement (CFDA 93.153A), for FY 1998 expiring Title IV projects.

State	City
AL	Birmingham/Montgomery.
CA	Los Angeles.
	La Jolla/San Diego.
	Oakland.
	San Francisco.
CO	Denver.
CT	Hartford/New London/New Haven/Bridgeport/Stamford.
DC	Washington.
FL	Tampa/St. Petersburg.
	Ft. Lauderdale.
	Miami.
	Orlando.
GA	Atlanta.
IL	Chicago.
LA	New Orleans.
MA	Statewide.
	Roxbury/Boston.
MD	Statewide.
MI	Detroit.
MO	St. Louis.
NC	Charlotte.
NH	Statewide.
NJ	Statewide.
NY	Bronx.
	Brooklyn(2).
	Manhattan.
	Elmhurst/Queens.
	Stony Brook.
OH	Columbus.
PA	Philadelphia.
PR	Statewide.
RI	Providence.
SC	Statewide.
TX	Dallas.
	Fort Worth.
	Houston.
	San Antonio.
WA	Seattle.

Funding Preference and/or Priorities

Preference for funding may be given to applicants which help to achieve an equitable geographical distribution of programs across all States and territories, especially programs that provide services in rural or underserved communities where the HIV/AIDS epidemic is increasing.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,200,000

Estimated Number of Awards

4

Projected Award Date: 08/98
Contact: 1–888–333–HRSA
Application Availability: 02/02/98
Application Deadline: 04/01/98
CFDA Number: 93.153B
Contact Person: Michael Kaiser, mkaiser@hrsa.dhhs.gov

Ryan White Title IV Grants for Adolescent Services

Authorization

Section 2671 of the Ryan White Care Act, as amended by Public Law 104–146, 42 U.S.C. 300ff–51—300ff–67.

Purpose

The purpose of this initiative is to foster and expand systems of health care and social support services for youth (age 13–24) at risk for or infected with HIV infection in order to identify infected youth and enroll them in HIV primary care. Grantees will identify additional HIV infected youth and develop, coordinate and provide support services to enroll and maintain them in primary medical care. Adolescent clients should be enrolled into care early in the spectrum of disease and managed throughout the infection. In partnership with other Ryan White funded programs or other agencies, applicants will integrate youth services into existing systems of care to provide access to comprehensive, coordinated primary care, research and social support services.

Eligibility

Eligible organizations are public or private, non-profit organizations that provide or arrange for primary care, with expertise in the care of youth.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,000,000

Estimated Number of Awards

3–5

Funding Priorities and/or Preferences

Priority will be given to applicants with a history of working with youth, especially youth infected with HIV. Priority will be given to projects proposed in geographic areas where epidemiologic data demonstrate high numbers of infected youth.

Projected Award Date: 08/01/98
Contact: 1–888–333–HRSA
Application Availability: 02/02/98
Application Deadline: 04/01/98
CFDA Number: 93.153C
Contact Person: Michael Kaiser, mkaiser@hrsa.dhhs.gov

Ryan White HIV Service Delivery Models

Authorization

Section 2691 of the Public Health Service Act, 42 U.S.C. 300ff–51–330ff–67.

Purpose

The goal of the Special Projects of National Significance Program is to advance knowledge about the care and treatment of people with HIV. Each project is responsible for the implementation and evaluation of its model of care. Results from individual projects and cross-site evaluations are used by AIDS service providers and others to improve and enhance the quality of care. The program will support innovative and potentially replicable HIV service delivery models. Projects must: (1) Assess the effectiveness of particular models of care; (2) support innovative program design; and (3) promote replication of effective models of care.

Eligibility

Eligible applicants are public and non profit entities including community-based organizations.

Evaluation Criteria

Final criteria are included in the application kit

Estimated Amount of This Competition

$4,212,000

Estimated Number of Awards

12

Project Award Date: 07/98
Contact: 1–888–333–HRSA
Application Availability: 01/05/98
Application Deadline: 04/01/98
CFDA Number: 93.928
Contact Person: Barney Singer, bsinger@hrsa.dhhs.gov

Health Professions Programs

Underlined areas provide additional information to the Summer 97 Preview.

Nurse Anesthetist Program; (1) Program Grants (2) Traineeships; and (3) Fellowships

Authorization

Section 831 of the Public Health Service Act, 42 U.S.C. 297–1.

Purpose

This program is to assist grantees to meet the costs of: (a) projects for the education of nurse anesthetists; (b) traineeships for licensed registered nurses to become nurse anesthetists; and (c) fellowships to enable Certified Registered Nurse Anesthetist (CRNA) faculty members to obtain advanced education relevant to their teaching functions.

Eligibility

Eligible applicants are public or private nonprofit institutions which provide registered nurses with full-time nurse anesthetist training and are accredited by an entity or entities designated by the Secretary of Education.

Funding Priorities and/or Preferences

Statutory Funding Preference

As provided in Section 860(e) of the Public Health Service Act, preference will be given to qualified applicants that: (A) Have a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) have achieved, during the 2-year period preceding the fiscal year for which such an award is sought, a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of applications recommended for education program applications recommended for approval by the peer review group.

''High rate'' is defined as a minimum of 30 percent of graduates in academic years 1994–95, 1995–96 or 1996–97 who spend at least 50 percent of their work time in clinical practice in the specified setting. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1995–96 and 1996–97, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15

percent of graduates from the most recent year are working in these settings.

Statutory Rural Preference for Traineeship Program

A preference is given to those applicants carrying out traineeships whose participants gain significant experience in providing health service in rural health facilities.

Established Funding Priority for Traineeship and Education Program Grants

A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of 10 or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Established Funding Preference for Faculty Fellowship Grants

A funding preference will be given first to faculty who will be completing degree requirements before or by the end of the funded budget year, second to faculty who are full-time students, and third to faculty who are part-time students.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,800,000
Traineeships—$1,220,000
Program—300,000
Fellowships—280,000

Estimated Number of Awards

79 (*70 Traineeships**, 2 Programs and 7 Fellowships)

**Formula Program—all eligible entities will receive traineeship support.*

Projected Award Date: 03/98 Fellowships & Traineeship Program; 05/98 Program Grants
Contact: 1–888–333–HRSA
Application Availability: 07/15/97
Application Deadline: 12/01/97 Fellowships & Traineeships; 02/02/98 Program Grants
CFDA Number: 93.124, 93.907 & 93.916
Contact Person: Marcia Starbecker mstarbecker@hrsa.dhhs.gov

Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds

Authorization

Section 827 of the Public Health Service Act, 42 U.S.C. 296r.

Purpose

This program provides funds to meet the costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds by: (a) Identifying, recruiting and selecting such individuals; (b) facilitating the entry of such individuals into schools of nursing; (c) providing services designed to assist such individuals to complete their nursing education; (d) providing preliminary education, prior to entry into the regular course of nursing, designed to assist in completion of the regular course of nursing education; (e) paying such stipends as the Secretary may determine; (f) publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid; and (g) providing training, information, or advice to the faculty on encouraging such individuals to complete their nursing education.

Eligibility

Public and nonprofit private schools of nursing and other public or nonprofit private entities are eligible for grant support.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,400,000

Estimated Number of Awards

8

Projected Award Date: 05/98
Contact: 1–888–333–HRSA
Application Availability: 07/15/97
Application Deadline: 11/24/97
CFDA Number: 93.178
Contact Person: Ernell Spratley, espratley@hrsa.dhhs.gov

Nurse Practitioner/Nurse Midwifery

Authorization

Section 822 of the Public Health Service Act, 42 U.S.C. 296m.

Purpose

This program provides funds to meet the costs of projects to plan, develop and operate new programs, maintain, or significantly expand existing programs for the education of nurse practitioners and nurse-midwives to effectively provide primary health care in settings such as homes, ambulatory care and long term care facilities and other health care institutions. Programs must adhere to regulations and guidelines for nurse practitioner and nurse-midwifery education as prescribed by the Secretary of Health and Human Services which require at a minimum that each program extend for at least one academic year and consist of supervised clinical practice directed toward preparing nurses to deliver primary health care; and at least four months (in the aggregate) of classroom instruction that is so directed; and have an enrollment of not less than six full-time equivalent students.

Eligibility

Eligible applicants are public and nonprofit private schools of nursing or other public and nonprofit private entities. Eligible applicants must be located in a State.

Funding Priorities and/or Preferences

Statutory Program Specific Preference

Preference will be given to any qualified applicant that agrees to expend the award to plan, develop, and operate new programs or to significantly expand existing programs.

Statutory General Preference

As provided in Section 860(e)(1) of the PHS Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of proposals recommended for approval by the peer review group.

''High rate'' is defined as a minimum of 30 percent of graduates in academic years 1994–95, 1995–96 or academic year 1996–97, who spend at least 50 percent of their worktime in clinical practice in the specified settings. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1995–96 and 1996–97, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Statutory Special Considerations

Special consideration will be given to qualified applicants that agree to

expend the award to educate individuals as nurse practitioners and nurse-midwives who will practice in health professional shortage areas designated under Section 332 of the Public Health Service Act.

Established Funding Priority

Funding priority will be given to applicant institutions which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating trainees from those minority or low-income populations identified as at risk of poor health outcomes.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$3,000,000

Estimated Number of Awards

11

Projected Award Date: 04/98
Contact: 1–888–333–HRSA
Application Availability: 07/15/97
Application Deadline: 12/19/97
CFDA Number: 93.298
Contact Person: Audrey Koertvelyessy, akoertvelyessy@hrsa.dhhs.gov

Professional Nurse Traineeships

Authorization

Section 830 of the Public Health Service Act, 42 U.S.C. 297.

Purpose

Grants are awarded to meet the cost of traineeships for individuals in advanced degree nursing education programs. Traineeships are awarded to individuals by the participating educational institutions offering master's and doctoral degree programs to serve in and prepare for practice as nurse practitioners, nurse midwives, nurse educators, public health nurses, or in other clinical nursing specialties determined by the Secretary to require advanced education.

Eligibility

Eligible applicants are public or private nonprofit entities which provide: (1) Advanced-degree programs to educate individuals as nurse practitioners, nurse-midwives, nurse educators, public health nurses or as other clinical nursing specialists; or (2) nurse-midwifery certificate programs that conform to guidelines established by the Secretary under Section 822(b). Applicants must agree that: (a) In providing traineeships, the applicant will give preference to individuals who are residents of health professional shortage areas designated under Section 332 of the Act; (b) the applicant will not provide a traineeship to an individual enrolled in a master's of nursing program unless the individual has completed basic nursing preparation, as determined by the applicant; and (c) traineeships provided with the grant will pay all or part of the costs of the tuition, books, and fees of the program of nursing with respect to which the traineeship is provided and reasonable living expenses of the individual during the period for which the traineeship is provided.

Funding Priorities and/or Preferences

Statutory Preference

As provided in Section 860(e) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

''High rate'' is defined as a minimum of 30 percent of graduates in academic year 1994–95, 1995–96 or academic year 1996–97, who spend at least 50 percent of their work time in clinical practice in the specified settings. Public health nurse graduates can be counted if they identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1995–96 and 1996–97 the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Statutory Special Consideration

Special consideration will be given to applications for traineeship programs for nurse practitioner and nurse midwife programs which conform to guidelines established by the Secretary under Section 822(b)(2) of the PHS Act.

Established Funding Priority

A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating students from those minority populations identified as at-risk of poor health outcomes.

Review Criteria

Awards are determined by formula.

Estimated Amount of This Competition

$15,600,000

Estimated Number of Awards

270

(Formula Program—All eligible schools will receive awards)

Projected Award Date: 03/97
Contact: 1–888–333–HRSA
Application Availability: 07/15/97
Application Deadline: 11/03/97
CFDA Number: 93.358
Contact Person: Marcia Starbecker, mstarbecker@hrsa.dhhs.gov

Advanced Nurse Education

Authorization

Section 821 of the Public Health Service Act, 42 U.S.C. 296–1.

Purpose

This grant program assists eligible institutions to meet the costs of projects that plan, develop and operate new programs, or significantly expand existing programs leading to advanced degrees that prepare nurses to serve as nurse educators or public health nurses, or in other clinical nurse specialties determined by the Secretary to require advanced education.

Eligibility

Eligible applicants are public and non profit Collegiate Schools of Nursing.

Funding Priorities and/or Preferences

Statutory General Preference

As provided in Section 860(e)(1) of the Public Health Service Act, preference will be given to any qualified applicant that: (1) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (2) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

''High rate'' is defined as a minimum of 30 percent of graduates in academic year 1994–95, 1995–96 or academic year 1996–97, who spend at least 50 percent of their work time in clinical practice in the specified settings. Public health nurse graduates can be counted if they

identify a primary work affiliation at one of the qualified work sites. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1995–96 and 1996–97 the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Established Funding Priorities

A funding priority will be given to applications which develop, expand or implement courses concerning ambulatory, home health care and/or inpatient case management services for individuals with HIV disease.

In determining the order of funding of approved applications, a funding priority will be given to applicant institutions which demonstrate either substantial progress over the last three years or a significant experience of ten or more years in enrolling and graduating trainees from those minority or low-income populations identified as at risk of poor health outcomes.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$4,500,000

Estimated Number of Awards

22

Projected Award Date: 05/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 02/02/98
CFDA Number: 93.299
Contact Person: Madeleine Hess, mhess@hrsa.dhhs.gov

Nursing Special Projects

Authorization

Section 820 of the Public Health Service Act, 42 U.S.C. 295K.

Purpose

The purpose of this program is to improve nursing practice through projects that increase the knowledge and skills of nursing personnel, enhance their effectiveness in primary health care delivery, and increase the number of qualified professional nurses.

Grant support may be sought under four separate individual purposes: (a) Expand Enrollment in Professional Nursing Programs; (b) Primary Health Care in Noninstitutional Settings; (c) Continuing Education for Nurses in Medically Underserved Communities; and (d) Long-Term Care Fellowships for Certain Paraprofessionals.

Eligibility

Eligible applicants for projects under Section 820(a) are public and nonprofit private schools of nursing with programs of education in professional nursing.

Eligible applicants for projects under Section 820(b) are public and nonprofit private schools of nursing. To receive support under 820(b) the program proposed must be operated and staffed by the faculty and students of the school and must be designed to provide at least 25 percent of the students of the school with a structured clinical experience in primary health care.

Eligible applicants for projects under Section 820(c) are public and nonprofit private entities.

Eligible applicants for projects under Section 820(d) are public and nonprofit private entities that operate accredited programs of education in professional nursing, or State-board approved programs of practical or vocational nursing. To receive support under 820(d), the applicant must agree that, in providing fellowships, preference will be given to eligible individuals who are economically disadvantaged individuals, particularly such individuals who are members of a minority group that is under represented among registered nurses; or are employed by a nursing facility that will assist in paying the costs or expenses. The applicant must also agree that the fellowships provided will pay all or part of the costs of the tuition, books, and fees of the program of nursing with respect to which the fellowship is provided; and reasonable living expenses of the individual during the period for which the fellowship is provided.

Funding Priorities and/or Preferences

Statutory Funding Preferences

In making awards of grants under Section 820(a), preference will be given to any qualified school that provides students of the school with clinical training in the provision of primary health care in publicly-funded: (A) urban or rural outpatient facilities, home health agencies, or public health agencies; or (B) rural hospitals.

In making awards of grants under Section 820(d), preference will be given to any qualified applicant operating an accredited program of education in professional nursing that provides for the rapid transition to status as a professional nurse from status as a nursing paraprofessional.

Established Funding Priorities

A priority will be given to schools that offer generic baccalaureate programs. A priority will also be given to schools that offer both generic baccalaureate nursing programs and RN completion programs. These priorities apply to applications for grants under Section 820(a).

A funding priority will be given to programs which demonstrate either substantial progress over the last three years or a significant experience of 10 or more years in enrolling and graduating trainees from those minority or low-income populations identified as at-risk of poor health outcomes. This priority applies to applications for grants under Sections 820(a), 820(b), and 820(d).

Finally, a funding priority will be given to applications for continuing education programs for nurses from medically underserved communities to increase their knowledge and skills in care of persons who are HIV positive or who have AIDS. This priority applies to applications for grants under Section 820(c).

Matching Requirement

To receive support under 820(a) the school must agree to make available non-Federal contributions in an amount that is at least 10 percent of the project costs for the first fiscal year, at least 25 percent of the project costs for the second fiscal year, at least 50 percent of the project costs for the third fiscal year, and at least 75 percent of the project costs for the fourth or fifth fiscal years.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,790,000

Estimated Number of Awards

12

Projected Award Date: 05/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 01/16/98
CFDA Number: 93.359
Contact Person: Janet Clear jclear@hrsa.dhhs.gov

Predoctoral Training in Family Medicine

Authorization

Section 747(a) of the Public Health Service Act, 42 U.S.C. 293k

Purpose

This program provides funds to promote the predoctoral training of allopathic and osteopathic medical

students in the field of family medicine. Supported programs emphasize the provision of longitudinal, preventive, and comprehensive care to families. The program assists schools in meeting the cost of planning, developing and operating or participating in approved predoctoral training programs in the field of family medicine. Support may be provided both for the program and for the trainees. Assistance may be requested for any of the following purposes: curriculum development, clerkships, preceptorships, and/or student assistantships. The programs should be part of an integrated institutional strategy to provide education and training in family medicine. The intent is to design programs which encourage graduates to seek residency training in family medicine and eventually to enter a career in family medicine.

Eligibility

Public, or private nonprofit, accredited schools of medicine or osteopathic medicine are eligible for grant support.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

In FY 1998, ''high rate'' means that a minimum of 20 percent of the medical school's (or osteopathic) graduates from academic year 1992–93 or 1993–94, whichever is greater, are spending at least 50 percent of their work time in clinical practice in the specified settings. Graduates who are providing care in an underserved area as part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1995 and 1996, the rate of placing the 1992–1993 graduates in the specified settings has increased by at least 50 percent and not less than 15 percent of graduates from the most recent year are working in such settings.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$4,450,000

Estimated Number of Awards

41

Projected Award Date: 03/98
Contact: 1–888–333–HRSA
Application Availability: 07/15/97
Application Deadline: 11/07/97
CFDA Number: 93.896
Contact Person: Betty M. Ball, bball@hrsa.dhhs.gov

Departments of Family Medicine

Authorization

Section 747(b) of the Public Health Service Act, 42 U.S.C. 293k

Purpose

This program provides funding for the following purposes: to establish, maintain, or improve family medicine academic administrative units to provide clinical instruction in family medicine; to plan and develop model educational predoctoral, faculty development, and graduate medical education programs in family medicine which will meet the requirements of Section 747(a) by the end of the project period of Section 747(b) support; to support academic and clinical activities relevant to the field of family medicine; and, to strengthen the administrative base and structure responsible for the planning, direction, organization, coordination, and evaluation of all undergraduate and graduate family medicine activities.

Eligibility

Public, or private non-profit accredited schools of medicine or osteopathic medicine are eligible for grant support.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

Under Section 747(b), a funding preference is provided for qualified applicants that agree to expend the award for the purpose of: (1) Establishing an academic administrative unit defined as a department, division, or other unit, for programs in family medicine; or (2) substantially expanding the programs of such a unit.

In FY 1998, ''high rate'' means that a minimum of 20 percent of the medical school's (or osteopathic) graduates from academic year 1992–93 or 1993–94, whichever is greater, are spending at least 50 percent of their work time in clinical practice in the specified settings. Graduates who are providing care in an underserved area as a part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1995 and 1996, the rate of placing the 1992–1993 graduates in the specified settings has increased by at least 50 percent and not less than 15 percent from the most recent year are working in such settings.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,500,000
Estimated Number of Awards
19

Technical Assistance Group Conference Call: February 3, 1998
Contact Shelby Biedenkapp by January 6 to participate, 301–443–1467 or e-mail sbiedenkapp@hrsa.dhhs.gov.

Projected Award Date: 07/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 03/16/98
CFDA Number: 93.984
Contact Person: Shelby Biedenkapp sbiedenkapp@hrsa.dhhs.gov

Allied Health Project Grants

Authorization

Section 767 of the Public Health Service Act, 42 U.S.C. 294e.

Purpose

This grant program assists eligible entities in meeting the costs associated with expanding or establishing programs that will increase the number of individuals trained in the allied health professions and may include establishing community-based training programs that link academic centers to medically underserved or rural communities, develop curriculum relevant to the emerging health care system, provide interdisciplinary

training experiences, and expand or establish demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research.

Eligibility

''Eligible entity'' for the purpose of this grant program means: (1) Public or private nonprofit schools, universities, or other educational entities that provide for education and training in the allied health professions; or (2) other public or nonprofit private entities capable, as determined by the Secretary, of carrying out the purpose of the Allied Health Project Grants Program as described in the application; and (3) be located in a State.

Funding Priorities and/or Preferences

Statutory Funding Preference

As provided for in Sections 767(b) (2) and 791 (a) of the Public Health Service Act are set forth below. Applicants who meet one or more of the following criteria will receive funding preference. Greater priority will be given to applicants who qualify in two or three of the following preference categories: (A) Expand and maintain first-year enrollment by not less than 10 percent over enrollments in base year 1992; or (B) demonstrate that not less than 20 percent of the graduates of such training programs during the preceding 2-year period are working at least 50 percent of work time in clinical settings having the principal focus of serving residents of medically underserved communities; or (C) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,400,000

Estimated Number of Awards

12

Technical Assistance Workshop: October 30–31, 1997

Contact Mita Hernandez by October 1 to participate, 301–443–6764, mhernandez@hrsa.dhhs.gov

Projected Award Date: 06/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 02/17/98
CFDA Number: 93.191
Contact Person: Norman L. Clark, nclark@hrsa.dhhs.gov

Residencies and Advanced Education in the Practice of General Dentistry

Authorization

Section 749 of the Public Health Service Act, 42 U.S.C. 293m.

Purpose

The intent of this grant program is to increase the number of training opportunities in postgraduate general dentistry, and to improve program quality, with emphasis on practice in underserved areas; provision of a broad range of clinical services; coordination and integration of care; and meeting the needs of special populations, such as the elderly and persons living with AIDS.

Eligibility

The applicant shall: Be a public or nonprofit private school of dentistry or an accredited postgraduate dental training institution (hospital, medical center, or other entity) and be accredited by the appropriate accrediting body.

Funding Priorities and/or Preferences

As provided in Section 791(a) of the Public Health Service Act, preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

''High rate'' is defined as a minimum of 25 percent of combined graduates in academic years 1994–95, 1995–96, and 1996–97 who spend at least 50 percent of their work time in clinical practice in the specified settings. Graduates who are providing care in a medically underserved community as a part of a fellowship or other educational experience can be counted.

''Significant increase in the rate'' means that, between academic years 1995–96 and 1996–97, the rate of placing graduates in the specified settings has increased by a minimum of 50 percent and that not less than 15 percent of graduates from the most recent year are working in these settings.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,800,000

Estimated Number of Awards

15

Technical Assistance Group Conference Call: October 23, 1997

Contact Kathy Hayes by October 10, fax 301–443–1164, khayes@hrsa.dhhs.gov

Projected Award Date: 03/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 12/01/97
CFDA Number: 93.897
Contact Person: Kathy Hayes, khayes@hrsa.dhhs.gov

Residency Training in Preventive Medicine

Authorization

Section 763 of the Public Health Service Act, 42 U.S.C. 294b.

Purpose

The grant program promotes post-graduate education of physicians in preventive medicine. Grants assist schools to: (1) maintain and improve existing residency training programs or plan and develop new programs, and (2) provide financial support to residents.

Eligibility

The applicant must be an accredited public or private nonprofit school of allopathic or osteopathic medicine or a school of public health. Also, an applicant must demonstrate that it has, or will have by the end of one year of grant support, full-time faculty with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

Funding Priorities and/or Preferences

Statutory Funding Preference

As provided for in Section 791(a) of the Public Health Service Act, preference will be given to applicants that demonstrate a high rate of placing graduates in practice settings that serve residents of medically underserved communities, or that document a significant increase in the rate of placing graduates in such settings. ''High rate'' is defined as a minimum of 25 percent of combined graduates in academic year 1996–97 who spend at least 50 percent of their work time in clinical practice in the specified settings. ''Significant increase in the rate'' means that, between academic years 1994–95, 1995–96 and 1996–97, the rate of placing graduates in the specified settings increased by a minimum of 50 percent

and that not less than 15 percent of graduates from the most recent years are working in these settings. This preference will be applied to applications that rank above the 20th percentile of applications recommended for approval.

Funding priority will be given to projects that conduct residency training in the areas of general preventive medicine or public health.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$1,800,000

Estimated Number of Awards

13

Projected Award Date: 03/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 12/15/97
CFDA Number: 93.117
Contact Person: Ron Merrill, rmerrill@hrsa.dhhs.gov

Physician Assistants Training

Authorization

Section 750 of the Public Health Service Act, 42 U.S.C. 293n.

Purpose

Grants are awarded under Section 750 of the Public Health Service Act to eligible entities: (1) for the training of physician assistants; and (2) for the training of individuals who will teach in programs of such training. The projects supported must meet the definition of a training program for physician assistants as defined under Section 799 of the Public Health Service Act. By legislation, no more than 10 percent of the yearly appropriation can be used for faculty development activities. Programs assisted are primary care oriented and stress educational experiences and practice location in health professional shortage areas. The program assists schools to meet the costs of projects to plan, develop and operate or maintain programs for the training of physician assistants or for the training of individuals who teach in programs of such training. Programs must develop and use methods designed to encourage graduates of the program to work in health professional shortage areas and methods for placing graduates in positions for which they have been trained.

Eligibility

Accredited schools of medicine or osteopathic medicine, or other public or private nonprofit entities are eligible applicants. Eligible physician assistant programs are those which are either accredited by the American Medical Association's Committee on Allied Health Education and Accreditation (AMA-CAHEA) or its successor organization, the Commission on Accreditation of Allied Health Education Programs (CAAHEP).

Funding Priorities and or Preferences

As provided in Section 791(a) of the Public Health Service Act, statutory preference will be given to any qualified applicant that: (A) Has a high rate for placing graduates in practice settings having the principal focus of serving residents of medically underserved communities; or (B) during the 2-year period preceding the fiscal year for which such an award is sought, has achieved a significant increase in the rate of placing graduates in such settings. This statutory general preference will only be applied to applications that rank above the 20th percentile of applications recommended for approval by the peer review group.

In FY 1998, ''high rate'' means that a minimum of 20 percent of all physician assistant training program graduates from academic years 1995–96 or 1996–97, whichever is greater, are spending at least 50 percent of their work time in clinical practice in the specified settings.

''Significant increase in the rate'' means that, between academic years 1995–96 and 1996–97, the rate of placing physician assistant training program graduates in these settings has increased by at least 50 percent and not less than 15 percent of 1996–97 graduates are working in such settings

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$3,730,000

Estimated Number of Awards

28

Technical Assistance Group Conference Call: November 6, 1997. Contact Ed Spirer by October 22 to participate at 301–443–3456 or e-mail espirer@hrsa.dhhs.gov

Projected Award Date: 05/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 12/22/97
CFDA Number: 93.886
Contact Person: Edwin S. Spirer, espirer@hrsa.dhhs.gov

Geriatric Education Centers

Authorization

Section 777(a) of the Public Health Service Act, 42 U.S.C. 294(o).

Purpose

This program supports the development of collaborative arrangements involving several health professions schools and health care facilities. Geriatric Education Centers (GECs), facilitate training of health professional faculty, students, and practitioners in the diagnosis, treatment, and prevention of disease, disability, and other health problems of the aged. Health professionals include allopathic physicians, osteopathic physicians, dentists, optometrists, podiatrists, pharmacists, nurse practitioners, physician assistants, chiropractors, clinical psychologists, health administrators, and allied health professionals. Projects supported under these grants must offer training involving four or more health professions, one of which must be allopathic or osteopathic medicine, and must address one or more of the following statutory purposes: (a) Improve the training of health professionals in geriatrics; (b) develop and disseminate curricula relating to the treatment of health problems of elderly individuals; (c) expand and strengthen instruction in methods of such treatment; (d) support the training and retraining of faculty to provide such instruction; (e) support continuing education of health professionals and allied health professionals who provide such treatment; and (f) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

Eligibility

Grants may be made to accredited health professions schools as defined by Section 799(1), or programs for the training of physician assistants as defined by Section 799(3), or schools of allied health as defined in Section 799(4), or schools of nursing as defined by Section 853(2) of the Public Health Service Act.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,978,000

Estimated Number of Awards

12

Technical Assistance Workshop Dates: October 30–31, 1997
Contact: Mita Hernandez by October 1 on 301–443–6764 or by e-mail mhernandez@hrsa.dhhs.gov
Projected Award Date: 04/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 12/19/97
CFDA Number: 93.969
Contact Person: Susan Klein, sklein@hrsa.dhhs.gov

Health Careers Opportunity Program (HCOP)

Authorization

Section 740 of the Public Health Service Act, 42 U.S.C. 293D.

Purpose

The goal of this grant program is to increase the number of individuals from disadvantaged backgrounds in the health and allied health professions in order to meet the expanding health care needs of underserved populations. The HCOP program works to build diversity in the health fields by providing students from disadvantaged backgrounds an opportunity to enhance their academic skills and needed support to successfully compete, enter, and graduate from health professions schools. The legislative purposes for which HCOP funds may be awarded are: recruitment, preliminary education, facilitating entry, retention, and financial aid information dissemination.

Applicants should pay particular attention to statutory and administrative funding priorities/preferences and evaluation criteria included in the application materials.

Eligibility

Eligible applicants include schools of medicine, osteopathic medicine, public health, dentistry, veterinary medicine, optometry, pharmacy, podiatric medicine, allied health, chiropractic, public or non-profit private schools which offer graduate programs in clinical psychology, and other public or private non-profit health or educational entities.

Funding Priorities and/or Preferences

A statutory funding priority will be given to the following schools: (1) A school which previously received an HCOP grant and increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987 (for which the applicant must supply data) by the end of three years from the date of the award of the HCOP grant; and (2) a school which had not previously received an HCOP grant that increased its first-year enrollment of individuals from disadvantaged backgrounds by at least 20 percent over that enrollment in the base year 1987 (for which the applicant must supply data) over any period of time (three consecutive years).

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$5,000,000

Estimated Number of Awards

28

Projected Award Date: 07/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 01/30/98
CFDA Number: 93.822
Contact Person: Mario Manecci, mmanecci@hrsa.dhhs.gov

Centers of Excellence (COE)

Authorization

Section 739 of the Public Health Service Act, 42 U.S.C. 293c.

Purpose

The goal of this program is to assist health professions schools in supporting programs of excellence in health education for minority individuals in allopathic medicine, osteopathic medicine, dentistry, and pharmacy. Specifically, the program is to strengthen the national capacity to train minority students in these health professions. Applicants for a COE grant must address all of the following legislative purposes: Student Recruitment; Student Performance; Faculty Recruitment, Training and Retention; Information Resources, Curricula and Clinical Education; and Faculty and Student Research.

Eligibility

Eligible organizations are: allopathic medicine, osteopathic medicine, dentistry, and pharmacy.

Funding Priorities and/or Preferences

None.

Evaluation Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$4,000,000

Estimated Number of Awards

3

Projected Award Date: 8/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 03/27/98
CFDA Number: 93.157
Contact Person: Roland Garcia, rgarcia@hrsa.dhhs.gov

State-Supported Model Area Health Education Centers

Authorization

Section 746(a)(3) of the Public Health Service Act, 42 U.S.C. 201.

Purpose

Cooperative agreements are awarded for the Area Health Education Centers (AHEC) Program under Section 746(a)(3) of the Public Health Service Act. The program assists schools to improve the distribution, supply, and quality of health personnel in the health services delivery system, by encouraging the regionalization of educational responsibilities of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers. The AHEC program assists schools in the development, and operation of AHEC Centers to implement educational system incentives to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health science center with local planning, educational and clinical resources, the AHEC program establishes a network of health-related institutions to provide educational services to students, faculty and practitioners and ultimately, to improve the delivery of health care in the service area. These programs are collaborative partnerships which address current health workforce needs within a region of a State, or in an entire State.

Eligibility

Public, or private nonprofit, accredited schools of medicine or osteopathic medicine are eligible applicants.

Funding Priorities and/or Preferences

Funds shall be awarded to approved applicants in the following order: (1) Competing continuations; (2) new starts in States with no AHEC program; (3) other new starts; and (4) competing supplementals.

Matching Requirement

In Model State-Supported AHEC Programs, non-Federal contributions in cash shall consist of not less than 50 percent of the total costs of operating the program.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,028,000

Estimated Number of Awards

12

Projected Award Date: 05/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 01/09/98
CFDA Number: 93.107
Contact Person: Joseph West, jwest@hrsa.dhhs.gov

Basic Core Area Health Education Centers

Authorization

Section 746(a)(1) of the Public Health Service Act, 42 U.S.C. 293j.

Purpose

Cooperative agreements are awarded for the Area Health Education Centers (AHEC) Program under Section 746(a)(1) of the Public Health Service Act. The program assists schools to improve the distribution, supply and quality of health personnel in the health services delivery system, by encouraging the regionalization of educational responsibilities of health professions schools. Emphasis is placed on community-based training of primary care oriented students, residents, and providers. The AHEC program assists schools in the planning, development, and operation of AHEC Centers to initiate educational system incentives, to attract and retain health care personnel in scarcity areas. By linking the academic resources of the university health science center with local planning, educational and clinical resources, the AHEC program establishes a network of community-based training sites to provide educational services to students, faculty and practitioners in underserved areas and ultimately, to improve the delivery of health care in the service area. The program embraces the goal of increasing the number of health professions graduates who ultimately will practice in underserved areas.

Eligibility

Public, or private nonprofit, accredited schools of medicine or osteopathic medicine are eligible applicants.

Funding Priorities and/or Preferences

Funds shall be awarded to approved applicants in the following order: (1) Competing continuations; (2) new starts in States with no AHEC program; (3) other new starts; and (4) competing supplementals.

Matching Requirement

In the Basic/Core AHEC Programs, the awardee must provide matching funds from non-Federal sources at a minimum of 25 percent of the total program expenditures.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$4,728,000

Estimated Number of Awards

5

Projected Award Date: 05/98
Contact: 1–888–333–HRSA
Application Availability: 10/01/97
Application Deadline: 01/09/98
CFDA Number: 93.824
Contact Person: Louis D. Coccodrilli, lcoccodrilli@hrsa.dhhs.gov

Minority Faculty Fellowship Program (MFFP)

Authorization

Section 738(B) of the Public Health Service Act, 42 U.S.C. 293b.

Purpose

The purpose of the Minority Faculty Fellowship Program is to increase the number of under-represented minority faculty members in health professions schools.

Eligibility

Eligible applicants for this program are schools of medicine, osteopathic medicine, dentistry, veterinary medicine, optometry, podiatric medicine, pharmacy, public health, health administration, clinical psychology, and other public or private non-profit health or educational entities.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$100,000

Estimated Number of Awards

3

Funding Priorities and/or Preferences

None.

Projected Award Date: 06/98
Contact: 1–888–333–HRSA
FAX: 1–301–309–0579
Application Availability: 10/01/97
Application Deadline: 03/27/98
CFDA Number: 93.923
Contact Person: Lafayette Gilchrist lgilchrist@hrsa.dhhs.gov

Rural Health Programs

Rural Outreach Grant Program

Authorization

Public Law 104–299, the Health Centers Consolidation Act of 1996, 42 U.S.C. 254(b).

Purpose

The purpose of this program is to expand access to, coordinate, restrain the cost of, and improve the quality of essential health care services, including preventive and emergency services, through the development of integrated health care delivery systems or networks in rural areas and regions. Funds are available for projects to support the direct delivery of health care and related services, to expand existing services, or to enhance health service delivery through education, promotion, and prevention programs. The emphasis is on the actual delivery of specific services rather than the development of organizational capabilities. Projects may be carried out by networks of the same providers (e.g. all hospitals) or more diversified networks. There must be a memorandum of agreement or other formal arrangement between members of a network.

Eligibility

Rural public or nonprofit entity that is or represents a network or potential network that includes three or more health care providers or other entities that provide or support the delivery of health care services. The administrative headquarters of the organization must be located in a rural county or in a rural census tract of an urban county, or an organization constituted exclusively to provide services to migrant and seasonal farmworkers in rural areas and supported under Section 330G of the Public Health Service Act. These organizations are eligible regardless of the urban or rural location of the administrative headquarters.

Funding Preferences and/or Priorities

Statutory Preference

Funding preference may be given to applicant networks that include: (1) A majority of the health care providers serving in the area or region to be served by the network; (2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region; (3) outpatient mental health providers serving in the area or region; or (4) appropriate social service

providers, such as agencies on aging, school systems, and providers under the women, infant, and children program (WIC) to improve access to and coordination of health care services.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$2,500,000

Estimated Number of Awards

10–12

Group Conference Call Date: January 15, 1998
Contact: Lilly Smetana by January 5 on 301–443–0835 or by e-mail at lsmetana@hrsa.dhhs.gov
Projected Award Date: 09/30/98
Contact: 1–888–333–HRSA
Application Availability: 12/15/97
Application Deadline: 03/16/98
CFDA Number: Outreach 93.912A
Contact Person: Arlene Granderson, agranderson@hrsa.dhhs.gov

Rural Network Development Grant Program

Authorization

Public Law 104–299, the Health Centers Consolidation Act of 1996, 42 U.S.C. 254(b).

Purpose

The purpose of this program is to support the planning and development of vertically integrated health care networks in rural areas. Vertically integrated networks must be composed of three different types of providers. There must be a memorandum of agreement or other formal arrangement between members of a network. The emphasis of the program is on projects to develop the organizational capabilities of these networks. The network is a tool for overcoming the fragmentation of health care delivery services in rural areas. As such, the network provides a range of possibilities for structuring local delivery systems to meet health care needs of rural communities.

Eligibility

Rural public or nonprofit private entity that is or represents a network which includes three or more health care providers or other entities that provide or support the delivery of health care services. The administrative headquarters of the organization must be located in a rural county or in a rural census tract of an urban county, or an organization constituted exclusively to provide services to migrant and seasonal farmworkers in rural areas and supported under Section 330G of the Public Health Service Act. These organizations are eligible regardless of the urban or rural location of the administrative headquarters.

Funding Priorities and/or Preferences

Statutory Preference

Funding preference may be given to applicant networks that include: (1) A majority of the health care providers serving in the area or region to be served by the network; (2) any federally qualified health centers, rural health clinics, and local public health departments serving in the area or region; (3) outpatient mental health providers serving in the area or region; or (4) appropriate social service providers, such as agencies on aging, school systems, and providers under the women, infants, and children program (WIC) to improve access to and coordination of health care services.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$3,000,000

Estimated Number of Awards

10–15

Group Conference Call Date: January 22, 1998
Contact: Lilly Smetana by January 9 on 301–443–0835 or by e-mail at lsmetana@hrsa.dhhs.gov
Projected Award Date: 09/30/98
Contact: 1–888–333–HRSA
Application Availability: 12/15/97
Application Deadline: 03/16/98
CFDA Number: Network 93.912B
Contact Person: Jake Culp, jculp@hrsa.dhhs.gov

Maternal and Child Health Programs

Eligibility

42 CFR Part 51a.3 *

(a) With the exception of training and research, as described in paragraph (b) of this section, any public or private entity, including Indian tribe or tribal organization (as those terms are defined at 25 U.S.C. 450b) is eligible to apply for Federal funding under this Part.

(b) Only public or nonprofit private institutions of higher learning may apply for training grants. Only public or nonprofit institutions of higher learning and public or private non-profit agencies engaged in research or in programs relating to maternal and child health and/or services for children with special health care needs may apply for grants, contracts or cooperative agreements for research in maternal and child health services or in services for children with special health care needs.

Maternal and Child Health Research

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

This program encourages applied research in maternal and child health which has the potential for ready transfer of findings to health care delivery programs.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Special consideration for funding will be given in FY 1998 to projects which: (1) Seek to develop measures of racism and study its consequences for the health of mothers and children; (2) investigate the role that fathers play in caring for and nurturing the health, growth, and development of children; and (3) evaluate the impact of health care reform and managed care on access to, use of, and quality of maternal and child health services.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,900,000

Number of Expected Awards

10

Projected Award Date: September and January
Contact: 1–888–333–HRSA
Application Availability: Continuous
Application Deadline: March 1 and August 1
CFDA Number: 93.110RS
Contact Person: Gontran Lamberty, glamberty@hrsa.dhhs.gov

Genetic Services

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

This program supports genetic services demonstrations in managed care environments, with Sickle Cell children, patients and families affected by Thalassemia, genetic services networks of provider and consumers for purposes of regional coordination and dissemination, projects for people with cultural barriers to care, projects to

bring clinical genetics and new National Institutes of Health findings to primary care practitioners, and regional teratogen information services.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,572,000

Estimated Number of Awards

25

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 02/27/98
Application Deadline: 04/30/98
CFDA Number: 93.110A
Contact Person: Michele Lloyd-Puryear, mpuryear@hrsa.dhhs.gov

Children With Special Health Care Needs (CSHCN) Medical Home/Family Professional Partnership Initiative

Authorization

Title V of the State Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this competition is to expand the CSHCN Medical Home/Family Professional Partnership Initiative in the areas of: (1) Development and demonstration of innovative medical home models for serving CSHCN, (2) development and dissemination of national models for CSHCN, and (3) demonstration of strategies for monitoring and measuring community service integration for CSHCN and their families.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Priority will be given to models included in managed care settings which demonstrate expertise and capacity in providing medical homes for CSHCN, and evidence of leadership in promoting family/professional partnerships.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition
$1,600,000

Estimated Number of Awards

8

Projected Award Date: 07/98
Contact: 1–888–333–HRSA
Application Availability: 01/02/98
Application Deadline: 04/01/98
CFDA Number: 93.110F
Contact Person: Diana Denboba, ddenboba@hrsa.dhhs.gov

Managed Care for Children With Special Health Care Needs (CSHCN)

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

This competition expands the existing CSHCN managed care initiative, which implements the National Agenda for CSHCN Needs: Achieving the Goals 2000. The purpose is to design and implement: (1) Financing options for extending coverage for comprehensive specialty services for CSHCN who have health insurance with limited coverage, (2) new approaches for identifying and tracking CSHCN in managed care organizations, (3) improved systems of quality assurance within managed care organizations (4) improved systems of specialty provider network organization, and (5) other managed care practice innovations to serve CSHCN more effectively.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Preference will be given to partnerships with clearly demonstrated expertise and capacity in providing care for CSHCN and their families.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$3,250,000

Estimated Number of Awards

10

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 01/02/98
Application Deadline: 03/10/98
CFDA Number: 93.110C
Contact Person: Diane Rodill, drodill@hrsa.dhhs.gov

Children With Special Health Care Needs (CSHCN) Adolescent Transition

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

This competition will fund a cooperative agreement to support the activities of the MCHB ''Healthy and Ready to Work'', Adolescent Transition Initiative. The purpose of this agreement is to (1) provide support efforts to grantees, agencies, and organizations regarding policy initiatives related to Supplemental Security Income (SSI) recipients and adolescents with special health care needs, (2) establish and implement a dissemination and education strategy to enhance timely interactive communication, including telecommunication efforts between community leaders and policy-makers concerned with transition, employment, and other issues related to adolescents with special health care needs, and (3) expand and enhance the capacity to collect, analyze and use quantitative and qualitative data to promote independence and employment of SSI recipients and adolescents with special health care needs.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Preference will be given to entities with clearly demonstrated expertise and capacity in addressing issues related to SSI, State Systems Development Initiative (SSDI), managed care/CSHCN, and integrated services for CSHCN.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$600,000

Estimated Number of Awards

1

Projected Award Date: 07/98
Contact: 1–888–333–HRSA
Application Availability: 01/02/98
Application Deadline: 04/01/98
CFDA Number: 93.110D
Contact Person: Bonnie Strickland, bstrickland@hrsa.dhhs.gov

Sudden Infant Death Syndrome (SIDS)/Other Infant Death (OID) Program

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this program is to increase the capacity of Title V programs to design, implement and evaluate culturally competent service delivery systems for those at risk or impacted by Sudden Infant Death Syndrome and Other Infant Death.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$125,000

Estimated Number of Awards

1

Projected Award Date: 04/98
Contact: 1–888–333–HRSA
Application Availability: 12/31/97
Application Deadline: 02/27/98
CFDA Number: 93.110O
Contact Person: Paul S. Rusinko, prusinko@hrsa.dhhs.gov

Long Term Training in Nursing

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this program is to provide graduate training of nurses for leadership roles in the care of women, infants, children, and adolescents in: (a) Community/public health programs providing maternal and child health services, including those for children with special health care needs; or (b) academia.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Preference will be given to graduate programs in maternal and pediatric nursing in an accredited school of nursing.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,050,000

Estimated Number of Awards

7

Projected Award Date: 07/98
Contact: 1–888–333–HRSA
Application Availability: 01/15/98
Application Deadline: 03/16/98
CFDA Number: 93.110TE
Contact Person: Shelley Benjamin, sbenjamin@hrsa.dhhs.gov

Long Term Training in Nutrition

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

This program provides graduate training of nutrition professionals for leadership roles in public health nutrition with emphasis on maternal and child health including children with special health care needs.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

Accredited institutions with an established public health nutrition graduate program will be given preference.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$927,000

Estimated Number of Awards

7

Projected Award Date: 07/98

Contact: 1–888–333–HRSA

Application Availability: 01/15/98

Application Deadline: 03/16/98

CFDA Number: 93.110TG

Contact Person: Shelley Benjamin, sbenjamin@hrsa.dhhs.gov

Long Term Training in Leadership Education in Neurodevelopmental and Related Disabilities (LEND)

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of the Maternal and Child Health Interdisciplinary Leadership Education in Neurodevelopmental and Related Disabilities (LEND) program is to improve the health status of infants, children, and adolescents with, or at risk for, neurodevelopmental and related disabilities, including mental retardation, neurodegenerative and acquired neurological disorders, and multiple handicaps. The educational curricula emphasize the integration of services supported by States, local agencies, organizations, private providers and communities. The LEND programs will prepare health professionals to assist children and their families to achieve their developmental potentials by forging a community-based partnership of health resources and community leadership.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$8,019,000

Estimated Number of Awards

17

Projected Award Date: 07/98
Contact: 1–888–333–HRSA
Application Availability: 01/15/98
Application Deadline: 03/16/98
CFDA Number: 93.110TM
Contact Person: Shelley Benjamin, sbenjamin@hrsa.dhhs.gov

Continuing Education and Development

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this program is to support and strengthen Maternal and Child Health programs through (1) short-term, non-degree related courses, workshops, conferences, symposia, institutes, and distance learning strategies and or; (2) curricula, guidelines, standards of practice, and educational/tools strategies designed to assure quality health care for the MCH population. The goal is to improve the health status of the MCH population through enhancing the leadership capabilities and practices of professionals in MCH and related services and through modifying the systems that deliver services.

Eligibility

42 CFR Part 51a.3*

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,068,000

Estimated Number of Awards

20

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 02/27/98
Application Deadline: 07/01/98
CFDA Number: 93.110TO
Contact Person: Shelley Benjamin, sbenjamin@hrsa.dhhs.gov

Healthy Tomorrows Partnership for Children

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this program is to support projects for mothers and children that improve access to health services and utilize preventive strategies. The initiative encourages additional support from the private sector and from foundations to form community-based partnerships to coordinate health resources for pregnant women, infants and children.

Eligibility

42 CFR Part 51a.3 *

Funding Priorities and/or Preferences

In the interest of equitable geographic distribution, special consideration for funding will be given to projects from States without a currently funded project in this category. These States are: Arizona, Arkansas, Colorado, Delaware, Florida, Indiana, Iowa, Louisiana, Mississippi, Montana, Nebraska, Nevada, North Carolina, North Dakota, Oklahoma, Pennsylvania, South Dakota, Tennessee, Utah, West Virginia, and Wyoming.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$300,000

Estimated Number of Awards

6

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 01/31/98
Application Deadline: 04/30/98
CFDA Number: 93.110V
Contact Person: Latricia C. Robertson, lrobertson@hrsa.dhhs.gov

State Mortality Morbidity Review Support Program

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this program is to enable State Maternal and Child Health programs to stimulate, promote, coordinate, and sustain mortality and morbidity review programs at state and local levels in order to enhance needs assessment capacity, policy development, and quality improvement efforts. Examples of relevant processes include: child fatality review, fetal and infant mortality review, SIDS, and adverse pregnancy outcome reviews.

Eligibility

42 CFR Part a.3 *

Funding Priorities and/or Preferences

Preference will be given to State Title V programs or their designees.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$600,000

Estimated Number of Awards

4

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 12/01/97
Application Deadline: 03/31/98
CFDA Number: 93.110Y
Contact Person: Ellen Hutchins, ehutchins@hrsa.dhhs.gov

Community Integrated Service Systems To Support Health of Children in Out of Home Care

Authorization

Title V of the Social Security Act, 42 U.S.C. 701.

Purpose

The purpose of this program is to identify, analyze, and disseminate successful State and local approaches for implementing the Model Standards for Children in Foster Care as developed by the Child Welfare League of America and the American Academy of Pediatrics. The program will evaluate and determine the transferability of successful approaches in varied settings.

Eligibility

42 CFR Part 51A.3 *

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$400,000

Estimated Number of Awards

1–5

Projected Award Date: 08/98
Contact: 1–888–333–HRSA
Application Availability: 02/01/98
Application Deadline: 04/30/98
CFDA Number: 93.110Z
Contact Person: Audrey M. Yowell, ayowell@hrsa.dhhs.gov

Emergency Medical Services for Children (EMSC), Implementation Grants

Authorization

Section 1910, Public Health Service Act as Amended, 42 U.S.C. 300W–9.

Purpose

This program provides funding to improve the capacity of a State's Emergency Medical System program to address the particular needs of children. Implementation grants are used to assist States in integrating research-based knowledge and state-of-the-art systems development approaches into the existing State EMS, MCH, and CSHCN systems, using the experience and products of previous EMSC grantees.

Eligibility

Eligible applicants are States and Accredited Schools of Medicine.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$1,000,000

Estimated Number of Awards

4

Projected Award Date: 08/98
Contact: 1–888–333–HRSA
Application Availability: 01/17/98
Application Deadline: 04/13/98
CFDA Number: 93.127A
Contact Person: Jean Athey, jathey@hrsa.dhhs.gov

Emergency Medical Services for Children (EMSC), Partnership Grants

Authorization

Section 1910 of the Public Health Service Act as Amended, 42 U.S.C. 300W–9.

Purpose

This grant program supports activities that represent the next logical step or steps to take to institutionalize EMSC within EMS and to continue to improve and refine EMSC. Proposed activities should be consistent with documented needs in the State and should reflect a logical progression in enhancing pediatric capabilities; for example: to increase the involvement of families in EMSC; to improve linkages between local, regional, or State agencies; or to assure effective field triage of the child in physical or emotional crisis to appropriate facilities and/or other resources.

Eligibility

Eligible applicants are States and Accredited Schools of Medicine.

Funding Priorities and/or Preferences

None.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of this Competition

$480,000.

Estimated Number of Awards

8

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 01/17/98
Application Deadline: 04/13/98
CFDA Number: 93.127C
Contact Person: Jean Athey, jathey@hrsa.dhhs.gov

Emergency Medical Services for Children (EMSC), Targeted Issue Grants

Authorization

Section 1910 of the Public Health Service Act as Amended, 42 U.S.C. 300W–9.

Purpose

This program addresses specific, focused issues related to the development of Emergency Medical Services Children knowledge and capacity. Targeted issue priorities are based on the Emergency Medical Services Children Five Year Plan. Proposals may be submitted on emerging issues that are not included in the identified priorities, any such proposals must demonstrate relevance to the Plan.

Eligibility

Eligible applicants are States and Accredited Schools of Medicine.

Funding Priorities and/or Preferences

Targeted issues which will receive a priority include: cost-benefit analyses related to EMSC; implications of managed care for EMSC; evaluations of EMSC components; risk-taking behaviors of children and adolescent; models for improving the care of culturally distinct populations; and/or children's emergencies in disasters.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$520,000

Estimated Number of Awards

4

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 01/17/98
Application Deadline: 04/13/98
CFDA Number: 93.127D
Contact Person: Jean Athey, jathey@hrsa.dhhs.gov

Traumatic Brain Injury (TBI) State Implementation Grants

Authorization

Section 1242 of the Public Health Service Act, 42, U.S.C. 300D–52 et seq.

Purpose

The purpose of this grant program is to improve health and other services for people who have sustained a traumatic brain injury (TBI). Implementation grants provide funding to assist States in moving toward Statewide systems that assure access to comprehensive and coordinated TBI services.

Eligibility

Only State governments are eligible for funding under the TBI program demonstration grant program.

Funding Priorities and/or Preferences

None.

Matching Requirement

The State is required to contribute, in cash, not less than $1 for each $2 of Federal funds provided under the grant.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$850,000

Estimated Number of Awards

4

Projected Award Date: 08/98
Contact: 1–888–333–HRSA
Application Availability: 01/30/98
Application Deadline: 03/30/98
CFDA Number: 93.234A
Contact Person: Stuart Swayze, sswayze@hrsa.dhhs.gov

Traumatic Brain Injury (TBI) State Planning Grants

Authorization

Section 1242 of the Public Health Service Act, 42, U.S.C. 300d–52 et seq.

Purpose

The purpose of this grant program is to improve health and other services for people who have sustained a traumatic brain injury (TBI). The State planning grant program provides funds to assist States in establishing infrastructure as a prerequisite to implementation activities which will move States toward Statewide systems that assure access to comprehensive and coordinated TBI services.

Eligibility

Only State governments are eligible for funding under the TBI program demonstration grant program.

Funding Priorities and/or Preferences

None.

Matching Requirement

The State is required to contribute, in cash, not less than $1 for each $2 of Federal funds provided under the grant.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$375,000

Estimated Number of Awards

5

Projected Award Date: 08/98
Contact: 1–888–333–HRSA
Application Availability: 01/30/98
Application Deadline: 03/30/98
CFDA Number: 93.234B
Contact Person: Stuart Swayze, sswayze@hrsa.dhhs.gov

Primary Health Care Programs

Community and Migrant Health Centers

Authorization

Section 330 of the Public Health Service Act, 42 U.S.C 254b and 254b(g).

Purpose

The Community Health Center and Migrant Health Center (C/MHC) programs are designed to promote the development and operation of community-based primary health care service systems in medically underserved areas for medically underserved populations. Assuming the availability of sufficient appropriated funds in FY 1998, it is the intent of HRSA to continue to support health services in these areas, given the unmet need inherent in their provision of services to a medically underserved population. HRSA will open competition for awards under Section 330 of the PHS Act (U.S.C. 254b for CHCs and U.S.C. 254b (g) for MHCs) to support health services in the areas currently served by these grants. Eighty-two C/MHC grantees will reach the end of their project periods during FY 1998.

Estimated Amount of This Competition

$68,000,000

Estimated Number of Awards

82

CFDA Number: 93.224 Community Health Centers Program; 93.336 Migrant Health Centers Program

Deadline

Current grant expiration dates vary by area throughout FY 1998. Applications for competing continuation grants are normally due 120 days prior to the expiration of the current grant award.

Limited Competition

Applicants are limited to currently funded programs whose project periods expire in FY 1998 and new organizations proposing to serve the same populations currently being served by these existing programs.

Field Office

Communication with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding as a C/MHC. Technical assistance and detailed information about each service area, such as census tracts, can be obtained by contacting the appropriate HRSA Field Office listed.

State	City	Application deadline
HRSA Field Office I (617) 565–1482		
ME	Bethel	10/01/97
	Eastport	12/01/97
MA	Springfield	03/01/98
	Roxbury	10/01/97
NH	Berlin	03/01/98
RI	Pawtucket	09/01/97
HRSA Field Office II (212) 264–2664		
NY	Bronx	10/01/97
	Bronx	10/01/97
	Buffalo	09/01/97
PR	Rio Grande	03/01/98
HRSA Field Office III (215) 596–6122		
PA	Philadelphia	08/01/97
	Chester	10/01/97
	Hyndman	10/01/97
	Philadelphia	02/01/98
VA	Axton	10/01/97
	St. Charles	02/01/98
WV	Rainelle	08/01/97
	Grafton	02/01/98
HRSA Field Office IV (404) 331–0250		
AL	Tuscaloosa	08/01/97
	Tuscaloosa	10/01/97
	Huntsville	08/01/97
	Birmingham	10/01/97
FL	W. Palm Beach	09/01/97
	Pompano Beach	09/01/97
	Avon Park	10/01/97
	Wewahitchka	12/01/97
	St. Petersburg	02/01/98
	Jacksonville	03/01/98
GA	Morganton	08/01/97
	Decatur	09/01/97
	Columbus	03/01/98
KY	Prestonburg	10/01/97
MS	Mound Bayou	08/01/97
	Biloxi	09/01/97
	Clarksdale	02/01/98
	Lexington	03/01/98
NC	Snow Hill	08/01/97
	Yanceyville	02/01/98
SC	Greenville	10/01/97
	Eastover	10/01/97
	Rock Hill	10/01/97
	Winnsboro	10/01/97
	Fairfax	12/01/97
	McClellanville	12/01/97
TN	Wartburg	09/01/97
HRSA Field Office V (312) 353–1715		
IL	Chicago	10/01/97
	Chicago	03/01/98
MI	Sparta	09/01/97
	Detroit	10/01/97
	Detroit	02/01/98
	Pullman	12/01/97
	Detroit	03/01/98
OH	Akron	08/01/97
	Youngstown	09/01/97
WI	Milwaukee	09/01/97
	Milwaukee	10/01/97
HRSA Field Office VI (214) 767–3872		
AR	Corning	03/01/98
	Marshall	03/01/98
LA	Opelousas	03/01/98
	Greensburg	03/01/98
OK	Tulsa	12/01/97
TX	Houston	09/01/97
	Rio Grande Cy	10/01/97
	Newton	12/01/97
	Wichita Falls	03/01/98
HRSA Field Office VII (816) 426–5226		
KS	Kansas City	03/01/98
NE	Omaha	10/01/97
	Lincoln	12/01/97
HRSA Field Office VIII (303) 844–3203		
CO	Denver	09/01/97
ND	Fargo	03/01/98
SD	Rapid City	10/01/97
UT	East Carbon	03/01/98
HRSA Field Office IX (415) 437–8090		
AZ	Tucson	09/01/97
CA	Los Angeles	08/01/97
	Los Angeles	10/01/97
	Los Angeles	10/01/97
	Fresno	08/01/97
NV	Las Vegas	09/01/97
HRSA Field Office X (206) 615–2491		
OR	Klamath County	10/15/97
WA	Tacoma	02/01/98
	Pasco	02/01/98
	Bermerton	03/01/98

Public Housing Primary Care

Authorization

Section 330(i) of the Public Health Service Act, 42 U.S.C. 254d.

Purpose

This program is designed to increase access to health care and improve the health status of public housing residents by providing comprehensive primary health care services in or near public housing projects, directly or through collaborative arrangements with existing community based programs/providers. It is the intent of HRSA to continue to support health services to the public housing populations in the same areas/locations.

Deadline

Current grant expiration dates vary by area throughout FY 1998. Application for competing continuation grants are normally due 120 days prior to the expiration of the current grant award. The 15 service areas are listed with application deadline dates.

Limited Competition

Applicants are limited to currently funded programs whose project period expire in FY 1998, and new organizations proposing to serve the same populations currently being served by these existing programs.

Estimated Amount of This Competition

$6,900,000

Estimated Amount of Awards

15

CFDA Number: 93.927

Contact Person: Charles Woodson, cwoodson@hrsa.dhhs.gov

Field Office

Communications with Field Office staff is essential for interested parties in deciding whether to pursue Federal funding. Technical assistance and detailed information about each service area can be obtained by contacting the appropriate HRSA Field Office.

Existing Public Housing Service Areas

State	City	Application deadline
HRSA Field Office I (617) 565–1482		
MA	Roxbury	10/01/97
MA	Roxbury	10/01/97
MA	Worcester	02/01/98
HRSA Field Office II (212) 264–2664		
NY	Buffalo	09/01/97
NY	New York	07/01/97

State	City	Application deadline
HRSA Field Office III (215) 596–6122		
PA	Philadelphia	06/01/98
HRSA Field Office IV (404) 331–0250		
GA	Atlanta	02/01/98
GA	Marietta	06/01/98
GA	Savannah	08/01/98
TN	Rogersville	12/01/97
HRSA Field Office V (312) 353–1715		
IL	Chicago	06/01/98
OH	Cleveland	06/01/98
HRSA Field Office VI (214) 767–3872		
TX	San Antonio	10/01/97
HRSA Field Office VII (816) 426–5226		
MO	St. Louis	10/01/97
HRSA Field Office VIII (303) 844–3203		
CO	Denver	07/01/97

Grants to States for Loan Repayment Programs

Authorization

Section 338I of the Public Health Service Act, 42 U.S.C. 254Q–1.

Purpose

The purpose of these grant funds is to assist States in operating programs for the repayment of educational loans of health professionals in return for their practice in federally designated health professional shortage areas to increase the availability of primary health services in health professionals shortage areas.

Eligibility

Any State is eligible to apply for funding.

Funding Priorities and/or Preferences

None.

Matching Requirements

States seeking support must provide adequate assurance that, with respect to the costs of making loan repayments under contracts with health professionals, the State will make available (directly or through donations from public or private entities) non-Federal contributions in cash in an amount equal to not less than $1 for $1 of Federal funds provided in the grant. In determining the amount of non-Federal contributions in cash that a State has to provide, no Federal funds may be used in the State's match.

Review Criteria

The following criteria will be used to evaluate applications: (a) extent of State's need; (b) special consideration given to health professional shortage areas with large minority populations; (c) number/type of providers to be placed; (d) appropriateness of proposed placements; (e) qualifications of staff; (f) suitability of approach and degree of coordination with Federal, State and other programs; (g) source and plans for use of State match; (h) adequacy and appropriateness of proposed budget.

Estimated Amount of This Competition

$1,000,000

Estimated Number of Awards

6

Projected Award Date: 09/98
Contact: 1–888–333–HRSA
Application Availability: 02/01/98
Application Deadline: 04/01/98
CFDA Number: 93.165
Contact Person: Susan Salter, ssalter@hrsa.dhhs.gov

Grants to States for Community Scholarship Programs

Authorization

Section 338L of the Public Health Service Act, 42 U.S.C. 254T.

Purpose

The purpose of these grant funds is to assist States to increase the availability of primary health care in urban and rural Federally designated health professional shortage areas by assisting public or private non-profit community organizations to provide scholarships for education of individuals to serve as health professionals in these communities.

Eligibility

Any State is eligible to apply for funding.

Funding Priorities and/or Preferences

None.

Matching Requirements

States seeking support must agree (directly or through donations from public or private non-profit entities) that 60 percent of the total costs of the scholarships will be paid from non-Federal contributions made in cash by the State and community organization. The State must make available through cash contributions not less than 15 percent nor more than 25 percent of the costs. The community organization must make available not less than 35 percent nor more than 45 percent of the costs.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$100,000

Estimated Number of Awards

3

Project Award Date: 9/98
Contact: 1–888–333–HRSA
Application Availability: 02/01/98
Application Deadline: 05/01/98
CFDA Number: 93.931
Contact Person: Kay Cook, kcook@hrsa.dhhs.gov

Additional HRSA Programs

Telephone Symbol: Program information and application materials may be obtained by calling or contacting the specific telephone number provided.

Scholarships for Disadvantaged Students (SDS) Program

Authorization

Section 737 of the Public Health Service Act, 42 U.S.C. 293a.

Purpose

The Scholarships for Disadvantaged Students program contributes to the diversity of the health professions student and practitioner populations. The program provides funding to eligible health professions and nursing schools for scholarships to students from disadvantaged backgrounds who are enrolled, or accepted for enrollment, as full-time students.

Eligibility

Schools of allopathic medicine, osteopathic medicine, dentistry, optometry, pharmacy, podiatry, veterinary medicine, clinical psychology, public health, nursing, and allied health are eligible for awards.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$18,300,000

Estimated Number of Awards

450

Funding Priorities and/or Preferences

Special consideration is given to eligible schools that have enrollments of under-represented minorities above the national average for the discipline. Also, among nursing schools, special consideration is given to baccalaureate nursing programs.

Projected Award Date: 05/98

Contact: 1–301–443–4776
FAX: 1–301–443–0846
Application Availability: 02/17/98
Application Deadline: 04/15/98
CFDA Number: 93.925
Contact Person: Bruce Baggett, bbaggett@hrsa.dhhs.gov

Faculty Loan Repayment Program (FLRP)

Authorization

Section 738M of the Public Health Service Act, 42 U.S.C. 293b.

Purpose

The Faculty Loan Repayment Program encourages disadvantaged representation in health professions faculty positions. The program provides loan repayment of up to 20 percent of the outstanding principal and interest on an individual's educational loans, not to exceed $20,000 for each year of service, for individuals from disadvantaged backgrounds who agree to serve as members of the faculties of eligible health professions and nursing schools. The school and the Secretary pay equal amounts, unless the Secretary determines that the repayment will impose an undue financial hardship on the school, in which case the Secretary may pay up to the entire 20 percent. Each recipient of loan repayment must agree to serve as a faculty member for at least two years.

An individual is eligible to compete for participation in the FLRP if the individual is from a disadvantaged background and: (1) Has a degree in allopathic medicine, osteopathic medicine, dentistry, pharmacy, podiatric medicine, optometry, veterinary medicine, public health, clinical psychology, or nursing; or (2) is enrolled in an approved graduate training program in one of the health professions listed above; or (3) is enrolled as a full-time student in the final year of health professions training, leading to a degree from an eligible school.

The individual must be from a disadvantaged background, and must not have served as a faculty member at any school at any time over the eighteen month period prior to June 30, 1997.

Review Criteria

Final criteria are included in the application kit.

Estimated Amount of This Competition

$800,000

Estimated Number of Awards

25

Funding Priorities and/or Preferences

None.

Projected Award Date: 09/98
Contact: 1–301–443–1700
FAX: 1–301–443–0846
Application Availability: 01/02/98
Application Deadline: 06/30/98
CFDA Number: 93.923
Contact Person: Shirley Zimmerman, szimmerman@hrsa.dhhs.gov

Loan Repayment Program

Authorization

Section 846(h) of the Public Health Service Act, 42 U.S.C. 297.

Purpose

Under the Nursing Education Loan Repayment Program (NELRP), registered nurses are offered the opportunity to enter into a contractual agreement with the Secretary, under which the Public Health Service agrees to repay up to 85 percent of the nurse's indebtedness for nursing education loans. In exchange, the nurse agrees to serve for a specified period of time in certain types of health facilities identified in statute.

Eligibility

Applicants must have completed all of their training requirements for registered nursing and be licensed prior to beginning service. Individuals eligible to participate must: (a) Have received, prior to the start of service, a baccalaureate or associate degree in nursing, a diploma in nursing, or a graduate degree in nursing; (b) have unpaid educational loans obtained for nurse training; (c) be a citizen or national of the U.S.; (d) have a current unrestricted license in the State in which they intend to practice; and (e) agree to be employed for not less than two years in a full-time clinical capacity in an Indian Health Service health center; a Native Hawaiian health center, a public hospital (operated by a State, county, or local government); a health center funded under Section 330 of the Public Health Service Act (including migrant, homeless, and public housing health centers), a rural health clinic (Section 1861(aa)(2) of the Social Security Act); or a public or nonprofit private health facility determined by the Secretary to have a critical shortage of nurses.

Funding Priorities and/or Preferences

In making awards under this Section, preferences will be given to qualified applicants: (1) Who have the greatest financial need and (2) who agree to serve in the types of health facilities described above, that are located in geographic areas determined by the Secretary to have a shortage of and need for nurses.

Review Criteria

Awards are determined by formula.

Estimated Amount of Competition

$2,251,000

Estimated Number of Awards

200

Project Award Date: 09/30/98
Contact: (301) 594–4400; (301) 594–4981 (FAX) 1–800–435–6464
Application Availability: 11/01/97
Application Deadline: 08/31/98
CFDA Number: 93.908
Contact Person: Sharley Chen, 4350 East-West Highway, 10th Floor, Bethesda, Maryland 20814, schen@hrsa.dhhs.gov

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BILLING CODE 4160–15–U

federal register

Thursday
October 9, 1997

Part IV

Department of Education

Women's Educational Equity Act Program (WEEA); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.083 A and B]

Women's Educational Equity Act Program (WEEA); Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998

Purpose of Program: To promote gender equity in education; to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex and race, ethnic origin, limited English proficiency, disability or age; and to provide financial assistance to enable educational agencies to meet the requirements of title IX of the Education Amendments of 1972.

Eligible Applicants: Public agencies, private nonprofit agencies, organizations, institutions, student groups, community groups, and individuals.

Deadline for Transmittal of Applications: November 24, 1997.

Deadline for Intergovernmental Review: January 30, 1998.

Applications Available: October 15, 1997.

Estimated Available Funds: The Congress has not yet appropriated fiscal year 1998 funds for this program. At the level requested by the President, $1,570,000 would be available for new awards.

Estimated Range of Awards: Implementation Grants: $90,000–$200,000; Research and Development Grants: $80,000–$200,000.

Estimated Average Size of Awards: Implementation Grants: $150,000; Research and Development Grants: $150,000.

Estimated Number of Awards: Implementation Grants: 9; Research and Development Grants: 2.

Note: The Department is not bound by any estimates in the notice.

Project Period: Up to 48 months. Funds available under this competition would be used for the first 12 months of a project.

Applicable Regulations: The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

Supplementary Information: The Department will award two types of grants: (a) grants for the *implementation* of gender equity programs in schools; and (b) *research and development* grants to develop model equity programs. Examples of authorized activities under the program include—

Implementation Grants

(a) Assisting educational agencies and institutions to implement policies and practices to comply with title IX of the Education Amendments of 1972;

(b) Training for teachers, counselors, administrators, and other school personnel, especially preschool and elementary school personnel, in gender-equitable teaching and learning practices;

(c) Leadership training for women and girls to develop professional and marketable skills to compete in the global marketplace, improve self-esteem, and benefit from exposure to positive role models;

(d) School-to-work transition programs, guidance and counseling activities, and other programs to increase opportunities for women and girls to enter a technologically demanding workplace and, in particular, to enter highly skilled, high-paying careers in which women and girls have been underrepresented;

(e) Enhancing educational and career opportunities for those women and girls who suffer multiple forms of discrimination, based on sex and on race, ethnic origin, limited-English proficiency, disability, socioeconomic status, or age;

(f) Assisting pregnant students and students rearing children to remain in or to return to secondary school, graduate, and prepare their preschool children to start school;

(g) Evaluating exemplary model programs to assess the ability of such programs to advance educational equity for women and girls;

(h) Introduction into the classroom of textbooks, curricula, and other materials designed to achieve equity for women and girls;

(i) Programs and policies to address sexual harassment and violence against women and girls and to ensure that educational institutions are free from threats to the safety of students and personnel;

(j) Nondiscriminatory tests of aptitude and achievement and of alternative assessments that eliminate biased assessment instruments from use;

(k) Programs to increase educational opportunities, including higher education, vocational training, and other educational programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children benefits;

(l) Programs to improve representation of women in educational administration at all levels; and

(m) Planning, development, and initial implementation of—

(1) Comprehensive institution- or districtwide evaluation to assess the presence or absence of gender equity in educational settings;

(2) Comprehensive plans for implementation of equity programs in State and local educational agencies and institutions of higher education, including community colleges; and

(3) Innovative approaches to school-community partnerships for educational equity.

Research and Development Activities

(a) Research and development of innovative strategies and model training programs for teachers and other education personnel;

(b) The development of high-quality and challenging assessment instruments that are nondiscriminatory;

(c) The development and evaluation of model curricula, textbooks, software, and other educational materials to ensure the absence of gender stereotyping and bias;

(d) The development of instruments and procedures that employ new and innovative strategies to assess whether diverse educational settings are gender equitable;

(e) The development of instruments and strategies for evaluation, dissemination, and replication of promising or exemplary programs designed to assist local educational agencies in integrating gender equity in their educational policies and practices;

(f) Updating high-quality educational materials previously developed through Women's Educational Equity Act (WEEA) grants;

(g) The development of policies and programs to address and prevent sexual harassment and violence to ensure that educational institutions are free from threats to safety of students and personnel;

(h) The development and improvement of programs and activities to increase opportunity for women, including continuing educational activities, vocational education, and programs for low-income women, including underemployed and unemployed women, and women receiving Aid to Families with Dependent Children; and

(i) The development of guidance and counseling activities, including career education programs, designed to ensure gender equity.

Selection Criteria for Implementation Grants: The Secretary evaluates applications for implementation grants on the basis of the following criteria. The maximum possible score for each

criterion is indicated in parentheses with the criterion. The Secretary awards up to 100 points for all of the criteria.

(a) *Effectively Achieving the Purposes of WEEA.* (20 points)

Under 34 CFR 75.209 and 20 U.S.C 7235(a), the Secretary reviews each application to determine how well the project will effectively achieve the purposes of the WEEA Program.

Note: Applicants should consider the following statutory provisions in responding to this criterion. Under 20 U.S.C. 7232, the purpose of the WEEA program is: (1) to promote gender equity in education in the United States; (2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and (3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency, disability, or age.

(b) *Project as a component of a comprehensive plan.* (5 points)

Under 34 CFR 75.209 and 20 U.S.C. 7235(a)(2)(C), the Secretary reviews each application to determine the extent to which the project is a significant component of a comprehensive plan for educational equity and compliance with title IX of the Educational Amendments of 1972 in the particular school district, institution of higher education, vocational-technical institution, or other educational agency or institution.

(c) *Implementing an institutional change strategy.* (5 points)

Under 34 CFR 75.209 and 20 U.S.C. 7235(a)(2)(D), the Secretary reviews each application to determine the extent to which the project implements an institutional change strategy with long-term impact that will continue as a central activity of the applicant after the WEEA grant has been terminated.

(d) *Need for project.* (10 points)

Under 34 CFR 75.210, the Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(1) The magnitude of the need for the services to be provided or the activities to be carried out by the proposed project.

(2) The extent to which the proposed project will enhance educational and career opportunities for those women and girls who suffer forms of discrimination, based on sex and race, ethnic origin, limited English-proficiency, disability, socioeconomic status or age.

(e) *Significance.* (5 points)

Under 34 CFR 75.210, the Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(2) The extent to which the proposed project is likely to build local capacity to provide, improve, or expand services that address the needs of the target population.

(3) The likely utility of the products (such as information, materials, processes, or techniques) that will result from the proposed project, including the potential for their being used effectively in a variety of other settings.

(4) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in employment, independent living, or both, as appropriate.

(f) *Quality of the project design.* (15 points)

Under 34 CFR 75.210, the Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(3) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(g) *Quality of project services* (10 points)

Under 34 CFR 75.210, the Secretary considers the quality of the services to be provided by the proposed project. In determining the quality of the services to be provided by the proposed project, the Secretary considers the quality and sufficiency of strategies for ensuring equal access and treatment for eligible project participants who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The likely impact of the services to be provided by the proposed project on the intended recipients of those services.

(2) The extent to which the services to be provided by the proposed project are appropriate to the needs of the intended recipients or benenficiaries of those services.

(h) Quality of Project Personnel). (5 points)

Under 34 CFR 75.210, the Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director or principal investigator.

(2) The qualifications, including relevant training and experience, of key project personnel.

(3) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(i) *Adequacy of resources.* (5 points)

Under 34 CFR 75.210, the Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(2) The extent to which the budget is adequate to support the proposed project.

(j) *Quality of the management plan.* (10 points)

Under 34 CFR 75.210, the Secretary considers the quality of the management plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(3) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a

variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(k) *Quality of the project evaluation.* (10 points)

Under 34 CFR 75.210, the Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation are appropriate to the context within which the project operates.

(3) The extent to which the methods of evaluation provide for examining the effectiveness of project implementation strategies.

(4) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(5) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Note: Applicants should consider the following statutory provision in responding to this criterion. Under 20 U.S.C. 7234(1), applicants for WEEA funds are required to set forth policies and procedures that will ensure a comprehensive evaluation of the grant activities, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period.

Priority for Implementation Grants: Under 34 CFR 75.105 (b) and (c), the Secretary gives a competitive preference to applications that meet the following priority found in 20 U.S.C. 7235(b) by awarding bonus points depending on how well the applicant meets the priority:

Projects submitted by applicants that have not received assistance under the WEEA Program (5 points).

Selection Criteria for Research and Development Grants: The Secretary evaluates applications for research and development grants on the basis of the following criteria. The maximum possible score for each criterion is indicated in parentheses with the criterion. The Secretary awards up to 100 points for all of the criteria.

(a) *Effectively Achieving the Purposes of WEEA.* (20 points)

Under 34 CFR 75.209 and 20 U.S.C. 7235(a), the Secretary reviews each application to determine how well the project will effectively achieve the purposes of the WEEA Program.

Note: Applicants should consider the following statutory provisions in responding to this criterion. Under 20 U.S.C. 7232, the purpose of the WEEA program is: (1) to promote gender equity in education in the United States; (2) to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Educational Amendments of 1972; and (3) to promote equity in education for women and girls who suffer from multiple forms of discrimination based on sex, race, ethnic origin, limited-English proficiency,disability, or age.

(b) *Addressing multiple discrimination.* (5 points)

Under 34 CFR 75.209 and 20 U.S.C. 7235(a)(2)(A), the Secretary reviews each application to determine the quality of the applicant's plan for addressing the needs of women and girls of color and women and girls with disabilities.

(c) *Need for project.* (10 points)

Under 34 CFR 75.210, the Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(1) The magnitude or severity of the problem to be addressed by the proposed project.

(2) The extent to which specific gaps or weaknesses in services, infrastructure, or opportunities have been identified and will be addressed by the proposed project, including the nature and magnitude of those gaps or weaknesses.

(d) *Significance.* (10 points)

Under 34 CFR 75.210, the Secretary considers the significance of the proposed project. In determining the significance of the proposed project, the Secretary considers the following factors:

(1) The national significance of the proposed project.

(2) The potential contribution of the proposed project to increased knowledge or understanding of educational problems, issues, or effective strategies.

(3) The extent to which the proposed project involves the development or demonstration of promising new strategies that build on, or are alternatives to, existing strategies.

(4) The importance or magnitude of the results or outcomes likely to be attained by the proposed project, especially improvements in teaching and student achievement.

(e) *Quality of the project design.* (20 points)

Under 34 CFR 75.210, the Secretary considers the quality of the design of the proposed project. In determining the quality of the design of the proposed project, the Secretary considers the following factors:

(1) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(2) The extent to which the design of the proposed project is appropriate to, and will successfully address, the needs of the target population or other identified needs.

(3) The quality of the proposed demonstration design and procedures for documenting project activities and results.

(4) The extent to which the design of the proposed project reflects up-to-date knowledge from research and effective practice.

(5) The quality of methodology to be employed in the proposed project.

(f) *Quality of Project Personnel.* (10 points)

Under 34 CFR 75.210, the Secretary considers the quality of the personnel who will carry out the proposed project. In determining the quality of project personnel, the Secretary considers the extent to which the applicant encourages applications for employment from persons who are members of groups that have traditionally been underrepresented based on race, color, national origin, gender, age, or disability. In addition, the Secretary considers the following factors:

(1) The qualifications, including relevant training and experience, of the project director or principal investigator.

(2) The qualifications, including relevant training and experience, of key project personnel.

(3) The qualifications, including relevant training and experience, of project consultants or subcontractors.

(g) *Adequacy of resources.* (5 points)

Under 34 CFR 75.210, the Secretary considers the adequacy of resources for the proposed project. In determining the adequacy of resources for the proposed project, the Secretary considers the following factors:

(1) The adequacy of support, including facilities, equipment, supplies, and other resources, from the applicant organization or the lead applicant organization.

(2) The extent to which the budget is adequate to support the proposed project.

(h) *Quality of the management plan.* (10 points)

Under 34 CFR 75.210, the Secretary considers the quality of the management

plan for the proposed project. In determining the quality of the management plan for the proposed project, the Secretary considers the following factors:

(1) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, time lines, and milestones for accomplishing project tasks.

(2) The extent to which the time commitments of the project director and principal investigator and other key project personnel are appropriate and adequate to meet the objectives of the proposed project.

(3) How the applicant will ensure that a diversity of perspectives are brought to bear in the operation of the proposed project, including those of parents, teachers, the business community, a variety of disciplinary and professional fields, recipients or beneficiaries of services, or others, as appropriate.

(i) *Quality of the project evaluation.* (10 points)

Under 34 CFR 75.210, the Secretary considers the quality of the evaluation to be conducted of the proposed project. In determining the quality of the evaluation, the Secretary considers the following factors:

(1) The extent to which the methods of evaluation are thorough, feasible, and appropriate to the goals, objectives, and outcomes of the proposed project.

(2) The extent to which the methods of evaluation include the use of objective performance measures that are clearly related to the intended outcomes of the project and will produce quantitative and qualitative data to the extent possible.

(3) The extent to which the methods of evaluation will provide performance feedback and permit periodic assessment of progress toward achieving intended outcomes.

Note: Applicants should consider the following statutory provision in responding to this criterion. Under 20 U.S.C. 7234(1), applicants for WEEA funds are required to set forth policies and procedures that will ensure a comprehensive evaluation of the grant activities, including an evaluation of the practices, policies, and materials used by the applicant and an evaluation or estimate of the continued significance of the work of the project following completion of the award period.

Priority for Research and Development Grants: Under 34 CFR 75.105 (b) and (c), the Secretary gives a competitive preference to applications that meet the following priority found in 20 U.S.C. 7235(b) by awarding bonus points depending on the extent to which the applicant meets the priority:

Projects submitted by applicants that have not received assistance under the WEEA Program (5 points).

For Applications or Information Contact: Beth Baggett, U.S. Department of Education, 600 Independence Avenue, SW, Portals Room 4500, Washington, D.C. 20202–6140. Telephone (202) 260–2502. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8 a.m. and 8 p.m., Eastern time, Monday through Friday.

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

Individuals with disabilities may obtain a copy of the application package in an alternate format, also, by contacting that person. However, the Department is not able to reproduce in an alternate format the standard forms included in the application package.

Note: The official application notice for a discretionary grant competition is the notice published in the **Federal Register**.

Electronic Access to this Document: Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites: http://ocfo.ed.gov/fedreg.htm or http://ww.edgov/news.html. To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the previous sites. If you have questions about using the pdf, call the U.S. Government Printing office toll free at 1–888–293–6498.

Program Authority: 20 U.S.C. 7231–7238.

Dated: October 3, 1997.

Gerald N. Tirozzi,

Assistant Secretary for Elementary and Secondary Education.

[FR Doc. 97–26716 Filed 10–8–97; 8:45 am]

BILLING CODE 4000–01–P

federal register

Thursday
October 9, 1997

Part V

Environmental Protection Agency

40 CFR Part 132

Revocation of the Polychlorinated Biphenyl Human Health Criteria in the Water Quality Guidance for the Great Lakes System; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 132

[FRL–5907–4]

RIN 2040–AC08

Revocation of the Polychlorinated Biphenyl Human Health Criteria in the Water Quality Guidance for the Great Lakes System

AGENCY: Environmental Protection Agency (EPA).

ACTION: Partial revocation of final rule.

SUMMARY: As a result of the recent decision in *AISI* v. *EPA*, D.C. Cir. No. 95–1448 (decided June 6, 1997), EPA is today removing the human health criteria for polychlorinated biphenyls (PCBs) promulgated for the final Water Quality Guidance for the Great Lakes System (Guidance) in March 1997. EPA plans to propose replacement criteria in 1998. In the interim, EPA has calculated a Tier I value for PCBs for human health of 2.6 E–5 micrograms per liter (ug/L) for both drinking water and nondrinking water uses. EPA is recommending that States and Tribes either adopt a human health criterion for PCBs that is no less stringent than this value or use their Guidance based Tier I methodologies for human health, together with appropriate data, to derive an ambient value to be used in setting permit limits. EPA anticipates these Tier I values to be no less stringent than EPA's interim value of 2.6 E–5 ug/L (unless site-specific data are used). EPA is not removing the wildlife criterion for PCBs of 1.2 E–4 ug/L promulgated in March of 1997. EPA expects States and Tribes to adopt and submit PCB wildlife criteria consistent with this criterion.

EFFECTIVE DATE: October 9, 1997.

ADDRESSES: The public docket for this and earlier rulemakings concerning the Water Quality Guidance for the Great Lakes System, including the proposal, public comments in response to the proposal, other major supporting documents, and the index to the docket are available for inspection and copying at U.S. EPA Region 5, 77 West Jackson Blvd., Chicago, IL 60604 by appointment only. Appointments may be made by calling Mary Willis Jackson (telephone 312–886–3717).

FOR FURTHER INFORMATION CONTACT: Mark Morris (4301), U.S. EPA, 401 M Street, SW, Washington, D.C. 20460 (202–260–0312).

SUPPLEMENTARY INFORMATION:

I. Discussion

A. Potentially Affected Entities

Entities potentially affected by today's action are those discharging pollutants to waters of the United States in the Great Lakes System. Potentially affected categories and entities include:

Category	Examples of potentially affected entities
Industry	Industries discharging PCBs to waters in the Great Lakes System as defined in 40 CFR 132.2
Municipalities	Publicly-owned treatment works discharging PCBs to waters of the Great Lakes System as defined in 40 CFR 132.2

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this final rule. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be regulated. To determine whether your facility may be affected by this final rule, you should examine the definition of ''Great Lakes System'' in 40 CFR 132.2 and examine 40 CFR 132.2 which describes the purpose of water quality standards such as those established in this rule. If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. Overview

As a result of the recent decision in *AISI* v. *EPA*, D.C. Cir. No. 95–1448 (decided June 6, 1997), EPA is today removing the human health criteria for polychlorinated biphenyls (PCBs) promulgated for the final Water Quality Guidance for the Great Lake System (Guidance) in March 1997. EPA plans to propose replacement criteria in 1998. In the interim, EPA has calculated Tier I values for PCBs for human health of 2.6 E–5 micrograms per liter (ug/L) for both drinking water and nondrinking water uses. EPA is recommending that States and Tribes either adopt a human health criterion for PCBs that is no less stringent than this value or use their Guidance based Tier I methodologies for human health, together with appropriate data, to derive an ambient value to be used in setting permit limits. EPA anticipates these Tier I values to be no less stringent than EPA's interim value of 2.6 E–5 ug/L (unless site-specific data are used). EPA is not removing the wildlife criterion for PCBs of 1.2 E–4 ug/L promulgated in March of 1997. EPA expects States and Tribes to adopt and submit PCB wildlife criteria consistent with this criterion.

C. Background

In March 1995 (60 FR 15366–15425, March 23, 1995), EPA promulgated the final Water Quality Guidance for the Great Lakes System (the Guidance) required under section 118(c)(2) of the Clean Water Act, 42 U.S.C. 1268(c)(2). The Guidance included ambient water quality criteria setting maximum ambient concentrations for pollutants to be met in all waters of the Great Lakes Basin (unless site-specific criteria are derived and approved). States and Tribes were required to adopt regulations consistent with EPA's Guidance criteria and implementation procedures by March 23, 1997. Once the criteria take effect, permits for discharges of the pollutants they cover must include limits needed to attain the criteria.

EPA promulgated human health and wildlife criteria for a class of closely related toxic chemicals known as PCBs. Various industries and trade associations challenged the human health and wildlife criteria for PCBs. They alleged that EPA had improperly computed a ''composite'' bioaccumulation factor (BAF) for the class of PCBs. The BAF played a role in the derivation of both the human health and wildlife criteria. They also alleged that EPA used an inappropriate cancer potency factor of 7.7 milligrams per kilogram per day ((mg/kg)/d) in deriving the human health criteria.

EPA decided in the summer of 1996 that it wished to revise its method for calculating composite BAFs for the two types of criteria. It requested the U.S. Court of Appeals for the District of Columbia Circuit to remand the human health and wildlife criteria for further rulemaking related to this issue. The Court granted the motion, and EPA proposed a new approach for calculating composite BAFs on October 22, 1996. (61 FR 54748). In March 1997, EPA promulgated its revised mathematical method for deriving composite BAFs for PCBs. (62 FR 11724, March 12, 1997). EPA also promulgated revised human health and wildlife criteria for Tables 3 and 4 of 40 CFR part 132 that were based on the new mathematical approach. See 62 FR 11731.

Also in 1996, EPA announced in a guidance document that it would approve PCB criteria for human health submitted by States or Tribes that used a revised, Agency-approved cancer

potency factor of 2 (mg/kg)/d. It explained that it would consider such criteria to be ''consistent with'' the final Guidance. See Questions and Answers on Implementing the Great Lakes Guidance, March 20, 1996.

At oral argument in the *AISI* litigation EPA told the Court that it planned to propose new human health criteria for PCBs that would utilize the new cancer potency factor of 2 (mg/kg)/d. When the Court issued its opinion on June 6, 1997, it vacated the March 1995 criteria for human health and wildlife, citing the decisions to replace the mathematical method for composite BAFs and the cancer potency factor.

D. Decision To Remove Human Health Criteria

EPA believes that the Court's decision did not affect the March 1997 human health criteria incorporating the revised mathematical approach to deriving composite BAFs. No challenge to those criteria were before the Court, so it did not have jurisdiction to vacate or remand them. EPA, however, acknowledges that it did not use the revised cancer potency factor of 2 (mg/kg)/d in deriving the March 1997 human health criteria. Because the issue vacated by the Court clearly overlaps with the scope of the 1997 rule, EPA has decided to withdraw the March 1997 human health criteria for PCBs.

EPA still intends to propose revised human health criteria using both the new potency factor and the new mathematical approach. It currently anticipates signing this proposal in March of 1998.

E. Consequences of Today's Action

As a result of today's action, States and Tribes need not adopt or submit to EPA for review human health criteria for PCBs for waters of the Great Lakes Basin. EPA, however, recommends that States and Tribes adopt a human health criterion for PCBs based on the revised BAFs and the revised cancer potency factor of 2 (mg/kg)/d. EPA has calculated a revised value of 2.6 E–5 ug/L for both drinking and nondrinking water uses. States and Tribes that chose not to adopt criteria must, at a minimum, provide protection of human health from risk of exposure to PCBs on a permit-by-permit basis using their Guidance based Tier I methodologies for human health criteria and best available data. EPA anticipates these Tier I values to be no less stringent than 2.6 E–5 ug/L (unless site-specific factors are used).

EPA does not intend to withdraw the March 1997, PCB criterion for wildlife of 1.2 E–4 ug/L. That rule replaced the challenged mathematical approach to deriving composite BAFs. The cancer potency factor at issue in the *AISI* litigation is an estimate of human health impacts. It played no role in the development of either the 1995 or 1997 wildlife criteria. There is no need to conduct further rulemaking to incorporate that potency factor into the wildlife criterion. States and Tribes must submit wildlife criteria for PCBs that are consistent with the March 1997 criterion.

II. ''Good Cause'' Under the Administrative Procedure Act

EPA has determined that it has ''good cause'' under section 553(b)(3) of the Administrative Procedure Act, 5 U.S.C. 553(b)(3), to promulgate this final rule without prior opportunity for notice and comment. EPA finds it ''unnecessary'' to provide an opportunity to comment on the strictly legal issue of the impact of the *AISI* decision on the March 1997 PCB criteria.

Moreover, all interested members of the public had an opportunity to comment on the revised method for computing composite BAFs when EPA proposed them in October of 1996. The public will have a new opportunity to comment on that method when EPA issues its new proposal for human health criteria for PCBs in the Great Lakes System. The public will also have an opportunity to comment on the cancer potency factor at that time.

EPA also believes the public interest is best served by reacting as quickly as possible to the Court's decision. For this reason, EPA has also determined that it has ''good cause'' under 5 U.S.C. 553(d) to make the rule effective upon publication.

III. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether the regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

Pursuant to the terms of Executive Order 12866, it has been determined that this final rule is not a ''significant regulatory action'' and is therefore not subject to OMB review.

IV. 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).

V. Regulatory Flexibility Act as Amended by the Small Business Regulatory Enforcement Fairness Act of 1996

Under the Regulatory Flexibility Act (RFA) (5 U.S.C. 601 et. seq.), whenever a Federal agency promulgates a final rule after being required to publish a general notice of proposed rulemaking under section 553 of the Administrative Procedures Act (APA), the agency generally must prepare a final regulatory flexibility analysis describing the economic impact of the regulatory action on small entities. EPA has not prepared a final regulatory flexibility analysis for this action because the Agency was not required to publish a general notice of proposed rulemaking for this rule.

As explained above, section 553 of the APA provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary and contrary to the public interest, an agency may first issue a rule without providing notice and an opportunity for public comment. EPA has determined that there is good cause for making today's rule final without notice and opportunity for comment for the reasons spelled out above. In these circumstances, the RFA does not require preparation of a final regulatory flexibility analysis. Today's final rule establishes no requirements applicable to small entities.

VI. Unfunded Mandates Reform Act

This action will not result in the annual expenditures of $100 million or more for State, local, and Tribal

governments, in the aggregate, or to the private sector, and is not a Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) (P.L. 104–4), nor does it uniquely affect small governments in any way. As such, the requirements of sections 202, 203, and 205 of Title II of the UMRA do not apply to this action.

VII. Paperwork Reduction Act

There are no information collection requirements in this final rule and therefore there is no need to obtain OMB approval under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*

List of Subjects in 40 CFR Part 132

Environmental protection, Administrative practice and procedure, Great Lakes, Indians-lands, Intergovernmental relations, Reporting and recordkeeping requirements, Water pollution control.

Dated: October 2, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I of the Code of Federal Regulations is to be amended as follows:

PART 132—WATER QUALITY GUIDANCE FOR THE GREAT LAKES SYSTEM

1. The authority citation for part 132 continues to read as follows:

Authority: 33 U.S.C. 1251 *et seq.*

PART 132—[AMENDED]

2. Table 3 to part 132 is amended by removing the entry for PCBs (class).

[FR Doc. 97–26864 Filed 10–8–97; 8:45 am]

BILLING CODE 6560–50–P

federal register

Thursday
October 9, 1997

Part VI

Environmental Protection Agency

40 CFR Part 131

Withdrawal From Federal Regulations of Arsenic Human Health Water Quality Criteria Applicable to Idaho; Final Rule

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 131

[FRL–5903–4]

Withdrawal From Federal Regulations of Arsenic Human Health Water Quality Criteria Applicable to Idaho

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule amends the federal regulations by withdrawing the federal human health water quality criteria for arsenic applicable to Idaho. Idaho adopted human health criteria for arsenic and EPA subsequently approved those criteria. On November 29, 1996, EPA published a proposed rule and provided an opportunity for public comment on the withdrawal of the federal criteria for arsenic. EPA received one comment, which supported the withdrawal action.

EFFECTIVE DATE: November 10, 1997.

ADDRESSES: The administrative record for this action is available for review and copying at the U.S. EPA Region 10, Office of Water, 1200 Sixth Avenue, Seattle, Washington 98101, between 8:00 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Fred Leutner at EPA Headquarters, Office of Water, 401 M Street, SW, Washington, D.C. 20460 (202–260–1542) or Lisa Macchio in EPA's Region 10 at 206–553–1834.

SUPPLEMENTARY INFORMATION:

A. Potentially Affected Entities.
B. Background.
C. Executive Order 12866.
D. Unfunded Mandates Reform Act.
E. Regulatory Flexibility Act.
F. Paperwork Reduction Act.
G. Submission to Congress and the General Accounting Office.

A. Potentially Affected Entities

Citizens concerned with water quality in Idaho may be interested in this rulemaking. Entities discharging pollutants to waters of the United States in Idaho could be affected by this rulemaking since human health criteria are used in determining national pollutant discharge elimination system (NPDES) permit limits. Categories and entities which may ultimately be affected include:

Category	Examples of potentially affected entities
Industry	Industries discharging pollutants to surface waters in Idaho.
Municipalities	Publicly-owned treatment works discharging pollutants to surface waters in Idaho.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also potentially be affected by this action. To determine whether your facility is affected by this action, you should carefully examine the applicability criteria in § 131.36 of Title 40 of the Code of Federal Regulations (CFR). If you have any questions regarding the applicability of this action to a particular entity, consult the person listed in **FOR FURTHER INFORMATION CONTACT** section.

B. Background

In l992, EPA promulgated a final rule (known as the National Toxics Rule) to establish numeric water quality criteria for 12 States and 2 Territories (hereafter ''States'') that had failed to comply fully with section 303(c)(2)(C) of the Clean Water Act (57 FR 60848). The criteria, codified at 40 CFR 131.36, became the applicable water quality standards in those 14 jurisdictions for all purposes and programs under the Clean Water Act effective February 5, l993.

When a State adopts criteria that meet the requirements of the Clean Water Act, EPA withdraws its criteria. If the State's criteria are no less stringent than the federal regulations, EPA will withdraw its criteria without notice and comment rulemaking since additional comment on the criteria is unnecessary. If a State's criteria are less stringent than the federal regulations, EPA will withdraw its criteria only after notice and opportunity for public comment on that decision (see 57 FR 60860).

On August 24, 1994, Idaho adopted revisions to its surface water quality standards (Title 1, Chapter 2, section 250 of the Idaho Administrative Code), regarding surface water quality criteria for toxic pollutants. For all pollutants except arsenic, Idaho adopted by reference EPA's criteria. EPA Region 10 approved Idaho's criteria and recommended to the Administrator that she withdraw the federal human health criteria applicable to Idaho. In a separate final action published in the **Federal Register** on November 29, 1996, EPA withdrew without public comment those human health criteria applicable to Idaho for which the State has adopted criteria identical to the federal criteria (see 61 FR 60616).

Idaho adopted human health criteria for arsenic (0.020 µg/l for the consumption of water and organisms and 6.2 µg/l for the consumption of organisms); these criteria are less stringent than the federal regulations (0.018 µg/l for the consumption of water and organisms and 0.14 µg/l for the consumption of organisms). Idaho's criteria for arsenic differ from the federal criteria because the State used a bioconcentration factor (BCF) to derive its criteria that is different from the BCF used by EPA. Idaho selected a BCF that the State believes more accurately reflects the species of fish present in State's surface waters. EPA had indicated in the preamble to the National Toxic Rule that states may select fish species in developing BCF values that would better reflect species found in State waters (see 57 FR 60888). Having reviewed Idaho's submission, EPA concluded that the State's choice of a BCF to calculate the arsenic criteria was appropriate and the State's arsenic criteria met the requirements of the Clean Water Act.

Because the State's arsenic criteria are less stringent than the federal criteria, EPA proposed to withdraw the human health criteria for arsenic applicable to Idaho and solicited public comment on that proposal (61 FR 60672; November 29, 1996). EPA received one comment on the proposed rule. The commenter agreed with the appropriateness of Idaho's ambient water quality criteria for arsenic for the protection of human health.

C. Executive Order 12866

Under Executive Order 12866 (58 FR 51735, October 4, 1993), EPA must determine whether a regulatory action is ''significant'' and therefore subject to Office of Management and Budget (OMB) review and the requirements of the Executive Order. The Order defines a ''significant regulatory action'' as one that is likely to result in a rule that may:

(1) Have an annual effect on the economy of $100 million or more or adversely affect in a material way the economy, a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities;

(2) Create a serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impact of entitlements, grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.

This withdrawal of the arsenic human health criteria imposes no additional regulatory requirements. Therefore, it has been determined that this rule is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is not subject to OMB review.

D. Unfunded Mandates Reform Act

This action will not result in the annual expenditure of $100 million or more for State, local, and tribal governments, in the aggregate, or to the private sector, and is not a Federal mandate, as defined by the Unfunded Mandates Reform Act of 1995 (UMRA) (P.L. 104–4), nor does it uniquely affect small governments in any way. As such, the requirements of sections 202, 203, and 205 of Title II of the UMRA do not apply to this action.

E. Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA) (5 USC 601 *et seq.*), whenever a federal agency is required to publish a general notice of rulemaking or promulgates a final rule, the agency is generally required to prepare an analysis describing the economic impact of the regulatory action on small entities. However, under section 605(b) of the RFA, if the head of the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities, the agency is not required to prepare an RFA analysis. Today's final rule establishes no requirements applicable to small entities, and so is not susceptible to a regulatory flexibility analysis.

This rule amends the National Toxics Rule (NTR), codified at 40 CFR 131.36, which promulgated federal water quality criteria to bring several states into compliance with Clean Water Act requirements. The NTR did not itself establish any requirements that are applicable to small entities. The NTR criteria are implemented through various state water quality control programs, including the NPDES permit program that limits the discharge of contaminants into navigable waters. The NPDES permit process is implemented by an authorized State, or absent an approved state program, by EPA (the permit authority). Authorized states and EPA have considerable discretion in carrying out the permit program to meet water quality standards. Accordingly, while a permitting authority's implementation of federally-promulgated water quality criteria may ultimately affect small entities by changing their permit limits, the criteria themselves do not apply to any discharger, including small entities.

Since the NTR, as explained above, does not itself establish any requirements that are applicable to small entities, certainly withdrawing federal water quality criteria from the NTR would not establish any requirements applicable to small entities. Moreover, even if the State criteria that replace the federal criteria are more stringent than the federal criteria, the State criteria themselves would not affect small entities. As explained previously, the permit authority implements the criteria through its permitting program where it will have a number of discretionary choices in developing permit limits.

For these reasons, the Administrator is certifying that this rule will not have a significant impact on a substantial number of small entities. Therefore the Agency has not prepared a regulatory flexibility analysis.

F. Paperwork Reduction Act

This final rule does not impose any requirement subject to the Paperwork Reduction Act.

G. 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 131

Environmental protection, Water pollution control, Water quality standards.

Dated: October 2, 1997.

Carol M. Browner,

Administrator.

For the reasons set out in the preamble, title 40, chapter I, part 131 of the Code of Federal Regulations is amended as follows:

PART 131—WATER QUALITY STANDARDS

1. The authority citation for part 131 continues to read as follows:

Authority: 33 U.S.C. 1251 et seq.

§ 131.36 [Amended]

2. Section 131.36(d)(13)(i) is amended by removing the following uses classifications: ''16.01.2100.01.b. Domestic Water Supplies'', ''16.01.2100.03.a. Primary Contact Recreation'', and ''16.01.2100.03.b. Secondary Contact Recreation''.

3. Section 131.36(d)(13)(ii) is amended by removing the following use classifications and corresponding applicable criteria: ''01.b'', ''03.a'', ''03.b.''.

4. Section 131.36(d)(13)(ii) is amended in ''02.a'', ''02.b.'', ''02.cc'' use classification, under the listing of applicable criteria, by removing ''Column D2''.

5. Section 131.36(d)(13)(iii) is removed in its entirety.

[FR Doc. 97–26862 Filed 10–8–97; 8:45 am]

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