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CFR PARTS AFFECTED IN THIS ISSUE

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Presidential Documents

Title 3—

The President

Executive Order 13064 of October 11, 1997

Further Amendment to Executive Order 13010, as Amended, Critical Infrastructure Protection

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to provide for the review of the report by the President's Commission on Critical Infrastructure Protection, it is hereby ordered that Executive Order 13010, as amended, is further amended as follows:

Section 1. Section 5(a), as amended, shall be further amended by deleting ''15'' and inserting ''20'' in lieu thereof and by deleting ''sector'' and inserting ''and public sectors'' in lieu thereof. Section 5(b) shall be amended by inserting ''or Co-Chairs'' after ''Chair''.

Sec. 2. Section 6(f), as amended, shall be further amended by deleting '', the Principals Committee, the Steering Committee, and the Advisory Committee'' and by inserting a second sentence, which shall read: ''The Principals Committee, the Steering Committee, and the Advisory Committee shall terminate no later than March 15, 1998, and, upon submission of the Commission's report, shall review the report and prepare appropriate recommendations to the President.'' Section 6, as amended, shall be further amended by inserting the following:

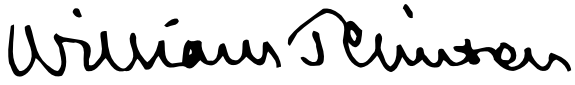
''(g) The person who served as Chair of the Commission may continue to be a member of the Steering Committee after termination of the Commission.''

Sec. 3. A new section 7 shall be inserted, which reads:

''**Sec. 7.** *Review of Commission's Report.* (a) Upon the termination of the Commission as set out in section 6(f) of this order, certain of the Commission's staff may be retained no later than March 15, 1998, solely to assist the Principals, Steering, and Advisory Committees in reviewing the Commission's report and preparing recommendations to the President. They shall act under the direction of the Steering Committee or its designated agent. The Department of Defense shall continue to provide funding and administrative support for the retained Commission staff.

(b) Pursuant to Executive Order 12958, I hereby designate the Executive Secretary of the National Security Council to exercise the authority to classify information originally as ''Top Secret'' with respect to the work of the Commission staff, the Principals Committee, the Steering Committee, the Advisory Committee, and the Infrastructure Protection Task Force.''

Sec. 4. Sections 7 and 8 of Executive Order 13010, as amended, shall be renumbered sections 8 and 9, respectively.



THE WHITE HOUSE,
October 11, 1997.

[FR Doc. 97–27644
Filed 10–15–97; 8:45 am]
Billing code 3195–01–P

Rules and Regulations

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DEPARTMENT OF THE INTERIOR

5 CFR Chapter XXV

43 CFR Part 20

RINs 1090–AA38, 3209–AA15

Supplemental Standards of Ethical Conduct for Employees of the Department of the Interior

AGENCY: Department of the Interior (Department).

ACTION: Interim rule, with request for comments.

SUMMARY: The Department of the Interior, with the concurrence of the Office of Government Ethics (OGE), is issuing an interim rule for the employees of the Department that supplements the Standards of Ethical Conduct for Employees of the Executive Branch issued by OGE. This interim rule is a necessary supplement to the Standards because it addresses ethical issues unique to the Department. The interim rule designates separate agency components for purposes of identifying prohibited sources of gifts and applying the restrictions on compensated outside teaching, speaking and writing that relate to an employee's official duties; provides cross-references to certain statutory prohibitions against the holding by some Department employees of certain financial and other interests, and regulations implementing those prohibitions; prohibits certain financial interests and outside employment; and requires employees to obtain prior approval for certain outside employment. The Department is also revising its employee responsibilities and conduct regulations by adding a cross-reference to ethics and other conduct-related regulations, removing superseded or redundant provisions, and redesignating the provisions remaining in the regulation.

DATES: This rule is effective on October 16, 1997. Comments on the interim rule must be received on or before December 15, 1997.

ADDRESSES: Send comments to the Department Ethics Office, Department of the Interior, 1849 C Street, NW., Room 5013, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Gabe Paone or Mason Tsai, Department Ethics Office, 202–208–5916; Internet E-mail address: mason__tsai@ios.doi.gov.

SUPPLEMENTARY INFORMATION:

I. Background

On August 7, 1992, the Office of Government Ethics published the Standards of Ethical Conduct for Employees of the Executive Branch (Standards). See 57 FR 35006–35067, as corrected at 57 FR 48557, 57 FR 52583, and 60 FR 51667, and amended at 61 FR 42965–42970 (as corrected at 61 FR 48733), 61 FR 50689–50691 (interim rule revisions adopted as final at 62 FR 12531), and 62 FR 48746–48748, with additional grace period extensions at 59 FR 4779–4780, 60 FR 6390–6391, 60 FR 66857–66858, and 61 FR 40950–40952. The Standards, codified at 5 CFR part 2635 and effective February 3, 1993, establish uniform standards of ethical conduct for executive branch personnel.

On June 10, 1993, the Department issued a final rule which removed certain provisions of its employee responsibilities and conduct regulations at 43 CFR part 20 that had been superseded by 5 CFR part 2635 or by OGE's executive branch financial disclosure regulations at 5 CFR part 2634. See 58 FR 32446–32449. Along with portions of 43 CFR part 20 that the Department retained under authority separate from 5 CFR parts 2634 and 2635, the Department retained in 43 CFR part 20 provisions regarding prohibited financial interests and outside employment which were temporarily preserved, respectively, by the notes following 5 CFR 2635.403(a) and 2635.803, as extended at 59 FR 4779–4780, 60 FR 6390–6391, 60 FR 66857–66858, and 61 FR 40950–40952.

The Standards, at 5 CFR 2635.105, authorize executive branch agencies, with the concurrence of OGE, to publish agency-specific supplemental regulations that are necessary to implement their respective ethics programs. The Department, with OGE's concurrence, has determined that the following supplemental regulations, being codified in new chapter XXV of 5 CFR, are necessary to the success of its ethics program. Also, upon issuance of the supplemental regulation, the Department is removing those remaining provisions in 43 CFR part 20 that now have been superseded, and other provisions as explained in part III of this supplementary information.

II. Analysis of the Regulations

Section 3501.101 General

Section 3501.101(a) provides that the regulations contained in the interim rule apply to employees of the Department of the Interior and supplement the executive branch-wide Standards in 5 CFR part 2635. This section also notes that employees of the Department are subject to the responsibilities and conduct regulations for executive branch employees, at 5 CFR part 735; the executive branch financial disclosure regulations, at 5 CFR 2634; and the Department's regulations regarding employee responsibilities and conduct, at 43 CFR part 20.

Section 3501.101(b) includes definitions for various terms used in the regulation, and provides information about ethics program responsibilities within the Department.

Section 3501.101(c) authorizes the Designated Agency Ethics Official (DAEO), or the Ethics Counselor for each major operating component of the Department, to issue explanatory guidance and implementing procedures to assist the employees in the Department to understand and comply with the executive branch-wide Standards and these supplemental regulations. In accordance with 5 CFR 2635.105(c), these issuances themselves will neither supplement nor amend the executive branch-wide Standards in 5 CFR part 2635 or this interim rule.

Section 3501.102 Designation of Separate Agency Components

The Standards, at 5 CFR 2635.202(a), prohibit an employee from soliciting or accepting a gift from a prohibited source. A prohibited source is defined by 5 CFR 2635.203(d) to include a person who has a specific relationship with an employee's agency. For purposes of identifying an employee's agency, 5 CFR 2635.203(a) authorizes an executive department, by supplemental regulation, to designate as separate

agencies components of the department that exercise distinct and separate functions. Designations made pursuant to § 2635.203(a) are used also for purposes of applying the restrictions in 5 CFR 2635.807(a) on receipt of compensation for teaching, speaking or writing related to an employee's official duties. Since the Department is establishing in § 3501.105(c) a prior approval requirement for outside employment with a prohibited source, the designations in this section will also be used for purposes of applying the supplemental regulation's requirement for prior approval of outside employment.

Section 3501.102(a) of the interim rule designates ten of the Department's bureaus and offices as separate agencies. The Department has determined that each of bureaus and offices exercises separate and distinct functions. As further amplified in § 3501.102(c), employees of the Department not employed in one of the ten separate agency components are deemed to be employees of the entire Department, which for those employees includes any parts of the Department that are not included in the ten separate agency components as well as those parts that are so included.

Examples at the end of this section illustrate how the separate agency designations are applied.

Section 3501.103 Prohibited Interests in Federal Lands

Section 3501.103(a) contains cross-references to the statutory prohibitions at 43 U.S.C. 11 and 31(a), which provide respectively that ''[t]he officers, clerks, and employees of the Bureau of Land Management are prohibited from directly or indirectly purchasing or becoming interested in the purchase of any of the public land,'' and ''[t]he Director and members of the United States Geological Survey shall have no personal or private interests in the lands or mineral wealth of the region under survey * * *.'' The Department's responsibilities and conduct rules, at 43 CFR 20.735–23(b)(1) (being partially retained and redesignated by this interim rule-making as 43 CFR 20.401), implement these long standing statutory prohibitions and also are cross-referenced in § 3501.103(a).

The prohibitions at 43 U.S.C. 11 and 31(a) has been extended by the Department's regulations in 43 CFR part 20 to employees of the Minerals Management Service (MMS) and certain other Department employees. The statutory prohibitions' regulatory extension to MMS employees followed the establishment of MMS in October 1982. The MMS was initially staffed with natural resource employees from the United States Geological Survey (USGS) and the Bureau of Land Management (BLM). At the time, many of the new MMS employees were to be performing duties regarding Federal lands similar to those for which they were responsible when they were USGS OR BLM employees. This created an ethics concern for MMS and the Department, since the MMS employees transferring from USGS and BLM would no longer be covered by the organic prohibitions of their former bureaus. To address this concern the Department decided to extend, in its employee responsibilities and conduct regulations at 43 CFR part 20, those organic prohibitions to MMS employees.

The other Department employees to whom the prohibitions at 43 U.S.C. 11 and 31(a) were extended in 43 CFR part 20 were the Secretary and employees ''in pay grades equivalent to GS–16 and above or who are in merit pay positions as described in 5 U.S.C. 5401(b)(1)'' in ''the Office of the Secretary and other Departmental offices reporting directly to a Secretarial officer.'' The Department determined that the prohibitions needed to be extended to those additional personnel because they were positions which could substantially influence the actions and decisions made by employees of USGS, BLM, or MMS.

Under 5 CFR 2635.403(a), an agency may, by supplemental regulation, prohibit or restrict the acquisition or holding by its employees of financial interests that the agency determines would cause a reasonable person to question the impartiality or objectivity with which agency programs are administered. The Department has made this determination with respect to the statutory prohibition's regulatory extensions formerly found at 43 CFR 20.735–23, and is reinstituting those regulatory extensions, in modified form to conform with the requirements of 5 CFR part 2635, in § 3501.103(b).

In addition to all MMS employees, § 3501.103(b) describes the employees to whom the regulatory prohibition therein applies as those in ''positions classified at GS–15 and above'' in ''the Office of the Secretary and other Departmental offices reporting directly to a Secretarial officer,'' instead of in ''pay grades equivalent to GS–16 and above'' or in ''merit pay positions'' in those offices, as the superseded provision had done. Grades 16 and above of the General Schedule (GS) no longer exist, having been abolished by the Federal Employees Pay Comparability Act of 1990, Pub. L. 101–509. Likewise, the statutory basis for merit pay positions has expired. Although the coverage of the former provision reached some employees in merit pay positions at GS–13 and GS–14, the Department has determined that it is not necessary for the prohibition to reach employees at those grade levels in order to avoid the appearance of misuse of position or loss of impartiality and objectivity with which Department programs and administered.

As defined in former § 20.735–20(c) of 43 CFR, ''the Office of the Secretary and other Departmental offices reporting directly to a Secretarial officer'' included the Immediate Office of the Secretary (except for the Office of Historically Black College and University Programs and Job Corps); Office of the Solicitor; Office of the Inspector General; Office of Hearings and Appeals; Office of Congressional and Legislative Affairs; Office of Public Affairs; all Assistant Secretaries, their immediate Office staff and heads of bureaus which are subordinate to an Assistant Secretary, including the following offices under the Office of the Assistant Secretary—Policy, Management and Budget: Office of Acquisition & Property Management, Office of Budget, Office of Environmental Affairs, and Office of Program Analysis. This list, modified to reflect reorganizations and restructuring at the Department, has been carried forward as the definition of ''Office of the Secretary and other Departmental offices reporting directly to a Secretary officer'' in this section.

Paragraph (b)(2) of § 3501.103 contains exceptions to the regulatory restriction in § 3501.103(b)(1). These exceptions are being carried forward from the former regulatory restriction in 43 CFR part 20, and provide that the restriction does not apply to an individual employed on an intermittent or seasonal basis for a period not exceeding 180 working days in each calendar year, or a special Government employee engaged in field work relating to land, range, forest, and mineral conservation and management activities.

Section 3501.103(c)91) provides for an additional restriction on employees' interests in Federal lands. Because the Department has authority to grant claims, permits, leases, small tract entries, and other rights in most of the country's nationally owned public lands and natural resources, the Department's employee responsibilities and conduct regulations long included a provision at 43 CFR 20.735–23(b)(3), generally restricting all employees of the Department from acquiring or retaining such rights for commercial or

investment purposes. This prohibition has been reinstituted, in modified form to conform with the requirements of 5 CFR part 2635, as § 3501.103(b)(1). The Department has determined under 5 CFR 2635.403(a) that it is necessary to continue to restrict all employees from acquiring or retaining, for commercial or investment purposes, any claim, permit, lease, small tract entry, or other right in lands or resources administered or controlled by the Department, in order to maintain public confidence in the impartiality or objectivity with which the Department's programs are administered. The Department has made the additional determination under 5 CFR 2635.403(a) with respect to this prohibition that it is necessary for the efficiency of the service to extend the prohibition to employees' spouses and minor children.

Paragraph (c)(2) of § 3501.103 contains two exceptions to the regulatory restriction in § 3501.103(c)(1). Both exceptions had applied to the former restriction in 43 CFR part 20. The first exception is intended to make it clear that the prohibition does not apply to acquiring or holding a right in Federal lands, administered or controlled by the Department, for recreational purposes. The second exception allows employees working in the Office of the Assistant Secretary—Indian Affairs or in the Bureau of Indian Affairs to acquire or retain interests in Federal lands controlled by the Department for the benefit of Indians or Alaska Natives. Many of those employees are Native Americans or Alaska Natives who may have an involuntary interest in tribal lands simply because of their innate membership in their home tribes. Generally, under the exception at 18 U.S.C. 208(b)(4) to the prohibitions contained in 18 U.S.C. 208(a), such an interest would not bar an employee's participation in a particular matter affecting the interest.

Under § 3501.103(d), the DAEO may require divestiture of an interest in Federal lands that would otherwise be allowed to be retained under the exceptions listed in § 3501.103(b)(2), using the standard of ''substantial conflict'' set forth in 5 CFR 2635.403(b). Under § 3501.103(e), the DAEO may grant a waiver from the regulatory restrictions in paragraphs (b) and (c) of this section based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the restriction is not necessary to avoid the appearance of misuse of position or loss or impartiality and objectivity with which Department programs are administered. An employee may be required under the waiver to disqualify himself from a particular matter or take other appropriate action. Section 3501.103(f) provides that existing waivers, issued under the Department's regulations for employees to whom the regulatory prohibitions in paragraphs (b) and (c) of this section applied under the former provisions in 43 CFR part 20, remain in effect but may be withdrawn subject to the standard for waivers in paragraph (e).

Section 3501.104 Prohibited Interests in Mining

Section 3501.104(a) provides a cross-reference to the prohibition in the Surface Mining Control and Reclamation Act of 1977 (Surface Mining Act), at 30 U.S.C. 1211(f), on employees of the Office of Surface Mining Reclamation and Enforcement or any other employee who performs functions or duties under the Surface Mining Act having any financial interest in underground or surface coal mining operations, and the Department's regulation at 30 CFR part 706 which implement the prohibition. The Department has included this cross-reference in the supplemental regulation at the request of OGE, because some of the interests prohibited by the Surface Mining Act are financial interest within the meaning of 5 CFR 2635.403(c).

Section 3501.104(b)(1) prohibits employees of the U.S. Geological Survey and their spouses and minor children from having a direct or indirect financial interest in mining activities conducted on privately-owned lands within the United States. This provision is being issued under the authority of 5 CFR 2635.403(a), based on the Department's determinations that the acquisition or retention of such interests would cause a reasonable person to question the impartiality and objectivity with which USGS programs are administered, and that there is a direct and appropriate nexus between the prohibition as applied to employees' spouses and minor children and the ability of USGS to carry out efficiently its mission related to the mineral resources of the national domain. This provision is based upon the former provision at 43 CFR 20.735–25(b)(2) (now superseded), under which neither the Director nor any member of the USGS was allowed to hold ''substantial'' personal or private interests, direct or indirect, in any private mining activities in the United States. The Department found this provision useful in avoiding conflicts of interest for USGS employees.

As defined in paragraph (b)(2)(i) of § 3501.104, ''financial interest'' has the meaning given in the executive branch-wide Standards at 5 CFR 2635.403(c). Also, as defined in paragraph (b)(2)(ii) of § 3501.104, ''private mining activities'' include exploration, development and production of oil, gas and other minerals on privately-owned lands in the United States. Lands owned by the Federal government or by a State or local government are not privately-owned.

Paragraph (b)(3) of § 3501.104 contains exceptions to the regulatory restriction in § 3501.104(b)(1). These exceptions are intended to permit the acquisition or holding of financial interests that the Department has determined are unlikely to raise questions regarding the objective and impartial performance of USGS employees' official duties or the efficient accomplishment of the Department's mission. The exceptions permit interests of certain de minimis values. These threshold amounts vary for employees of different organizational elements of the USGS, depending on the extent of the elements' direct connection to private mining activities in the United States. There is also a de minimis amount set for mineral royalties and ''overriding royalty interests'' (ORRI), i.e., an exclusive payment that is generally given to a landowner by an oil exploration company in return for the right to explore and produce oil and/or gas from privately-owned lands. An ORRI is generally determined by the quantity of oil and/or gas produced at the surface of an active well and does not include production costs. The exceptions also permit interests in publicly traded or publicly available investment funds and qualified profit sharing, retirement, or similar plans, provided that, in the case of such a fund, its prospectus does not indicate the objective or practice of concentrating its investments in entities engaged in private mining activities in the United States, or, in the case of such a plan, the plan does not invest more than 25 percent of its funds in debt or equity instruments of entities engaged in private mining activities in the United States, and provided that the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund or plan. In addition, for the spouses and minor children of USGS employees, the exceptions permit the acquisition or retention of a financial interest in mining activities conducted on privately-owned lands within the United States when the interest was

obtained under certain circumstances unrelated to USGS employment.

Under § 3501.104(b)(4), the Director of the USGS may require divestiture of a financial interest that would otherwise be allowed to be retained under the exceptions listed in § 3501.104(b)(3), if he or she determines under 5 CFR 2635.403(b) that the financial interest will require the employee's disqualification to a debilitating extent or will adversely affect the efficient accomplishment of the Department's mission because another employee cannot be readily assigned to perform work from which the employee would be disqualified by reason of the financial interest. Under § 3501.104(b)(5), the Director of the USGS may grant a waiver from the regulatory restrictions in paragraph (b)(1) of this section based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the restriction is not necessary to avoid the appearance of misuse of position or loss of impartiality and objectivity with which Department programs are administered. An employee may be required under the waiver to disqualify himself from a particular matter or take other appropriate action.

Section 3501.104(b)(6) provides that a spouse or minor child of an employee may retain a financial interest otherwise prohibited by paragraph (b)(1) of this section, if the interest was permitted under criteria and procedures in effect before November 2, 1996 (pursuant to provision at 43 CFR 20.735–25(b)(2) which expired at that time). The Director of the USGS may, however, review those retained financial interests for consistency with the standard for waivers in paragraph (b)(5) of this section, and may disallow an interest if he or she determines in writing that the waiver standard is not met.

Section 3501.105 Outside Employment and Activities

5 CFR 2635.802(a) provides that an employee shall not engage in outside employment or activities if the outside employment or activity is prohibited by, *inter alia,* an agency supplemental regulation. To much the same effect, 5 CFR 2635.403 permits an agency, by supplemental regulation, to prohibit compensated outside employment on the same basis that it may prohibit employees from holding other financial interests. The Department's employee responsibilities and conduct regulation at 43 CFR part 20 had included various prohibitions on the outside employment and activities of specific classes of Department employees.

To the extent that prohibitions on employees' outside employment and activities were issued by an agency under authority independent of 5 CFR part 2635, the prohibitions would not have to be included in the agency's supplemental regulation. Nevertheless, the Department is including in § 3501.105(a)(1) a cross-reference to the statutory prohibition at 43 U.S.C. 31(a), under which employees of the U.S. Geological Survey shall execute no surveys or examinations for private parties or corporations. The purpose of including this cross-reference in the supplemental regulation is to provide further notice to employees of the prohibition.

Also with respect to prohibited outside employment and activities, the Department is reinstituting in § 3501.105(a)(2) the longstanding prohibitions, which had been included in its former regulations at 43 CFR 20.735–22(c), against Bureau of Land Management employees working as real estate agents and realty specialists. The Department has determined this prohibition is necessary to ensure public confidence in the impartiality and objectivity with which the Department's programs are administered, and to avoid any public perception that Department employees are using their official positions or Department connections to advance their outside real estate careers. In order to lessen the burden of this prohibition, such employees are not required to cancel a real estate license, but may maintain the license on an inactive basis as they were allowed to do under the former regulations.

Finally with respect to prohibited outside employment and activities, the Department is reinstituting in § 3501.105(a)(4) the longstanding prohibition which had been included in its former regulations, at 43 CFR 20.735–27(c)(1), against employees in the Office of the Assistant Secretary—Indian Affairs, and in the Bureau of Indian Affairs (BIA), holding a position on a tribal election board or on a tribal school board which oversees BIA schools. The Department has determined that this prohibition is needed to ensure public confidence in the impartiality and objectivity with which the Department's programs are administered.

Under 5 CFR 2635.803, an agency that determines it is necessary or desirable for the purpose of administering its ethics program may, by supplemental regulation, require its employees to obtain written approval before engaging in outside employment. The Department's former regulation at 43 CFR 20.735–22 provided that each major program operating component of the Department and other Departmental offices could require their employees to obtain approval to engage in outside work by issuing supplementary requirements. The prior approval requirements that were instituted pursuant to that authority remained in effect through November 1, 1996, under the note following 5 CFR 2635.803, as extended, and appendix D to part 2635. Those requirements served the Department well in ensuring that its employees avoided violations of the standards of conduct and conflict of interest statutes. In accordance with 5 CFR 2635.803, the Department has determined that it is necessary to the administration of its ethics program to require prior approval for certain types of outside employment that pose a potential for employees to engage in conduct that might violate applicable laws and regulations.

Therefore, § 3501.105(b)(1)(i) requires an employee (other than a U.S. Geological Survey employee—who would be subject to a broader provision—or a special Government employee) who wishes to engage in outside employment with a prohibited source to obtain prior written approval from his servicing ethics counselor before engaging in such outside employment. In identifying a ''prohibited source'' for purposes of this prior approval requirement, the Department will apply the definition of that term in the Standards at 5 CFR 2635.203(d), a supplemented by the separate agency component designations in § 3501.102(a). Thus, an employee would have to obtain approval before engaging in outside employment with any person (including an organization more than half of whose members are persons) seeking official action by the Department, or, in the case of an employee in one of the separate agency components designated in § 3501.102(a), by that component; doing business or seeking to do business with the Department, or, in the case of an employee in one of the separate agency components designated in § 3501.102(a), with that component; conducting activities regulated by the Department, or, in the case of an employee in one of the separate agency components designated in § 3501.102(a), by that component; or having interests that may be substantially affected by the performance or nonperformance of the employee's official duties. Section 3501.105(b)(1) provides further that this

prior approval requirement applies without regard to whether the outside employment is to be undertaken for compensation.

In view of the organic restrictions on outside activities that apply to U.S. Geological Survey (USGS) employees, and USGS's success in avoiding violations of those restrictions by having had a broad prior approval requirement for its employees, § 3501.105(b)(1)(ii)(A) provides that notwithstanding the requirement for prior approval of outside employment with a prohibited source in § 3501.105(b)(1)(i), USGS employees must obtain prior written approval for any outside employment. Under § 3501.105(b)(1)(ii)(B), however, categories of outside employment could be exempted by USGS from the prior written approval requirement, provided the employment exempted is not prohibited by law, the Standards, or these supplemental regulations, and would normally be approved if subject to the case-by-case requirement for prior approval.

Section 3501.105(b)(2) lists the basic items that an employee must include in an approval request. Section 3501.105(b)(3) sets forth the standard to be used in evaluating approval requests. Section 3501.105(b)(4) provides definitions of terms used in this section. Under § 3501.105(b)(4)(i), ''employment'' is broadly defined to cover any form of non-Federal employment or business relationship involving the provision of personal services, including writing when done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of nonprofit charitable, religious, professional, social, fraternal and similar organizations, unless such activities involve the provision of professional services or advice and are for compensation other than reimbursement of expenses. Paragraph (b)(4)(ii) of § 3501.105 sets forth for ease of reference the definition of ''prohibited source'' at 5 CFR 2635.203(d), as supplemented by the designation of separate agency components at § 3501.102.

III. Repeal of Portions of the Department's Employee Responsibilities and Conduct Regulations and Related Modifications

The interim rule removes those provisions in the regulations at 43 CFR part 20 governing Department employees' responsibilities and conduct that had remained in effect through November 1, 1996, pursuant to the notes following 5 CFR 2635.403(a) and 2635.803, as extended, and the appendixes to part 2635. In addition, the interim rule removes a provision dealing with use of official title, which was superseded when the executive branch-wide Standards went into effect on February 3, 1993, but which inadvertently was not removed from 43 CFR part 20 when the Department first amended that regulation in response to the issuance of the Standards.

The interim rule also removes provisions in 43 CFR part 20 which, based on the United States Bureau of Mines' organic legislation at 30 U.S.C. 6, prohibited certain interests in mining activities for certain Department employees. Pub. L. 104–134, the Omnibus Consolidated Rescissions and Appropriations Act of 1996, closed the United States Bureau of Mines on April 26, 1996. Likewise, the interim rule removes provisions in 43 CFR part 20 that were based on prohibitions in the Trading with Indians Act, at 18 U.S.C. 437. Pub. L. 104–178 repealed 18 U.S.C. 437 on August 6, 1996.

Additionally, the Department is removing from 43 CFR part 20 various sections that are redundant, in light of other regulations. Those sections, and the regulations which the Department has determined make them unnecessary for inclusion in 43 CFR part 20, are § 20.735–2(c) regarding equal employment opportunity policy, and § 20.735–10(a) regarding sexual harassment, both unnecessary in light of regulations at 29 CFR part 1614; § 20.735–6 regarding gifts and decoration from foreign governments, unnecessary in light of regulations at 41 CFR part 101–49; § 20.735–8 regarding nepotism, unnecessary in light of regulations at 5 CFR part 310; § 20.735–9 regarding political activity, unnecessary in light of regulations at 5 CFR part 734; and § 20.735–10(h) regarding patents, unnecessary in light of regulations at 43 CFR part 6.

These removals leave in 43 CFR part 20 only provisions which the Department has authority to issue independent of 5 CFR part 2635 or which for other reasons set forth in 5 CFR 2635.105 do not have to be included in an agency's supplemental standards of ethical conduct regulation. Among these provisions are rules regarding acceptance and payment of travel and related expenses. Revisions to those provisions are being made to inform employees of the Department's authority under 31 U.S.C. 1353 to accept payment from non-Federal sources for employees who are on official travel to a meeting or similar function. Non-substantive changes have been made to this and other preserved provisions, to reflect changes in related authorities or for greater clarity.

The provisions remaining in 43 CFR part 20 are being redesignated, and are having added to them a cross-reference to the executive branch-wide Standards at 5 CFR part 2635, the Department's supplemental standards of ethical conduct being codified at 5 CFR part 3501, the executive branch financial disclosure regulations at 5 CFR part 2634, and the employee responsibilities and conduct regulations at 5 CFR part 735.

IV. Matters of Regulatory Procedure

Executive Order 12866

In promulgating this interim rule, the Department has adhered to the regulatory philosophy and the applicable principles of regulation set forth in section 1 of Executive Order 12866, Regulatory Planning and Review. This regulation has not been reviewed by the Office of Management and Budget under that Executive Order as it deals with agency organization, management, and personnel matters and is not, in any event, deemed ''significant'' thereunder.

Administrative Procedure Act

The Department has found good cause, pursuant to 5 U.S.C. 553(a)(2), (b), and (d)(3), for waiving, as unnecessary and contrary to the public interest, the general notice of proposed rulemaking and the 30-day delay in effectiveness as to these interim rules and repeals. The reason for this determination is that it is important to a smooth transition from the Department's prior ethics rules to the new executive branch-wide Standards that these rulemaking actions become effective as soon as possible. Furthermore, this rulemaking is related to the Department's organization, procedure and practice. Nonetheless, this is an interim rulemaking, with provision for a 60-day public comment period. The Department will review all comments received during the comment period and will consider any modifications that appear appropriate in adopting these rules as final, with the concurrence and co-signature of the Office of Government Ethics.

Regulatory Flexibility Act

The Department has determined that these regulations will not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 605).

Paperwork Reduction Act

The Department has determined that these regulations do not contain any information collection requirements that require the approval of the Office of Management and Budget pursuant to the Paperwork Reduction Act (44 U.S.C. chapter 35).

List of Subjects in 5 CFR Part 3501 and 43 CFR Part 20

Conflict of interests, Government employees.

Dated: September 30, 1997.

John R. Garamendi,

Deputy Secretary, Department of the Interior.

Approved: October 7, 1997.

F. Gary Davis,

Deputy Director, Office of Government Ethics.

Accordingly, for the reasons set forth in the preamble, the Department of the Interior is amending title 5 of the Code of Federal Regulations with the concurrence of the Office of Government Ethics, and is also amending title 43 of the Code of Federal Regulations as follows:

TITLE 5—[AMENDED]

1. A new chapter XXV, consisting of part 3501, is added to title 5 of the Code of Federal Regulations to read as follows:

CHAPTER XXV—DEPARTMENT OF THE INTERIOR

PART 3501—SUPPLEMENTAL STANDARDS OF ETHICAL CONDUCT FOR EMPLOYEES OF THE DEPARTMENT OF THE INTERIOR

Sec.

Authority: 5 U.S.C. 301, 7301; 5 U.S.C. App. (Ethics in Government Act of 1978); 30 U.S.C. 1211; 43 U.S.C. 11, 31(a); E.O. 12674, 3 CFR, 1989 Comp., p. 215, as modified by E.O. 12731, 3 CFR, 1990 Comp., p. 306; 5 CFR 2635.105, 2635.203(a), 2635.403(a), 2635.803.

§ 3501.101 General.

(a) In accordance with 5 CFR 2635.105, the regulations in this part apply to employees of the Department of the Interior and supplement the Standards of Ethical Conduct for Employees of the Executive Branch contained in 5 CFR part 2635. In addition to the regulations in 5 CFR part 2635 and this part, employees of the Department are subject to the employee responsibilities and conduct regulations at 5 CFR part 735; the executive branch financial disclosure regulations at 5 CFR part 2634; and the Department's employee responsibilities and conduct regulations at 43 CFR part 20.

(b) *Definitions.* As used in this part:

(1) *Department* means the U.S. Department of the Interior and any of its components.

(2) *Bureau* means each major program operating component of the Department, the Office of the Secretary, the Office of the Solicitor, and the Office of the Inspector General.

(3) *Designated Agency Ethics Official* means the Assistant Secretary—Policy, Management and Budget.

(4) *Ethics Counselor* means the head of each bureau, except that the Deputy Assistant Secretary for Policy is the Ethics Counselor for employees within the Office of the Secretary.

(5) *Deputy Ethics Counselor* means the bureau personnel officer or other qualified headquarters employee who has been delegated responsibility for the operational duties of the Ethics Counselor for the bureau.

(c) *Bureau instructions.* With the concurrence of the Designated Agency Ethics Official, each Ethics Counselor is authorized, consistent with 5 CFR 2635.105(c), to issue explanatory guidance and establish procedures necessary to implement this part and part 2635 of this title for his or her bureau.

§ 3501.102 Designation of separate agency components.

(a) Each of the following ten components of the Department is designated as an agency separate from each of the other nine listed components and, for employees of that component, as an agency distinct from the remainder of the Department, for purposes of the regulations in subpart B of 5 CFR 2635 governing gifts from outside sources, 5 CFR 2635.807 governing teaching, speaking and writing, and § 3501.105 requiring prior approval of outside employment. However, the following ten components are not deemed to be separate agencies for purposes of applying any provision of 5 CFR part 2635 or this part to employees of the remainder of the Department:

(1) Bureau of Indian Affairs, including the Office of Indian Education Programs;

(2) Bureau of Land Management;

(3) Bureau of Reclamation;

(4) Minerals Management Service;

(5) National Indian Gaming Commission;

(6) National Park Service;

(7) Office of Surface Mining Reclamation and Enforcement;

(8) Office of the Special Trustee for American Indians;

(9) U.S. Fish and Wildlife Service; and

(10) U.S. Geological Survey.

(b) Employees in components not listed in paragraph (a) of this section (including employees within the immediate office of each Assistant Secretary) are employees of the remainder of the Department, which for those employees shall include the components designated in this section as well as those parts of the Department not designated in this section.

Example 1: A company that conducts activities regulated by the Bureau of Land Management would not be a prohibited source of gifts for an employee of the National Park Service (NPS), unless that company seeks official action by the NPS; does business or seeks to do business with the NPS; conducts activities that are regulated by the NPS; or has interests that may be substantially affected by the performance or nonperformance of that employee's official duties.

Example 2: A paralegal who works part-time in the Office of the Solicitor wants to take an additional part-time job with a private company that does business with the U.S. Geological Survey. The company is a prohibited source for the paralegal, since the company does business with a component of the Department from which his component has not been listed as separate in § 3501.102(a). The paralegal must obtain prior approval for the outside employment, because § 3501.105 requires employees to obtain such approval before engaging in outside employment with a prohibited source.

§ 3501.103 Prohibited interests in Federal lands.

(a) *Cross-references to statutory prohibitions*—(1) *Prohibited purchases of public land by Bureau of Land Management employees.* As set forth in 43 CFR 20.401, the officers, clerks, and employees in the Bureau of Land Management are prohibited by 43 U.S.C. 11 from directly or indirectly purchasing or becoming interested in the purchase of any of the public lands.

(2) *Prohibited interests in the lands or mineral wealth of the region under survey for U.S. Geological Survey employees.* As set forth in 43 CFR 20.401, the Director and members of the U.S. Geological Survey are prohibited by 43 U.S.C. 31(a) from having any personal or private interests in the lands or mineral wealth of the region under survey.

(b) *Prohibited financial interests in Federal lands for Minerals Management Service employees and for the Secretary and employees of the Office of the*

Secretary and other Departmental offices reporting directly to a Secretarial officer who are in positions classified at GS–15 and above. (1) Except as provided in paragraph (b)(2) of this section, the following employees may not acquire or hold any direct or indirect financial interest in Federal lands or resources administered or controlled by the Department:

(i) All employees of the Minerals Management Service; and

(ii) The Secretary and employees of the Office of the Secretary and other Departmental offices reporting directly to a Secretarial officer who are in positions classified at GS–15 and above. As used in this section, ''Office of the Secretary and other Departmental Offices reporting directly to a Secretarial officer'' means the Immediate Office of the Secretary; Office of the Solicitor; Office of the Inspector General; Office of Communications; Office of Congressional and Legislative Affairs; all Assistant Secretaries, their immediate Office staff and heads of bureaus which are subordinate to an Assistant Secretary. This includes the following offices under the Office of the Assistant Secretary—Policy, Management and Budget: Office of Budget, Office of Hearings and Appeals, Office of Acquisition & Property Management, Office of Environmental Policy and Compliance, Office of Policy Analysis, Office of Financial Management, and Office of Information Resources Management.

(2) *Exceptions.* The prohibition in paragraph (b)(1) of this section does not apply to:

(i) An individual employed on an intermittent or seasonal basis for a period not exceeding 180 working days in each calendar year; or

(ii) A special Government employee engaged in field work relating to land, range, forest, and mineral conservation and management activities.

(c) *Prohibition as to Department-granted rights in Federal lands.* (1) Except as provided in paragraph (c)(2) of this section, employees and their spouses and their minor children are prohibited from acquiring or retaining any claim, permit, lease, small tract entries, or other rights that are granted by the Department in Federal lands.

(2) *Exceptions.* (i) Nothing in paragraph (c)(1) of this section prohibits the recreational or other personal and noncommercial use of Federal lands by an employee, or the employee's spouse or minor child, on the same terms as use of Federal lands is available to the general public.

(ii) Unless otherwise prohibited by law, employees in the Office of the Assistant Secretary—Indian Affairs, or in the Bureau of Indian Affairs, and the spouses and minor children of such employees, are not prohibited by paragraph (c)(1) of this section from acquiring or retaining rights in Federal lands controlled by the Department for the benefit of Indians or Alaska Natives.

(d) *Divestiture.* The Designated Agency Ethics Official may require an employee to divest an interest the employee is otherwise authorized to retain under an exception listed in this section, based on a determination of substantial conflict under § 2635.403(b) of this title.

(e) *Waivers.* The Designated Agency Ethics Official may grant a written waiver from the prohibitions contained in paragraphs (b) and (c) of this section, based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartially, or otherwise to ensure confidence in the impartiality and objectivity with which Department programs are administered. A waiver under this paragraph may be accompanied by appropriate conditions, such as acquiring execution of a written statement of disqualification. Notwithstanding the grant of any waiver, an employee remains subject to the disqualification requirements of 5 CFR 2635.402 and 2635.502.

(f) *Pre-existing interests.* An employee may retain a financial interest otherwise prohibited by paragraph (b) or (c) of this section which was approved in writing under criteria and procedures in effect before November 2, 1996, unless the approval is withdrawn by the Designated Agency Ethics Official, subject to the standards for waivers in paragraph (e) of this section.

§ 3502.104 Prohibited interests in mining.

(a) *Cross-referenced to statutory prohibition.* As set forth in 30 CFR part 706 and 43 CFR 20.402, employees of the Office of Surface Mining Reclamation and Enforcement and other employees who perform functions or duties under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq., are prohibited by 30 U.S.C. 1211(f) from having a direct or indirect financial interest in underground or surface coal mining operations.

(b) *Prohibited interests in private mining activities in the United States for U.S. Geological Survey employees, their spouses, and minor children.* (1) Except as provided in this section, no employee of the U.S. Geological Survey (USGS), or spouse or minor child of a USGS employee, shall have a direct or indirect financial interest in private mining activities in the United States.

(2) *Definitions.* For purposes of applying the prohibition in paragraph (b)(1) of this section:

(i) *Financial interest* has the meaning set forth in 5 CFR 2635.403(c), and includes an employee's legal or beneficial interest in a trust.

(ii) *Private mining activities* means exploration, development, and production of oil, gas, and other minerals on land in the United States that is not owned by the Federal government or by a State or local government.

(3) *Exceptions.* The prohibition set forth in paragraph (b)(1) of this section does not apply to:

(i)(A) Financial interests worth $5000 or less, for employees (or their spouses and minor children) of the Office of the Director and the Geologic Division, or

(B) A single financial interest worth $5000 or less or an aggregate of financial interests worth $15,000 or less, for employees (or their spouses and minor children) of all other USGS organizational elements;

(ii) Mineral royalties and overriding royalty interests of $600 per year or less;

(iii) A publicly traded or publicly available investment fund (e.g., a mutual fund) which, in its prospectus, does not indicate the objective or practice of concentrating its investments in entities engaged in private mining activities in the United States, if the employee neither exercises control nor has the ability to exercise control over the financial interests held in the fund;

(iv) A legal or beneficial interest in a qualified profit sharing, retirement, or similar plan, provided that the plan does not invest more than 25 percent of its funds in debt or equity instruments of entities engaged in private mining activities in the United States, and the employee neither exercise control nor has the ability to exercise control over the financial interests held in the plan; or

(v) The ownership of a financial interest by an employee's spouse or minor child where the spouse or minor child obtained the interest through:

(A) A gift from someone other than the employee or a member of the employee's household;

(B) Inheritance;

(C) Acquisition prior to the employee's becoming a USGS employee;

(D) Acquisition prior to marriage to a USGS employee; or

(E) A compensation package in connection with the employment of the spouse or minor child.

(4) *Divestiture.* The Director of the U.S. Geological Survey may require an employee to divest an interest the employee is otherwise authorized to retain under an exception listed in paragraph (b)(3) of this section, based on a determination of substantial conflict under § 2635.403(b) of this title.

(5) *Waivers.* The Director of the U.S. Geological Survey may grant a written waiver from the prohibition contained in paragraph (b)(1) of this section, based on a determination that the waiver is not inconsistent with 5 CFR part 2635 or otherwise prohibited by law, and that, under the particular circumstances, application of the prohibition is not necessary to avoid the appearance of misuse of position or loss of impartiality, or otherwise to ensure confidence in the impartiality and objectivity with which Department programs are administered. A waiver under this paragraph may be accompanied by appropriate conditions, such as requiring execution of a written statement of disqualification. Notwithstanding the granting of any waiver, an employee remains subject to the disqualification requirements of 5 CFR 2635.402 and 2635.502.

(6) *Pre-existing interests.* A spouse or minor child of an employee may retain a financial interest otherwise prohibited by paragraph (b)(1) of this section which was permitted under criteria and procedures in effect before November 2, 1996, unless the Director of the U.S. Geological Survey determines in writing that such retention is inconsistent with the standards for waivers in paragraph (b)(5) of this section.

§ 3501.105 Outside employment and activities.

(a) *Prohibited outside employment and activities.* (1) Under 43 U.S.C. 31(a), employees of the U.S. Geological Survey shall execute no surveys or examinations for private parties or corporations.

(2) Employees in the Bureau of Land Management may not engage in outside employment as real estate agents and realty specialists. Such employees are not required to cancel a real estate license, but may maintain the license on an inactive basis.

(3) Employees in the Office of the Assistant Secretary—Indian Affairs, or in the Bureau of Indian Affairs (BIA), may not hold a position on a tribal election board or on a tribal school board which oversees BIA schools.

Note to paragraph (a)(3): Except for membership on a tribal election board and a tribal school board which oversees BIA schools, an eligible person employed in the Office of the Assistant Secretary—Indian Affairs or in the BIA may become a candidate for office in his local tribe or may be appointed as a representative of his local tribe if prior approval is obtained from the Deputy Assistant Secretary—Indian Affairs pursuant to paragraph (b) of this section.

(b) *Prior approval of outside employment*—(1) *Prior approval requirement.* (i) An employee of the Department, other than an employee of the U.S. Geological Survey or a special Government employee, shall obtain written approval from his ethics counselor or other agency designee before engaging in outside employment with a prohibited source.

(ii)(A) An employee of the U.S. Geological Survey (USGS), other than a special Government employee, shall obtain written approval from the USGS deputy ethics counselor before engaging in any outside employment.

(B) The USGS may issue instructions exempting categories of employment from the prior approval requirement in paragraph (b)(1)(ii)(A) of this section, based on a determination that the employment within those categories would generally be approved and are not likely to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(2) *Form of request for approval.*

(i) A request for prior approval of outside employment shall include, at a minimum, the following:

(A) The employee's name, occupational title, office address, and office telephone number;

(B) A brief description of the employee's official duties;

(C) The nature of the outside employment, including a full description of the specific duties or services to be performed;

(D) The name and address of the prospective outside employer; and

(E) A statement that the employee currently has no official duties involving a matter that affects the outside employer and will disqualify himself from future participation in matters that could directly affect the outside employer.

(ii) Upon a significant change in the nature of the outside employment or in the employee's official position, the employee shall submit a revised request for approval.

(3) *Standard for approval.* Approval shall be granted unless a determination is made that the outside employment is expected to involve conduct prohibited by statute or Federal regulation, including 5 CFR part 2635 and this part.

(4) *Definitions.* As used in this section:

(i) *Employment* means any form of non-Federal business relationship involving the provision of personal services by the employee, with or without compensation. It includes but is not limited to personal services as an officer, director, employee, agent, attorney, consultant, contractor, general partner, trustee, teacher, or speaker. It includes writing done under an arrangement with another person for production or publication of the written product. It does not, however, include participation in the activities of a nonprofit charitable, religious, professional, social, fraternal, educational, recreational, public service, or civic organization, unless the participation involves the provision of professional services or advice for compensation other than reimbursement for actual expenses.

(ii) *Prohibited source* has the meaning in 5 CFR 2635.203(d), as supplemented by § 3501.102, and includes any person who:

(A) Is seeking official action by the Department or, in the case of an employee of one of the separate agency components designated in § 3501.102(a), by that component;

(B) Does business or seeks to do business with the Department, or in the case of an employee of one of the separate agency components designated in § 3501.102(a), with that component;

(C) Conducts activities regulated by the Department or, in the case of an employee of one of the separate agency components designated in § 3501.102(a), by that component;

(D) Has interests that may be substantially affected by the performance or nonperformance of the employee's official duties; or

(E) Is an organization a majority of whose members are described in paragraphs (c)(4)(ii) (A) through (D) of this section.

TITLE 43—[AMENDED]

SUBTITLE A—[AMENDED]

2. Part 20 of 43 CFR is revised to read as follows:

PART 20—EMPLOYEE RESPONSIBILITIES AND CONDUCT

Subpart A—General Provisions

Subpart B—Department Ethics Program

Authority: 5 U.S.C. 301; 5 U.S.C. App. (Reorganization Plan No. 3 of 1950); 30 U.S.C. 1211; 43 U.S.C. 11, 31; 5 CFR 2634.903, 2634.905.

Subpart A—General Provisions

§ 20.101 Cross-references to ethical conduct, financial disclosure and other applicable regulations.

In addition to the rules in this part, employees of the Department of the Interior also should refer to the Standards of Ethical Conduct for Employees of the Executive Branch, at 5 CFR part 2635; the Department's regulations that supplement those executive branch-wide standards at 5 CFR part 3501; the employee responsibilities and conduct regulations at 5 CFR part 735; and the executive branch financial disclosure regulations at 5 CFR part 2634.

§ 20.102 Definitions.

(a) The following terms are used throughout this part and have the following meanings:

(1) *Department* means the U.S. Department of the Interior and any of its components.

(2) *Secretary* means the Secretary of the Interior.

(3) *Bureau* means each major program operating component of the Department, the Office of the Secretary, the Office of the Solicitor, and the Office of the Inspector General.

(4) *Employee* means a regular employee, a special Government employee, and a contract education employee in the Office of the Assistant Secretary—Indian Affairs or the Bureau of Indian Affairs, unless the text of a particular subpart, section, or paragraph indicates that either regular employees or special Government employees are not intended to be covered by that subpart, section or paragraph. Volunteers in National Parks whose services are accepted pursuant to 16 U.S.C. 18g are not employees.

(b) *Specific definitions.* Additional definitions of terms specifically associated with a particular subpart, section, or paragraph are found in that subpart, section, or paragraph.

§ 20.103 Employee responsibilities.

It is the responsibility of each employee:

(a) To be familiar with and to comply with all Federal statues, Executive Orders, and regulations that govern his or her conduct. Employees are expected to consult with their supervisors and servicing ethics counselors on questions they may have regarding the applicability of any ethics or other conduct provision. Ethics advice may also be obtained from the Solicitor's Office and the Department Ethics Office.

(b) To report directly or through appropriate channels to the Office of Inspector General or other appropriate authority matters coming to their attention which do or may involve violations of law or regulation by employees, contractors, sub-contractors, grantees, subgrantees, lessees, licensees or other persons having official business with the Department.

Subpart B—Department Ethics Program

§ 20.201 Ethics officials.

(a) The Designated Agency Ethics Official is the Assistant Secretary—Policy, Management and Budget. In accordance with 5 CFR 2638.203, the Designated Agency Ethics Official is responsible for the coordination and management of the Department's ethics program.

(b) The head of each bureau is the ''Ethics Counselor'' for that bureau, except that the Deputy Assistant Secretary for Policy is the Ethics Counselor for employees in the Office of the Secretary and related offices. The Solicitor is the Ethics Counselor for the Office of the Solicitor and the Inspector General is the Ethics Counselor for the Office of Inspector General.

(c) The personnel officer for each bureau or other qualified employee who has been delegated responsibility for the operational duties of the Ethics Counselor for the bureau, it the ''Deputy Ethics Counselor'' for that bureau.

(d) A bureau, regional, or area personnel officer or other qualified employee may be assigned to serve as an ''Associate Ethics Counselor'' or ''Assistant Ethics Counselor,'' with delegated responsibility to perform the operational duties of the Ethics Counselor at the field level. Associate Ethics Counselors or Assistant Ethics Counselors may also be designated within the bureau headquarters.

§ 20.202 Ethics program responsibilities.

(a) The Designated Agency Ethics Official (or the alternate agency ethics official in his or her absence) shall coordinate and manage the department's ethics program in accordance with 5 CFR 2638.203.

(b) Each Ethics Counselor shall, for his or her bureau:

(1) Order disciplinary or remedial action in accordance with the provisions of subpart F of this part. This authority may not be redelegated.

(2) Designate: (i) The Bureau Personnel Officer (or other qualified headquarters employee) as Deputy Ethics Counselor to carry out operational duties of the Ethics Counselor within their bureaus under the general direction of the Ethics Counselor; and

(ii) Headquarters bureau, regional, or area personnel officers (or other qualified employees) as Associate Ethics Counselors or Assistant Ethics Counselors to perform ethics counseling and the collection and review of financial disclosure reports.

(3) Ensure that vacancy announcements for positions which require a public or confidential financial disclosure report alert applicants to the filing requirement.

(4) Establish and maintain internal procedures and guidelines to adequately and systematically inform employees of the content, meaning, and importance of ethical conduct and other conduct regulations.

(c) All supervisors may make decisions as to whether conduct by employees under their supervision would result in the appearance that the employee would violate or is violating the ethical standards set forth in 5 CFR 2635; all supervisors are expected, therefore, to be familiar with those standards. In addition, any supervisor who grants prior approval of an employee's outside employment under 5 CFR 3501.105(b) is expected, at a

minimum, to provide information to the employee about the prohibitions in 18 U.S.C. 203, 205 and 208 at the time such approval is granted.

§ 20.203 Exclusion from confidential financial disclosure requirement for certain special Government employees.

In an instance involving the proposed employment of a special Government employee for highly specialized and limited duties, the head of the bureau or office may propose to the Designated Agency Ethics Official (DAEO) a reporting of financial interests restricted to such interests as may be determined to be relevant to the duties the special Government employee is to perform. The DAEO may, under the provisions of 5 CFR 2634.905, exclude the special Government employee from all or a portion of the confidential reporting requirements of the OGE Form 450. Any confidential financial disclosure requirement must be satisfied by the special Government employee before he begins his employment.

Subpart C—Acceptance and Payment of Travel and Related Expenses

§ 20.301 General policy.

(a) Except as specifically authorized by law, when an employee is on official duty (no leave status), all travel and accommodations shall be at Government expense and his or her acceptance of outside reimbursement for travel expenses or services in kind from private sources, either in his or her behalf or in behalf of the Government, is not allowed.

(b) Under certain circumstances, the Department may charge a fee or accept reimbursement for providing a service or thing of value to a private source when the service or thing of value provided benefits to both the Government and the particular private source (31 U.S.C. 9701). In such instances only a portion of the costs can be accepted from the private source. The Department must pay expenses associated with its usual official business and for the benefits it receives from participating in the event. The private source can be charged or may reimburse the Department for that portion of the service provided that exceeds the Department's usual expenses and the benefits to the Government. Under this provision, payments from private sources must be deposited in the U.S. Treasury unless the bureau receiving the payment is authorized by statute to accept such payments.

(c) When a bureau is authorized by statute other than 31 U.S.C. 1353 to accept gifts, and 31 U.S.C. 1353 does not apply, the travel expenses incurred by an employee directed to participate in a convention, seminar, or similar meeting sponsored by a private source for the mutual interest of the Government and the private source may be reimbursed to the bureau and credited to its appropriation. The employee shall be paid by the bureau in accordance with the law relating to reimbursement for official travel and any accommodations and goods or services in kind furnished an employee shall be treated as a donation to the bureau and an appropriate reduction shall be made to the employee's reimbursement (46 CG 689 (1967)).

(d) When participation at a function is not in an official capacity, an employee may accept reimbursement of travel and accommodation expenses from a private source, provided that such acceptance is permitted by law and Federal regulations. Participation as a private citizen must occur on one's own time, such as while on leave. If participation should occur during the course of official travel (i.e., evening or weekend hours during official travel status), the travel voucher submitted for Government reimbursement of official duty expenses must be adjusted to claim only that per diem and travel attributable to official duty. Employees who are in positions for which the rate of pay is specified in 5 U.S.C. 5311–5318 (the Executive Schedule) are on 24-hour duty, and determinations of what constitutes official duty and what is private participation should be carefully made.

§ 20.302 Exclusions.

(a) Where employee travel is for attendance at a meeting or similar function (31 U.S.C. 1353(a)), the Department may accept payment for the employee and/or the employee's spouse's travel from a non-Federal source when proper consideration is given to the conditions in paragraph (a)(1) of this section and a written authorization to accept payment is issued in advance of the travel.

(1) *Conditions.* Such travel expenses paid for by a non-Federal source may be accepted by the Department only if all of the following conditions are met:

(i) The travel relates to the employee's official duties;

(ii) The travel, subsistence and related expenses are with respect to the attendance of an employee (and/or the accompanying spouse of such employee when applicable) at a meeting or similar function. This includes a conference, seminar, speaking engagement, symposium, training course, or similar event that takes place away from the employee's official station, and is sponsored or cosponsored by a non-Federal source;

(iii) The non-Federal source is not disqualified because of a real or apparent conflict of interest as determined under paragraph (a)(2) of this section; and

(iv) The travel event is not required to carry out the Department's statutory or regulatory functions. Examples of statutory or regulatory functions that are essential to the Department's mission include investigations, inspections, audits, site visits, compliance reviews or program evaluations.

(2) *Conflict of interest analysis.* (i) The Department's acceptance of any payment from a non-Federal source under the authority of 31 U.S.C. 1353 shall not be approved when an Authorized Approving Official, identified in paragraph (a)(2)(iii) of this section, determines that under the circumstances, acceptance of the travel expenses would cause a reasonable person with knowledge of all relevant facts to:

(A) Question the integrity of the work to be performed by the employee receiving the benefit; or

(B) Question the integrity of the Department's other program operations.

(ii) When making these determinations, an Authorized Approving Official shall be guided by all relevant considerations including, but not limited to:

(A) The identity of the non-Federal source and the source's relationship to the Department;

(B) The purpose of the meeting or similar function and its relationship to the Department's programs or operations;

(C) The identity of other expected participants and their relationship to the Department;

(D) The nature and sensitivity of any pending Department matter which, when decided, may affect the interests of the non-Federal source;

(E) The significance of the employee's role in any such pending matter;

(F) The monetary value and character of the travel benefits offered by the non-Federal source; and

(G) The potential reaction from Department customers, including the public, if the acceptance of travel expenses was made known to them.

(iii) An ''Authorized Approving Official'' means that Department official who has been delegated authority to approve the usual travel authorizations of the employee who will benefit from the non-Federal travel payment.

(iv) The procedures stated below must be satisfied before the employee (and/or the accompanying spouse) begin his or her travel:

(A) Each employee (and/or the accompanying spouse) must have an approved Travel Authorization (Form DI–1020). Section 10 (''Purpose and Remarks'') of this Form must contain a statement that the authority to accept payment from a non-Federal source for the specified travel event is 31 U.S.C. 1353, and the travel situation complies with the conditions for acceptance under 41 CFR 304–1.4.

(B) The supplementary form entitled, ''Report of Payments Accepted From Non-Federal Sources Under 31 U.S.C. 1353'' (Form DI–2000) must also be completed and signed by the employee and the Authorized Approving Official. A copy of Form DI–1020 and Form DI–2000 must be filed with the employee's Deputy Ethics Counselor.

(C) Payment from a non-Federal source to cover the travel related expenses of an employee may be made in the form of a check or similar instrument made payable to the Department. Employees should not accept cash or negotiate checks or similar instruments payable to them. Any negotiable instruments received by an employee shall be transmitted immediately to the appropriate accounting office.

(b) When on official duty, contributions and awards incident to training in non-Government facilities, and payment of travel, subsistence, and other expenses incident to attendance at meetings may be accepted by an employee when the payment is made by a non-profit, tax exempt organization as described in 26 U.S.C. 501(c)(3) and when no real or apparent conflict of interest will result. Prior advice should be obtained from the employee's ethics counselor in this circumstance (5 U.S.C. 4111).

(c) Employees may accept reimbursement by the Department for travel and related expenses when on detail under the Intergovernmental Personnel Act, in accordance with 5 U.S.C. 3375.

(d) Should the Director of the United States Information Agency, with the approval of the employing agency, assign an employee to a foreign government, reimbursement for the employee's pay and allowances shall be made to the United States in an amount equal to the compensation, travel expenses, and allowances payable to such person during the period of such assignment, in accordance with 22 U.S.C. 1451.

(e) Should an employee be detailed by the Secretary to an international organization which requests services, the employee is deemed to be (for the purpose of preserving his or her allowances, privileges, rights, seniority, and other benefits) an employee of the Department and the employee is entitled to pay, allowances, and benefits from funds available to the Department. The international organization may reimburse the Department for all or part of the pay, travel expenses, and allowances payable during the detail; or, the detailed employee may be paid or reimbursed directly by the international organization for allowances or expenses incurred in the performance of duties required by the detail without regard to 18 U.S.C. 209 (5 U.S.C. 3343).

Subpart D—Special Provisions Governing Financial and Other Outside Interests of Certain Employees of the Department

§ 20.401 Interests in Federal lands.

(a) *Statutory prohibition applicable to employees of the Bureau of Land Management.* (1) In accordance with 43 U.S.C. 11, employees of the Bureau of Land Management are prohibited from voluntarily acquiring a direct or indirect interest in Federal lands.

(2) *Definitions.* For purposes of applying the prohibition in 43 U.S.C. 11:

(i) *Federal lands.* means public lands or resources or an interest in lands or resources administered or controlled by the Department, including, but not limited to, all submerged lands lying seaward outside of the area of ''lands beneath navigable water'' as defined in 43 U.S.C. 1301(a), and of which the subsoil and seabed appertain to the United States and are subject to its jurisdiction and control.

(ii) *Direct interest in Federal lands* means any employee ownership or part ownership in Federal lands or any participation in the earnings therefrom, or the right to occupy or use the property or to take any benefits there from, based upon a contract, grant, lease, permit, easement, rental agreement, or application. Direct interest in Federal lands also includes:

(A) Membership or outside employment in a business which has interests in Federal lands; and.

(B) Ownership of stock or other securities in corporations determined by the Department to have an interest in Federal lands directly or through a subsidiary.

(iii) *Indirect interest in Federal lands* means any ownership or part ownership of an interest in Federal lands by an employee in the name of another where the employee still reaps the benefits. Indirect interest in Federal lands also includes:

(A) Holdings in land, mineral rights, grazing rights or livestock which in any manner are connected with or involve the substantial use of the resources or facilities of the Federal lands; or

(B) Substantial holdings of a spouse or minor child.

(b) *Statutory prohibition applicable to employees of the U.S. Geological Survey.* (1) In accordance with 43 U.S.C. 31(a), the Director and members of the U.S. Geological Survey are prohibited from having any personal or private interests in the lands or mineral wealth of the region under survey.

(2) *Definitions.* For purposes of applying the prohibition in 43 U.S.C. 31(a):

(i) *Personal or private interest* means ownership of an interest in, or employment with a person or enterprise which leases or uses, Federal lands for commercial purposes.

(ii) *Region under survey* means Federal lands which are administered or controlled by the Department.

(c) *Exclusions.* (1)(i) Except for U.S. mineral surveyors, an individual employed on an intermittent or seasonal basis for a period not exceeding 180 working days in each calendar year, and a special Government employee (SGE) engaged in field work relating to land, range, forest, and mineral conservation and management activities, and the spouse of such an individual or SGE, shall not be precluded from retaining any interest, including renewal or continuation of existing rights, in Federal lands, provided that such individual or SGE or spouse shall not acquire any additional interest in Federal lands during employment.

(ii) A U.S. mineral surveyor is a person appointed under the authority of 30 U.S.C. 39, and as such is included within the term ''officers, clerks, and employees'' of the Bureau of Land Management as that term is used in 43 U.S.C. 11 and construed in *Waskey* v. *Hammer,* 223 U.S. 85 (1912). U.S. mineral surveyors are also considered to be special government employees.

(2) A Bureau of Land Management employee or any member of the employee's family may acquire wild free-roaming horses or burros from Federal lands for maintenance and protection through a cooperative agreement entered into in accordance with 43 CFR part 4700.

(3) A Bureau of Land Management employee may retain a direct or indirect interest in Federal lands when:

(i) There is little or no relationship between the employee's functions or duties and the particular interest in Federal lands, and

(ii) The employee, or the spouse or dependent child of the employee, acquired such an interest:

(A) By gift, devise, bequest, or court award or settlement, or

(B) Prior to the time the employee entered on duty in the Department.

(4) Pursuant to 43 U.S.C. 1621(d), 43 U.S.C. 11 does not apply to any land grants or other rights granted under 43 U.S.C. chapter 33.

(5) The recreational or other personal and noncommercial use of the Federal lands by an employee, the employee's spouse or dependent child, on the same terms as use of the Federal lands is available to the general public, is not prohibited.

(6) *Advisory councils.* Nothing in 43 U.S.C. 11 shall disqualify individuals appointed pursuant to the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1739, as members of advisory boards or councils, from acquiring or retaining grazing licenses or permits issued pursuant to section 3 of the Taylor Grazing Act (43 U.S.C. 315b), or any other interest in land or resources administered by the Bureau of Land Management: Provided, that in no case shall the member of any such board or council participate in any advice or recommendation concerning such license or permit in which such member is directly or indirectly interested.

(d) *Request for advice.* When an employee is in doubt as to whether the acquisition or retention of any interest in lands or resources administered by the Department would violate the provisions of this section, a statement of the facts should be submitted promptly by the individual involved to his or her servicing ethics counselor for guidance.

§ 20.402 Interests in underground or surface coal mining operations.

(a) *Definitions.* As used in this section:

(1) *Direct financial interest in underground or surface coal mining operations* means ownership or part ownership by an employee of lands, stocks, bonds, debentures, warrants, partnership shares, or other holdings and also means any other arrangement where the employee may benefit from his or her holding in or salary from coal mining operation. Direct financial interests also include employment, pensions, creditor, real property and other financial relationships.

(2) *Indirect financial interest in underground or surface coal mining operations* means the same financial relationships as for direct ownership, but where the employee reaps the benefits of such interests including interests held by his or her spouse, dependent child and other relatives, including in-laws, residing in the employee's home. The employee will not be deemed to have an indirect financial interest if there is no relationship between the employee's functions or duties and the coal mining operation in which the spouse, dependent child or other resident relative holds a financial interest.

(3) *Coal mining operation* means the business of developing, producing, preparing or loading bituminous coal, subbituminous coal, anthracite or lignite or of reclaiming the areas upon which such activities occur.

(4) *Performing any function or duty under the Surface Mining Control and Reclamation Act of 1977* means those decisions or actions, which if performed or not performed by an employee, affect the programs under the Act.

(b) *Prohibitions.* (1) Neither the Director nor any other employee of the Office of Surface Mining Reclamation and Enforcement or any other employee who performs functions or duties under the Surface Mining Control and Reclamation Act of 1977, 30 U.S.C. 1201 et seq., shall have a direct or indirect financial interest in underground or surface coal mining operations.

(2) The Surface Mining Control and Reclamation Act of 1977, at 30 U.S.C. 1211(f), provides that anyone who knowingly violates the prohibitions in that Act shall, upon conviction, be punished by a fine of not more than $2,500, or by imprisonment for not more than one year, or both.

(c) Employees are encouraged to review regulations contained in 30 CFR part 706 which pertain to the prohibitions restated in this section.

§ 20.403 Certificates of disclaimer.

(a) Each employee of the U.S. Geological Survey, Bureau of Land Management, Minerals Management Service, and Office of Surface Mining Reclamation and Enforcement shall sign a certificate of disclaimer upon entrance to or upon transfer to a position within any of these bureaus. The employee's signature will indicate that he or she:

(1) Is aware of the specific restrictions pertinent to his or her employment; and

(2) Is in compliance with such restrictions.

(b) If an employee is unable to sign the certificate, he or she must submit a statement of facts to the appropriate ethics counselor for review and appropriate action.

(c) Signed certificates of disclaimer shall be filed and maintained by the employee's deputy ethics counselor.

Subpart E—Other Employee Conduct Provisions

§ 20.501 General policy.

Employees of the Department are expected to maintain especially high standards of honesty, integrity, impartiality, and conduct to ensure the proper performance of Government business and the continual trust and confidence of citizens in their Government. Employees are expected to comply with all Federal statutes, Executive Orders, Office of Government Ethics and Office of Personnel Management regulations, and Departmental regulations. The conduct of employees should reflect the qualities of courtesy, consideration, loyalty to the United States, a deep sense of responsibility for the public trust, promptness in dealing with and serving the public, and a standard of personal behavior which will be a credit to the individual and the Department. These principles apply to official conduct and to private conduct which affects in any way the ability of the employee or the Department to effectively accomplish the work of the Department.

§ 20.502 Conformance with policy and subordination to authority.

Employees are required to carry out the announced policies and programs of the Department and to obey proper requests and directions or supervisors. While policies related to one's work are under consideration employees may, and are expected to, express their professional opinions and points of view. Once a decision has been rendered by those in authority, each employee is expected to comply with the decision and work to ensure the success of programs or issues affected by the decision. An employee is subject to appropriate disciplinary action, including removal, if he or she fails to:

(a) Comply with any lawful regulations, orders, or policies; or

(b) Obey the proper requests of supervisors having responsibility for his or her performance.

§ 20.503 Scope of authority.

Employes shall not engage in any conduct or activity which is in excess of his or her authority, or is otherwise contrary to any law or announced Departmental policy.

§ 20.504 Selling or soliciting.

Employees and other persons are prohibited from selling or soliciting for personal gain within any building or on

any lands occupied or used by the Department. Exception is granted for Department-authorized operations, including, but not limited to, the Interior Department Recreation Association, the Indian Arts and Crafts store, and for cafeteria, newsstand, snack bar and vending machine operations which are authorized by the Department of the benefit of employees or the public.

§ 20.505 Habitual use of intoxicants.

An employee who habitually uses intoxicants to excess may be subject to removal (5 U.S.C. 7352).

§ 20.506 Appropriations, legislation and lobbying.

(a) Unless expressly authorized by Congress, employees are prohibited from using any part of the money appropriated by any enactment of Congress to pay for any personal service, advertisement, telegram, telephone, letter, printed or written matter, or other device, intended or designed to influence in any manner a Member of Congress, to favor or oppose, by vote or otherwise, any legislation or appropriation by Congress, whether before or after the introduction of any bill or resolution proposing such legislation or appropriation; this prohibition does not prevent any employee from communicating to Members of Congress on the request of any Member or through proper official channels, requests for legislation or appropriations which they deem necessary for the efficient conduct of the public business (18 U.S.C. 1913).

(b) When acting in their official capacity, employees are required to refrain from promoting or opposing legislation relating to programs of the Department without the official sanction of the property Departmental authority.

(c) The rights of employees, individually or collectively, to otherwise petition Congress, or to a Committee or Member thereof, shall not be interfered with or denied (5 U.S.C. 7211).

§ 20.507 Unlawful organizations.

An employee may not advocate the violent overthrow of our constitutional form of government nor may an employee be a member of an organization that he or she knows advocates the violent overthrow of our constitutional form of government (5 U.S.C. 7311).

§ 20.508 Notary.

An employee is prohibited from charging fees for performance of any notarial act for any employee of the Federal Government who is acting in his or her official capacity, or for any person during the hours of such notary's service to the Government (E.O. 977, Nov. 24, 1908).

§ 20.509 Penalty mail and official stationery.

(a) An employee is prohibited from using any official envelope, label, or indorsement authorized by law, to avoid the payment of postage or registry fee on his or her private letter, packet, package, or other matter in the mail (18 U.S.C. 1719).

(b) Official Government envelopes and official letterhead stationery are Government property that may only be used for authorized purposes. Employees' use of Government envelopes to mail their own personal job applications is not authorized.

§ 20.510 Fraud or false statements in a Government matter.

An employees shall not, in any matter within the jurisdiction of any department or agency of the United States, knowingly or willfully falsify, conceal or cover up by any trick, scheme, or device a material fact, or make any false, fictitious, fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry (18 U.S.C. 1001). Special attention is required in the certification of time and attendance reports, applications for employment, request for travel reimbursement, and purchase orders and receiving forms.

§ 20.511 Carrying of firearms.

Employees, except those specifically designated to perform enforcement, police or other official duties requiring the use of firearms, are prohibited from carrying or having in their possession firearms on property under the control of the Secretary. Employees who are officially stationed in parks, refuges, Indian reservations, other Tribal lands or other wilderness areas which are known to be inhabited by wild animals, are permitted, when on those lands, to carry and use firearms for personal protection as permitted by existing policy or as authorized by the park, refuge or area supervisor. Notwithstanding this paragraph, employees who are not on official duty may carry firearms on Departmental lands under the same conditions and in accordance with procedures and authorizations established for members of the general public.

§ 20.512 Labor practices.

Employees are prohibited from striking against the Government of the United States (5 U.S.C. 7311). Additional information regarding affiliation with employee organizations is found in the Department Manual, Part 370, Chapter 711, Labor Management Relations.

Subpart F—Disciplinary and Remedial Actions

§ 20.601 General.

This subpart deals with disciplinary actions and remedial actions for violations, or potential violations, of conflict of interest laws or of the regulations in this part or in 5 CFR part 2635 or 5 CFR part 3501. Disciplinary action may include oral or written warning or admonishment, reprimand, suspension, reduction in grade or pay, removal from position or removal from office. Such action shall be taken in accordance with Departmental policies and procedures, applicable statutes, Executive Orders, regulations, and any applicable collective bargaining agreement provisions. Disciplinary action may be imposed independently from and without prior application of remedial actions, including those remedial actions listed in § 20.602.

§ 20.602 Remedial action.

(a)(1) Remedial action should normally be considered only after attempts to obtain voluntary resolution have failed. Voluntary resolution may include:

(i) Voluntary divestiture;

(ii) Voluntary conversion to securities which are not prohibited, or the holding of which would not violate law or regulation; or

(iii) Voluntary reassignment to another position.

(2) If the bureau Ethics Counselor decides that remedial action is required, such action shall be initiated within a reasonable time, usually 90 days.

(b) Remedial action may include:

(1) *Reassignment or disqualification of the employee.* It may be possible for the employee to be reassigned to another job, or to be disqualified from performing particular duties. Although the number of cases where this remedy can be used should be rare, the possibility should be explored before divestiture of an interest is ordered.

(2) *Waiver.* (i) The Designated Agency Ethics Official (DAEO) is authorized to make a written advance determination pursuant to 18 U.S.C. 208(b)(1) waiving the prohibitions of 18 U.S.C. 208(a) for any Department employee except the Secretary and those employees in the same organization as the DEAO, i.e., the Department's Office of Policy, Management and Budget. The Secretary

or the Deputy Secretary shall issue individual waivers pursuant to 18 U.S.C. 208(b)(1) for employees in the Office of Policy, Management and Budget.

(ii) In the case of a special Government employee serving on an advisory committee within the meaning of the Federal Advisory Committee Act, 5 U.S.C. App. (including an individual being considered for an appointment to such a position), the DAEO, after review of the financial disclosure report filed by the individual pursuant to the Ethics in Government Act of 1978, 5 U.S.C. App., is authorized to certify in writing that the need for the individual's services outweighs the potential for a conflict of interest created by the financial interest involved.

(iii) The DAEO may grant a waiver under 5 CFR 3501.103(e) from the regulatory restrictions at 5 CFR 3501.103 (b) and (c).

(3) *Divestiture of the interest.* An employee may be required to divest an interest, including outside employment, that is prohibited by law or regulation. Divestiture of the interest shall be ordered in all situations where it is determined by the appropriate official that there is no other satisfactory remedy. Evidence of divestiture must be provided in the form of broker's sale receipt or other appropriate document.

Note to paragraph (b)(3): It may be possible in certain cases for the tax consequences of divestiture to be delayed, if the interest is sold pursuant to a certificate of divestiture issued before the sale by the Director, U.S. Office of Government Ethics. See 5 CFR part 2634, subpart J.

(c) *Authority to order remedial action.* (1) Each bureau Ethics Counselor is authorized to order remedial actions within his or her bureau. The advice of the appropriate Regional Solicitor, the Associate Solicitor—Division of General Law, or the Designated Agency Ethics Official or his or her designee may be sought before such an order is issued. This authority to order remedial action may not be redelegated.

(2) The Deputy Assistant Secretary for Policy is authorized to order remedial actions for employees within the Office of the Secretary, except that the Secretary shall order remedial actions in situations involving the Deputy Secretary.

(d) An employee who fails to comply with an order for remedial action is considered to be in violation of this part and shall be subject to disciplinary action.

§ 20.603 Appealing an order for remedial action.

(a) *When and how to appeal.* An employee has the right to appeal an order for remedial action under § 20.602, and shall have 30 days from the date of the remedial action order to exercise this right before any disciplinary action may be initiated. For appeals of remedial orders issued under § 20.602, the procedures described in 370 DM 771 may not be used in lieu of or in addition to those of this section. Each appeal shall be in writing and shall contain:

(1) The basis for appeal;

(2) Fact(s) supporting the basis; and

(3) The telephone number where appellant can be reached to discuss facts pertinent to the appeal.

(b) *Where to appeal.* (1) Orders for remedial action issued by an Ethics Counselor may be appealed to the Deputy Secretary, whose decision shall be final.

(2) Orders for remedial action issued by the Deputy Secretary may be appealed to the Secretary, whose decision shall be final.

(c) *Review Board analysis and recommendations.* (1)(i) Each appeal shall be considered by a Review Board consisting of:

(A) A program Assistant Secretary selected by the Designated Agency Ethics Official;

(B) The Associate Solicitor or the Deputy Associate Solicitor, Division of General law; and

(C) The Director or Deputy Director of the Departmental Office of Personnel within the Department.

(ii) Assistant Secretaries may delegate authority to serve on the Review Board to a Deputy Assistant Secretary who has not been involved, and who has not advised or made a decision on the issue or on the order for remedial action.

(2) The Deputy Agency Ethics Official or his or her assistant shall serve as secretary to the Review Board, except for cases in which he or she has previously participated. In such cases, the Review Board shall designate an employee who has not previously been involved with the case to serve as secretary.

(3) The Review Board members shall: (i) Obtain from the appropriate ethics counselor a full statement of actions and considerations which led to the order for remedial action including any supporting documentation or files used by the Ethics Counselor.

(ii) Obtain from the employee all facts, information, exhibits for documents which he or she feels should be considered before a final decision is made.

(iii) The secretary to the Review Board shall prepare a summary of the facts pertinent to the appeal. When appropriate, the Review Board may provide for personal appearance by the appellant before the Review Board if necessary to ascertain the circumstances concerning the appeal or may designate the Review Board secretary or another employee to conduct further fact finding, or may do both. Fact finding procedures shall be carried out by a person(s) who:

(A) Has not been involved in the matter being appealed; and

(B) Does not occupy a position subordinate to any official who recommended, advised, made a decision on, or who otherwise is or was involved in, the matter being appealed.

(iv) Establish a file containing all documents related to the appeal, which shall be available to the appellant and his or her representative.

(v) Provide to the official who will decide the appeal an advisory recommendation on the appeal. The views of dissenting members of the Review Board shall also be provided.

(d) *Assurances to the appellant.* Each appellant is assured of:

(1) Freedom from restraint, interference, coercion, discrimination or reprisal in presenting an appeal;

(2) A reasonable amount of official time to present the appeal if the employee is otherwise in a duty status;

(3) The right to obtain counseling from an ethics counselor of the Department; and

(4) The right to be accompanied, represented, and advised by a representative of his or her own choosing, except that the Review Board may disallow the choice of an individual as a representative if such representation would result in a conflict of interest or position, would conflict with the priority needs of the Department, or which would give rise to unreasonable costs to the Government.

(e) *Assurances to the appellant's representative.* Each person chosen to represent an appellant is assured of:

(1) Freedom from restraint, interference, coercion, discrimination or reprisal; and

(2) A reasonable amount of official time to present the appeal if the representative is an employee of the Department and is otherwise in a duty status.

[FR Doc. 97–27069 Filed 10–15–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Parts 250, 251, and 253

RIN 0584–AB27

Food Distribution Programs—Reduction of the Paperwork Burden

AGENCY: Food and Consumer Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends provisions of the Food Distribution Program, Emergency Food Assistance Program (TEFAP), and Food Distribution Program for Households on Indian Reservations (FDPIR) regulations to reduce the paperwork burden associated with the administration of food distribution programs at the State and local level. This action was initiated by the Child Nutrition and WIC Reauthorization Act of 1989, which amended the National School Lunch Act to require the Secretary to endeavor to reduce the paperwork burden for agencies participating in nutrition assistance programs. This final rule contains provisions which extend the maximum effective periods for agreements between Federal, distributing, and recipient agencies, contracts of distributing and subdistributing agencies with storage facilities, contracts between recipient agencies and food service management companies, and State plans of operation; remove the requirement that commodity acceptability information be submitted for the following program categories: charitable institutions, nonprofit summer camps, the Summer Food Service Program for Children, and the Emergency Food Assistance Program; relax monitoring requirements for distributing agencies with regard to charitable institutions and nonprofit summer camps, and the food service management companies under contract with them; and, amend regulatory language to reflect modified information collection requirements.

EFFECTIVE DATE: This final rule is effective November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Lillie Ragan, Assistant Branch Chief, Household Programs Branch, Food Distribution Division, Food and Consumer Service, U.S. Department of Agriculture, Park Office Center, Room 502, 3101 Park Center Drive, Alexandria, VA 22302–1594, or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

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

Regulatory Flexibility Act

This action has been reviewed with regard to the requirements of the Regulatory Flexibility Act of 1980 (5 U.S.C. 601–612). The Administrator of the Food and Consumer Service (FCS) has certified that this action will not have a significant economic impact on a substantial number of small entities. The procedures in this rulemaking will primarily affect FCS Regional Offices, and the distributing and recipient agencies that administer food distribution programs. Private enterprises that enter into agreements for the storage of donated food or meal service management will also be affected. While some of these entities constitute small entities, a substantial number will not be affected. Further, any economic impact will not be significant.

Executive Order 12372

These programs are listed in the Catalog of Federal Domestic Assistance under 10.550, 10.568, and 10.569, respectively, and are subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials (7 CFR part 3015, Subpart V and final rule-related notices published at 48 FR 29114, June 24, 1983 and 49 FR 22676, May 31, 1984).

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), changes in the information collection burden that would result from the adoption of the proposals contained in the proposed rule published in the **Federal Register** on March 14, 1997 (62 FR 12108) were submitted for public comment. As discussed below, no comments were received. Current reporting and recordkeeping requirements were approved by the Office of Management and Budget under Control Numbers 0584–0293 and 0584–0067.

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations, or policies which conflict with its provisions or which would otherwise impede its full implementation. This rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATE** section of the preamble. There are no administrative procedures which must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Background

In response to the mandates of the Child Nutrition and WIC Reauthorization Act of 1989 (Pub. L. 101–147), a notice was published in the **Federal Register** (55 FR 13156) on April 9, 1990, soliciting comments on ways to reduce the paperwork burden for food distribution programs. In response to comments received, the Department implemented several changes to reduce the paperwork burden and streamline operations, including simplifying the process of reporting and acting on commodity complaints, and eliminating or revising reports submitted by distributing agencies. To respond to comments touching upon procedures and reports established by Federal regulations, and to incorporate the input provided in subsequent discussions with State program administrators and representatives of commodity distribution associations, the Department published a proposed rule in the **Federal Register** (62 FR 12108) on March 14, 1997. The proposed rule provided a 60-day comment period.

Analysis of Comments Received

The Department received a total of 10 comment letters, including four from distributing agencies, three from school food authorities, two from commercial distributors, and one from a national commodity distribution association. A total of 32 separate comments were contained in the letters. While all commenters supported the provisions contained in the proposed rule, a few suggested clarifications of regulatory language or meaning. A description of the comments received, and revisions made in response to the comments, are discussed in detail below.

Information Collection Burden

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), the Food and Consumer Service submitted for public comment the changes in the information collection burden that would result from the adoption of the provisions contained in the proposed rule published in the **Federal Register** on March 14, 1997 (62 FR 12108). Comments were solicited 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. No comments were received relative to the changes in the information collection burden resulting from the proposed regulatory revisions. Therefore, the revised burden hours will be submitted to the Office of Management and Budget for approval as proposed.

Distributing Agency Agreements With the Department

The proposed rule would amend sections 250.12(a) and 251.2(c) to make agreements between the Department and distributing agencies permanent, with amendments to be made at the request of FCS. Three of the ten respondents supported this proposal. However, one commenter suggested that the language on amendments to agreements between the Department and distributing agencies be modified to indicate that distributing agencies may also propose to amend the agreement, which would be subject to the Department's approval. The Department agrees that the regulatory language should be modified to allow for this contingency; hence, this final rule adopts the proposed changes to sections 250.12(a) and 251.2(c) with the following modification: ''* * * with amendments initiated by distributing agencies, or submitted by them at the Department's request, all of which shall be subject to approval by the Department.''

Distributing Agency Agreements With Recipient Agencies

The proposed rule would also amend sections 250.12(c)(1) and 251.2(c) to make agreements between distributing and recipient agencies permanent, with amendments to be made as necessary. The three respondents which commented on this provision supported the proposal. Therefore, this final rule adopts the permanent agreement amendments proposed for sections 250.12(c) and 251.2(c) without change.

The proposed rule did not propose to amend the duration of agreements between distributing agencies and (1) subdistributing agencies that are not also recipient agencies, (2) carriers, and (3) other entities to which distributing agencies deliver donated foods, which would remain one year, with an option for two additional one-year periods. While no comments suggested amending the duration of these agreements, one comment suggested adding a definition of ''subdistributing agency'' for the purpose of clarifying which agencies are subject to the stated agreement period. Since section 250.3 already contains a definition of subdistributing agency which accurately describes the types of functions an organization must perform in order to be considered a subdistributing agency, the final rule amends section 250.12(c)(2) to reference the definition set forth in section 250.3, as well as incorporating the other proposed changes.

Storage Facility Contracts

Section 250.14(d) would be amended by the proposed rule to extend the duration of contracts of distributing and subdistributing agencies with storage facilities to a maximum of five years, including option years. While the five respondents which commented on this provision supported the proposal, one commenter suggested that the extended contract period should also apply to facilities that both store and deliver commodities since they would benefit from longer contracts in the same manner as facilities engaged only in storage. The Department did not intend to exclude such facilities under the proposed rule. Therefore, in order to clarify the Department's intent, section 250.3 is revised under this final rule to add a definition of storage facilities which specifically includes facilities that both store and deliver commodities, as well as those that only store commodities. The final rule extends the duration of contracts of distributing and subdistributing agencies with storage facilities, as defined in section 250.3, to a maximum of five years, including option years, as proposed. However, it should be noted that ''carriers''—those entities which perform only a delivery function—are still limited to one-year contracts, with options for two additional one-year periods, as stipulated in section 250.12(c)(2), as amended by this final rule.

Food Service Management Company Contracts

The proposed rule would amend section 250.12(d) to extend the duration of contracts between food service management companies and charitable institutions, nutrition programs for the elderly, and nonprofit summer camps for children to one year, with an option for four additional one-year periods. The three respondents which commented on this provision supported the proposal. Therefore, this provision is retained in this final rule as proposed.

Commodity Acceptability Report Requirements

The proposed rule would amend section 250.13(k)(2) to exclude the Summer Food Service Program (SFSP), summer camps, the Emergency Food Assistance Program, and charitable institutions from those recipient agencies for which distributing agencies are required to submit commodity acceptability information. The proposed rule would also amend section 250.13(k)(3) to delete reference to the annual submission by November 30th of commodity acceptability reports for summer camps and SFSP (for which reports would not be required), and clarify that distributing agencies must submit commodity acceptability reports (for those programs for which reports would be required, as stipulated in section 250.13(k)(2)) to FCS Regional Offices by April 30th each year. Additionally, the rule proposed to make a technical change to section 250.24(d)(1) by removing the word ''semi-annual'' to reflect the current requirement contained in section 3(f)(2) of Pub. L. 100–237, as amended by section 1773(d) of Pub. L. 101–624, which mandates the annual collection of commodity acceptability information. Since the comments received support these provisions, proposed revisions to sections 250.13(k)(2), 250.13(k)(3), and 250.24(d)(1) are retained in this final rule.

Inventory Report Requirements

The proposed rule would amend section 250.17(a) to require semiannual, instead of monthly, submissions of form FCS–155, the Inventory Management Register, and describes the function of this form, which is to report information on excessive commodity inventories. The proposed rule would also allow FCS to require more frequent reporting, if necessary to maintain program accountability, or less frequent reporting, if sufficient to meet program needs. The language of section 251.10(d) would be modified by the proposed rule to refer to the revised inventory reporting requirements in section 250.17(a), and to require submission of household participation data for TEFAP utilizing form FCS–155 at the same frequency that inventory information is reported. Under the proposed rule, this section would also be revised to delete

reference to a list of individual food orders received for each food item delivered (the function of the FCS–155A, which has been determined to be unnecessary). The three respondents which commented on these provisions supported the proposed revisions. Thus, the proposed amendments to sections 250.17 and 251.10 relative to the submission of FCS Form FCS–155 are retained in this final rule.

Monitoring Review Requirements

The proposed rule would revise section 250.19(b) to require State agencies to conduct on-site reviews of charitable institutions, nonprofit summer camps for children, and the food service management companies under contract with them, at a minimum: (1) Whenever the State agency identifies actual or probable deficiencies in program administration through audits, investigations of complaints, reports submitted by recipient agencies, or any other information available to the State agency, which, at the discretion of the State agency, warrants an on-site review; or, (2) at the request of FCS. The comments received supported this proposal. Hence, the revisions to this section are retained in this final rule as proposed.

FDPIR State Plan

Section 253.5(a), as amended by the proposed rule, would make the FDPIR State plan permanent, with amendments added as changes in State agency administration or management of the program, as described in the plan, are made, or at the request of FCS. Commenters supported this proposal. Therefore, the proposed revision to section 253.5(a) remains unchanged in this final rule.

TEFAP State Plan

One comment was received proposing that the TEFAP State plan be made permanent. However, as stated in the preamble of the proposed rule, section 871(b) of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. 104–193, amended section 202A of the Emergency Food Assistance Act of 1983, Pub. L. 98–8, to require State agencies to submit a TEFAP State plan every four years, with amendments submitted as necessary. This requirement, which will be codified in a future rule, became effective with the enactment of Pub. L. 104–193 on August 22, 1996. Given the requirements contained in the legislation, the Department does not have the authority the make TEFAP State plans permanent.

Application for Federal Assistance

The proposed rule would amend section 253.9(c) to reflect the current form, i.e., SF–424, which Indian Tribal Organizations (ITOs) must submit to receive Federal administrative funds on an annual basis instead of form AD–623. This section would also be amended to delete the statement encouraging ITOs which act as State agencies to first submit applications for Federal administrative funds through the State clearinghouse since the Department does not believe that this statement is in the spirit of the ''Government-to-Government Relations with Native American Tribal Governments'' Presidential directive which was issued on April 29, 1994 and published in the **Federal Register** on May 4, 1994 (59 FR 22951). No comments were received concerning these provisions. Therefore, the proposed revisions to section 253.9(c) are retained in this final rule.

Technical Changes

A number of technical changes to regulatory provisions were proposed in the proposed rule. Since no comments were received on any of these changes, they are included in this final rule without modification.

List of Subjects

7 CFR Part 250

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Food processing, Grant programs—social programs, Indians, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 251

Aged, Agricultural commodities, Business and industry, Food assistance programs, Food donations, Grant programs—social programs, Indians, Infants and children, Price support programs, Reporting and recordkeeping requirements, School breakfast and lunch programs, Surplus agricultural commodities.

7 CFR Part 253

Administrative practice and procedure, Food assistance programs, Grant programs, Social programs, Indians, Reporting and recordkeeping requirements, Surplus agricultural commodities.

Accordingly, 7 CFR parts 250, 251, and 253 are amended as follows:

PART 250—DONATION OF FOODS FOR USE IN THE UNITED STATES, ITS TERRITORIES AND POSSESSIONS AND AREAS UNDER ITS JURISDICTION

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

Authority: 5 U.S.C. 301; 7 U.S.C. 612c, 612c note, 1431, 1431b, 1431e, 1431 note, 1446a–1, 1859, 2014, 2025; 15 U.S.C. 713c; 22 U.S.C. 1922; 42 U.S.C. 1751, 1755, 1758, 1760, 1761, 1762a, 1766, 3030a, 5179, 5180.

2. Section 250.3 is amended by adding a definition of *Storage facility,* in alphabetical order, to read as follows:

§ 250.3 Definitions.

* * * * *

Storage facility means an operation that provides warehousing services, or provides both warehousing and delivery services.

* * * * *

§§ 250.3, 250.40, 250.41, 250.42, 250.48, 250.49 [Amended]

3. In § 250.3, in the definition of *Food service management company,* and in §§250.40(a)(4), 250.41(a)(3), 250.42(a), 250.48(a)(1), and 250.49(a), the citation ''250.12(c)'' is removed wherever it appears, and the citation ''250.12(d)'' is added in its place.

4. In §250.12:

a. The third and fourth sentences of paragraph (a) are revised;

b. The undesignated text following paragraph (b)(4) is removed;

c. Paragraphs (c), (d), and (e) are redesignated as paragraphs (d), (e), and (f), and a new paragraph (c) is added; and

d. Newly redesignated paragraphs (d) and (e) are revised.

The revisions and addition read as follows:

§ 250.12 Agreements and contracts.

(a) *Agreements with Department.* * * * The agreements shall be considered permanent, with amendments initiated by distributing agencies, or submitted by them at the Department's request, all of which shall be subject to approval by the Department. In addition, agreements between the Department and State Agencies on Aging that elect to receive cash in lieu of commodities shall also be considered permanent, with amendments initiated by these agencies, or submitted by them at the Department's request, all of which amendments shall be subject to approval by the Department.

* * * * *

(c) *Duration of distributing agency agreements.*—(1) Recipient agencies.

Distributing agency agreements with recipient agencies shall be considered permanent, with amendments to be made as necessary. Distributing agencies shall ensure that recipient agencies provide, on a timely basis, by amendment to the agreement, any changed information, including, but not limited to, any changes resulting from amendments to Federal regulatory requirements and policy and changes in site locations, and number of meals or needy persons to be served.

(2) *Subdistributing agencies, carriers, and other entities.* Distributing agency agreements with subdistributing agencies (as defined in § 250.3) that are not recipient agencies, carriers, and other entities shall be in effect for not longer than one year, and shall provide that they may be extended at the option of both parties for two additional one-year periods. The party contracting with the distributing agency shall update all pertinent information and demonstrate that all donated food received during the period of the previous agreement has been accounted for, before an agreement is extended.

(3) *Termination of agreements.* Agreements may be terminated for cause by either party upon 30 days notice.

(d) *Food service management company contracts.* Food service management companies may be employed to conduct the food service operations of nonprofit summer camps for children, charitable institutions, nutrition programs for the elderly, schools, nonresidential child care institutions, and service institutions. When a food service management company is employed to provide such services, the recipient agency shall enter into a written contract with the food service management company. The contract shall expressly provide that any donated foods received by the recipient agency and made available to the food service management company shall be utilized solely for the purpose of providing benefits for the employing agency's food service operation, and it shall be the responsibility of the recipient agency to demonstrate that the full value of all donated foods is used solely for the benefit of the recipient agency. All food service management companies shall be subject to review by the distributing agency for compliance with contractual requirements, in accordance with § 250.19(b)(1). In the case of nonprofit summer camps for children, charitable institutions, and nutrition programs for the elderly, the contract shall be in effect for no longer than one year, and may provide that it be extended at the option of both parties for not more than four additional one-year periods. Contracts shall provide that they may be terminated for cause by either party upon 30 days notice. Prior to extension of the contract, the nonprofit summer camp for children, charitable institution, or nutrition program for the elderly shall update all pertinent information and demonstrate that all donated food received during the previous contract period has been accounted for.

(e) *Storage facility contracts.* When contracting for storage facilities, distributing agencies and subdistributing agencies shall enter into a written contract, in accordance with § 250.14(d).

* * * * *

5. In § 250.13:

a. Paragraph (k)(2) is amended by removing the words ''the Summer Food Service Program'', ''charitable institutions, summer camps,'' and '', and the Emergency Food Assistance Program'', and by adding the word ''and'' before the words ''the Food Distribution Program on Indian Reservations''; and

b. Paragraph (k)(3) is revised to read as follows:

§ 250.13 Distribution and control of donated foods.

* * * * *

(k) * * *

(3) T*imeframes for submission.* Distributing agencies shall submit commodity acceptability reports to the appropriate FCSRO by April 30th of each year on form FCS–663.

6. In § 250.14:

a. The introductory text of paragraph (d) is amended by removing the first three sentences, and adding two new sentences in their place;

b. Paragraph (d)(1) is amended by removing the reference to ''paragraph (a)'' and adding in its place a reference to ''paragraph (b)''; and

c. Paragraph (e) is amended by removing the citation ''§ 250.14(b)'' in the first sentence, and adding in its place a reference to ''paragraph (c) of this section''; and by removing the reference to ''paragraph (e)'' in the fourth sentence, and adding in its place a reference to ''paragraph (f)''.

The additions read as follows:

§ 250.14 Warehousing, distribution and storage of donated foods.

* * * * *

(d) *Contracts.* When contracting for storage facilities, distributing agencies and subdistributing agencies shall enter into written contracts to be effective for no longer than five years, including option years extending a contract. Before the exercise of option years, the storage facility shall update all pertinent information and demonstrate that all donated foods received during the previous contract period have been accounted for. * * *

* * * * *

7. Section 250.17 is amended by revising paragraph (a) to read as follows:

§ 250.17 Reports.

(a) *Inventory reports and receipt of donated foods.* Distributing agencies shall complete and submit to the FCSRO semiannual reports regarding excessive inventories (as defined in § 250.14(f)) of donated foods, utilizing form FCS–155, the Inventory Management Register, except that distributing agencies shall submit monthly inventory information on form FCS–152, for the Food Distribution Program on Indian Reservations, and on form FCS–153, for the Commodity Supplemental Food Program. FCS may require the use of other reporting formats. FCS may also require that form FCS–155 be submitted more frequently than semiannually if necessary to maintain program accountability, and that any inventory report be submitted less frequently if sufficient to meet program needs. Reports shall be submitted not later than 30 calendar days after the last month in the reporting period as established by FCS.

* * * * *

8. In § 250.19:

a. Paragraph (b)(1)(i) is revised;

b. Paragraphs (b)(1)(ii), (b)(1)(iii), and (b)(1)(iv) are redesignated as paragraphs (b)(1)(iii), (b)(1)(iv), and (b)(1)(v), respectively;

c. A new paragraph (b)(1)(ii) is added; and

d. Newly redesignated paragraph (b)(1)(v) is revised.

The revisions and addition read as follows:

§ 250.19 Reviews.

* * * * *

(b) *Responsibilities of distributing agencies.*

(1) * * *

(i) An on-site review of all nutrition programs for the elderly under agreement in accordance with § 250.12(b), at least once every four years, with not fewer than 25 percent of these programs being reviewed each year. These reviews shall also include on-site reviews of the storage facilities of sites receiving donated foods to ensure compliance with § 250.14(b);

(ii) An on-site review of all charitable institutions and nonprofit summer camps for children under agreement in accordance with § 250.12(b), and the food service management companies

under contract with these recipient agencies in accordance with § 250.12(d), at a minimum, whenever the distributing agency identifies actual or probable deficiencies in program administration, including compliance with civil rights provisions, through audits, investigations of complaints, reports submitted by recipient agencies, or any other information available to the State agency which, at the discretion of the State agency, warrants an on-site review, or at the request of FCS;

* * * * *

(v) A biennial review of all food service management companies under contract with recipient agencies in accordance with § 250.12(d), except that:

(A) Food service management companies under contract with charitable institutions and nonprofit summer camps for children shall be reviewed in accordance with paragraph (b)(1)(ii) of this section; and,

(B) Food service management companies under contract with schools participating in the National School Lunch Program or commodity schools under part 210 of this chapter, or with schools participating in the School Breakfast Program under part 220 of this chapter, shall be reviewed in accordance with the provisions set forth in parts 210 and 220.

* * * * *

§ 250.24 [Amended]

9. In § 250.24, paragraph (d)(1) is amended by removing the word ''semi-annual''.

PART 251—THE EMERGENCY FOOD ASSISTANCE PROGRAM

1. The authority citation for part 251 is revised to read as follows:

Authority: 7 U.S.C. 7501–7516.

2. Section 251.2 is amended by revising paragraph (c) to read as follows:

§ 251.2 Administration.

* * * * *

(c) Each State agency that distributes donated foods to emergency feeding organizations or receives payments for storage and distribution costs in accordance with § 251.8 shall perform those functions pursuant to an agreement entered into with the Department. This agreement shall be considered permanent, with amendments initiated by distributing agencies, or submitted by them at the Department's request, all of which shall be subject to approval by the Department. Such State agencies shall enter into a written agreement with eligible emergency feeding organizations. This agreement shall provide that emergency feeding organizations agree to operate the program in accordance with the requirements of this part, and, as applicable, part 250 of this chapter. The agreement shall be considered permanent, with amendments to be made as necessary. State agencies shall ensure that emergency feeding organizations provide, on a timely basis, by amendment to the agreement, any information on changes in program administration, including, but not limited to, any changes resulting from amendments to Federal regulations or policy.

3. In § 251.10:

a. Paragraph (a)(1) is amended by removing the citation ''§ 250.6(r)'', and adding in its place the citation ''§ 250.16'';

b. Paragraph (d)(2) is revised to read as follows; and

c. Paragraph (d)(3) is removed.

§ 251.10 Miscellaneous provisions.

* * * * *

(d) *Reports.* * * *

(2) Each State agency shall complete and submit to the FCSRO reports to ensure that excessive inventories of donated foods are not maintained, in accordance with the requirements of § 250.17(a) of this chapter. Such reports shall also include the total number of households served in the State since the previous report submittal, based upon current information received from emergency feeding organizations.

* * * * *

PART 253—ADMINISTRATION OF THE FOOD DISTRIBUTION PROGRAM FOR HOUSEHOLDS ON INDIAN RESERVATIONS

1. The authority citation for part 253 continues to read as follows:

Authority: 91 Stat. 958 (7 U.S.C. 2011–2027), unless otherwise noted.

2. Section 253.5 is amended by removing the first two sentences of the introductory text of paragraph (a)(1) and adding, in their place, three new sentences to read as follows:

§ 253.5 State agency requirements.

(a) *Plan of operation.* (1) The State agency that assumes responsibility for the Food Distribution Program shall submit a plan of operation for approval by FCS. Approval of the plan shall be a prerequisite to the donation of commodities available for use by households under § 253.9. The approved plan shall be considered permanent, with amendments to be added as changes in State agency administration or management of the program, as described in the plan, are made, or at the request of FCS. * * *

* * * * *

3. Section 253.9 is amended by revising paragraph (c)(1) to read as follows:

§ 253.9 Administrative funds for State agencies.

* * * * *

(c) *Application for funds.* (1) Any State agency administering a Food Distribution Program that desires to receive administrative funds under this section shall submit form SF–424, ''Application for Federal Assistance,'' to the appropriate FCS Regional Office at least three months prior to the beginning of a Federal fiscal year. The application shall include budget information, reflecting by category of expenditure the State agency's best estimate of the total amount to be expended in the administration of the program during the fiscal year. FCS may require that detailed information be submitted by the State agency to support or explain the total estimated amounts shown for each budget cost category. As required by 7 CFR part 3015, Subpart V, agencies of State government shall submit the application for Federal assistance to the State clearinghouse before submitting it to the FCSRO. ITOs shall not be subject to this requirement.

* * * * *

Dated: October 2, 1997.

Yvette S. Jackson,

Acting Administrator.

[FR Doc. 97–27310 Filed 10–15–97; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1220

Soybean Promotion and Research; Rules and Regulations

CFR Correction

In title 7 of the Code of Federal Regulations, parts 1200 to 1499, revised as of January 1, 1997, on page 130, § 1220.315 should be removed.

BILLING CODE 1505–01–D

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

9 CFR Part 97

[Docket No. 97–032–1]

Commuted Traveltime Periods: Overtime Services Relating to Imports and Exports

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Final rule.

SUMMARY: We are amending the regulations concerning overtime services provided by employees of Veterinary Services by changing the commuted traveltime allowance for travel between Champlain, NY, and Highgate, VT. Commuted traveltime allowances are the periods of time required for Veterinary Services employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, or other overtime duty. The Government charges a fee for certain overtime services provided by Veterinary Services employees and, under certain circumstances, the fee may include the cost of commuted traveltime. This action is necessary to inform the public of commuted traveltime for this location.

EFFECTIVE DATE: October 16, 1997.

FOR FURTHER INFORMATION CONTACT: Ms. Louise Rakestraw Lothery, Director, Resource Management Support, VS, APHIS, suite 3B08, 4700 River Road Unit 44, Riverdale, MD 20737–1231, (301) 734–7517; or e-mail: llothery@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

The regulations in 9 CFR, chapter I, subchapter D, and 7 CFR, chapter III, require inspection, laboratory testing, certification, or quarantine of certain animals, animal products, plants, plant products, or other commodities intended for importation into, or exportation from, the United States. When these services must be provided by an employee of Veterinary Services (VS) on a Sunday or holiday, or at any other time outside the VS employee's regular duty hours, the Government charges a fee for the services in accordance with 9 CFR part 97. Under circumstances described in § 97.1(a), this fee may include the cost of commuted traveltime. Section 97.2 contains administrative instructions prescribing commuted traveltime allowances, which reflect, as nearly as practicable, the periods of time required for VS employees to travel from their dispatch points and return there from the places where they perform Sunday, holiday, and other overtime duty.

We are amending § 97.2 of the regulations by changing the commuted traveltime allowances for travel between Champlain, NY, and Highgate, VT. The amendment is set forth in the rule portion of this document. This action is necessary to inform the public of the commuted traveltime between the dispatch and service locations.

Effective Date

The commuted traveltime allowances appropriate for employees performing services at ports of entry, and the features of the reimbursement plan for recovering the cost of furnishing port of entry services, depend upon facts within the knowledge of the Department of Agriculture. It does not appear that public participation in this rulemaking proceeding would make additional relevant information available to the Department.

Accordingly, pursuant to the administrative procedure provisions in 5 U.S.C. 553, we find upon good cause that prior notice and other public procedure with respect to this rule are impracticable and unnecessary; we also find good cause for making this rule effective less than 30 days after publication of this document in the **Federal Register**.

Executive Order 12866 and Regulatory Flexibility Act

This final rule has been reviewed under Executive Order 12866. For this action, the Office of Management and Budget has waived its review process required by Executive Order 12866.

The number of requests for overtime services of a VS employee at the locations affected by our rule represents an insignificant portion of the total number of requests for these services in the United States.

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

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 7 CFR part 3015, subpart V.)

Executive Order 12988

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have a preemptive effect with respect to any State or local laws, regulations, or policies that conflict with its provisions or that would otherwise impede its full implementation. This rule is not intended to have retroactive effect. There are no administrative procedures that must be exhausted prior to any judicial challenge to the provisions of this rule or the application of its provisions.

Paperwork Reduction Act

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

List of Subjects in 9 CFR Part 97

Exports, Government employees, Imports, Livestock, Poultry and poultry products, Travel and transportation expenses.

Accordingly, 9 CFR part 97 is amended as follows:

PART 97—OVERTIME SERVICES RELATING TO IMPORTS AND EXPORTS

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

Authority: 7 U.S.C. 2260; 49 U.S.C. 1741; 7 CFR 2.22, 2.80, and 371.2(d).

2. Section 97.2 is amended in the table, under New York, by revising the following entry to read as follows:

§ 97.2 Administrative instructions prescribing commuted traveltime.

* * * * *

COMMUTED TRAVELTIME ALLOWANCES
[In hours]

Locations covered			Served from			Metropolitan area	
						Within	Outside
*	*	*	*	*	*		*
New York:							
*	*	*	*	*	*		*
Champlain			Highgate, VT			2	
*	*	*	*	*	*		*

Done in Washington, DC, this 9th day of October 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27426 Filed 10–15–97; 8:45 am]

BILLING CODE 3410–34–P

FEDERAL RESERVE SYSTEM

12 CFR Part 213

[Regulation M; Docket Nos. R–0892, R–0952, and R–0961]

Consumer Leasing; Delay of Compliance Date; Correction

AGENCY: Board of Governors of the Federal Reserve System.

ACTION: Final rule; delay of compliance date; correction.

SUMMARY: This document corrects the preamble to the document published in the **Federal Register** on September 30, 1997 (62 FR 51006), regarding the delay of the mandatory compliance date for Regulation M, which implements the Consumer Leasing Act. This correction clarifies that the delay of the mandatory compliance date for the revised regulation applies not only to the final rule published in the **Federal Register** in October 1996, but also to an amendment published on April 1, 1997 (62 FR 15364), and the official staff commentary published on April 4, 1997 (62 FR 16053).

DATES: The date for mandatory compliance with the final rule published on October 7, 1996 (61 FR 52246), an amendment published on April 1, 1997 (62 FR 15364), and the official staff commentary published on April 4, 1997 (62 FR 16053), is delayed until January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Kyung H. Cho-Miller or Obrea O. Poindexter, Staff Attorneys, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551, at (202) 452–2412 or 452–3667. For users of Telecommunications Devices for the Deaf (TDDs), please contact Diane Jenkins at (202) 452–3544.

Correction

In the Board document for Docket R–0892 published on September 30, 1997, beginning on page 51006 in the **Federal Register**, the Dates section is corrected to read:

Dates: The date for mandatory compliance with the final rule published on October 7, 1996 (61 FR 52246), an amendment published on April 1, 1997 (62 FR 15364), and the official staff commentary published on April 4, 1997 (62 FR 16053), is delayed until January 1, 1998.

By order of the Board of Governors of the Federal Reserve System, acting through the Secretary of the Board under delegated authority, October 8, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–27276 Filed 10–15–97; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 23

[Docket No. 136CE, Special Condition 23–ACE–88]

Special Conditions; Ballistic Recovery Systems Cirrus SR–20 Installation

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are being issued to become part of the type certification basis for the Ballistic Recovery Systems, Inc., (BRS) parachute recovery system installed in the Cirrus SR–20 Model airplane. This system is referred to as the General Aviation Recovery Device (GARD). Airplanes modified to use this system will incorporate novel or unusual design features for which the applicable airworthiness regulations do not contain adequate or appropriate safety standards. These special conditions contain the additional airworthiness standards that the Administrator considers necessary to establish a level of safety equivalent to the original certification basis for these airplanes.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Lowell Foster, Aerospace Engineer, Standards Office (ACE–110), Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone (816) 426–5688.

SUPPLEMENTARY INFORMATION:

Background

On March 7, 1996, Cirrus Design, 4515 Taylor Circle, Duluth, MN 55811, filed an application for a type certificate (TC). Included in this TC application was the provision to install the BRS GARD parachute recovery system as standard equipment on each Cirrus Model SR–20 airplane. The parachute recovery system is intended to recover an airplane in emergency situations such as mid-air collision, loss of engine power, loss of airplane control, severe structural failure, pilot disorientation, or pilot incapacitation with a passenger on board. The GARD system, which is only used as a last resort, is intended to prevent serious injuries to the airplane occupants by parachuting the airplane to the ground.

The parachute recovery system consists of a parachute packed in a canister mounted on the airframe. A solid propellant rocket motor deploys the canopy and is located on the side of the canister. A door positioned above the canister seals the canister, parachute canopy, and rocket motor from the elements and provides free exit when the canopy is deployed. The system is deployed by a mechanical pull handle mounted so that the pilot and passenger can reach it. At least two separate and

independent actions are required to deploy the system.

A multi-cable bridle attaches the canopy bridle to the airplane primary structure. The cable lengths are sized to provide the best airplane touchdown attitude. The cables are routed from the parachute canister thru the fuselage and run externally to the fuselage attach points. The external portion of these cables are covered with small frangible fairings.

Type Certification Basis

The type certification basis for the Cirrus Model SR–20 is as follows: 14 CFR part 23, effective February 1, 1965, including Amendments 23–1 through 23–47; 14 CFR part 36, effective December 1, 1969, including Amendments 36–1 through the amendment in effect at the time of U.S. certification; Equivalent Level of Safety Findings; Exemptions approved by the FAA (14 CFR part 11, § 11.27; Section 611(b) of the FAA Action of 1958 (49 U.S.C. 44715); and the special conditions adopted by this rulemaking action.

Discussion

Special conditions may be issued and amended, as necessary, as part of the type certification basis if the Administrator finds that the airworthiness standards designated in accordance with 14 CFR part 21, § 21.16 do not contain adequate or appropriate safety standards because of the novel and unusual design features of the airplane modification. Special conditions, as appropriate, are issued after public notice in accordance with § 11.49 (as amended September 25, 1989), as required by §§ 11.28 and 11.29(b). The special conditions become part of the type certification basis, as provided by § 21.17(a)(2).

The installation of parachute recovery systems in 14 CFR part 23 airplanes was not envisioned when the certification basis for these airplanes was established. In addition, the Administrator has determined that current regulations do not contain adequate or appropriate safety standards for a parachute recovery system; therefore, this system is considered a novel and unusual design feature. The flight test demonstration requirements will ensure that the parachute recovery system will perform its intended function without exceeding its strength capabilities. Demonstrations will be required to show that the parachute will deploy in specified flight conditions. These conditions are a minimum of maneuvering speed, V_O or higher, and deployment during a one-turn spin entry. If the airplane does not depart , the condition is the maneuver that results from pro-spin control inputs held for one turn, or three seconds, whichever comes first.

Occupant restraint requirements will ensure that the airplane is equipped with a restraint system designed to protect the occupants from injury during parachute deployment and ground impact. Each occupant seat must meet the requirements of 14 CFR part 23, § 23.562 as part of the original certification basis.

Requirements for parachute performance will ensure all of the following: (a) The parachute complies with the applicable section of TSO–C23c (SAE AS8015A) at the maximum airplane weights. (b) The parachute deployment loads do not exceed the structural strength of the airplane. (c) The system will provide a ground impact that does not result in serious injury of the passengers. (d) The system will operate in adverse weather conditions.

The requirements for the functions and operations of the parachute recovery system will ensure all of the following: (a) There is no fire hazard associated with the system. (b) The installation of this system allows relief from another part 23 requirement, spins. For this reason, it will need to be operational for all flights. (c) That the system will work in all weather conditions that the airplane is approved to operate in, including the IFR and icing environments. (d) The sequence of arming and activating the system will prevent inadvertent deployment. (e) The system can be activated from either the pilot's or the copilot's position by various sized people. (f) The system will be labeled to show its identification function and operating limitations. (g) A warning placard will be located on the fuselage near the rocket motor to warn rescue crews of the ballistic system. (h) The FAA-approved flight manual will include a thorough explanation of system's operation and limitations as well as the safe deployment envelope. (i) The occupants are protected from serious injury after touchdown in adverse weather.

Requirements for protection of the parachute recovery system will ensure the following: the system is protected from deterioration due to weathering, corrosion, and abrasion; provisions are made to provide adequate ventilation and drainage of the airplane structure that houses the parachute canister.

Requirements for a system inspection provision will ensure that adequate means are available to permit examination of the parachute recovery system components and that instructions for continued airworthiness are provided.

Requirements for operating limitations of the parachute recovery system will ensure that the system operating limitations and deployment envelope are prescribed, including inspection, repacking, and replacing the system's parachute deployment mechanism at approved intervals.

Discussion of Comments

Notice of Proposed Special Conditions, Notice No. 23–ACE–88, Docket No. 136CE was published in the **Federal Register** on February 6, 1997, and the comment period closed March 10, 1997. Following is a summary of the comments received and a response to each comment.

Only one commenter responded to the notice and that was Cirrus Design. They offered five comments, all of which are addressed below.

1. *Comment.* Paragraph 1(a). Proposed Special Condition, Docket No. 136CE, 23–ACE–88 does not contain provisions for the flight test demonstration to be conducted on an aircraft having similar characteristics as was accepted for Docket No. 118CE, 23–ACE–76, Special Conditions: Ballistic Recovery Systems, Modified for Small General Aviation Aircraft. Cirrus proposes to modify the current language of 1(a) to include: ''The system may be demonstrated on an aircraft having similar characteristics (such as configuration, weight, and speed) and similar installation.'' The crucial elements here are the mass distribution of the aircraft and center of gravity (moment of inertia), the location of the riser attachments relative to the c.g., and the riser configurations. The flight demonstration is conclusive if these elements are similar. An example of this situation would be that of demonstrating the operation of the recovery system in a development prototype aircraft similar to that of the type design aircraft. It is only a matter of necessary conformity and degree of similarity. The allowance for ''similar'' aircraft flight demonstration is a logical inclusion and will require a case by case review. This provision was found acceptable for 23–ACE–76 and, therefore, is acceptable for any STC installations. A TC application should not, by law, require more stringent conditions.

FAA Response. The special conditions for BRS installations referred to by Cirrus; 23–ACE–76, Docket No. 118CE, were originally intended for airplanes similar to the Quicksilver GT–500 and they were intended for general applicability for certificated small

airplanes. The Cirrus special conditions do not include this provision because they are unique to the model SR–20. On a model specific special condition, general applicability items are not appropriate. This does not imply that minor design variations in the model would require additional testing.

The FAA agrees that the crucial elements are mass distribution, moment of inertia, riser attachments and configurations. If these crucial elements remain essentially constant with minor design variation, then credit for GARD testing should apply to both airplanes. This issue has been adequately addressed in this preamble and no change in the special conditions is necessary.

2. *Comment.* Paragraph 1(b)(2). It is recommended that item 1(b)(2) be changed to: ''maximum allowable deployment speed with 1g normal load.'' The use of this type of safety equipment is in its infancy and analytical predictions of deployment dynamics are challenging. Based on this, the loads used in the design phase are estimations based on the best information available. The actual loads are determined during flight testing and fix the maximum allowable deployment speed that the designed structure can withstand. A requirement for a system to be deployed at V_{NE} not only offers extreme risk within a development and certification program, but also extends beyond that which is necessary to offer increased safety to the pilot and passengers for the portion of the flight envelope reflecting the largest numbers of accidents. This equipment is provided to give the pilot an additional option for recovery in a critical situation. The deployment envelope should be clearly placarded; beyond which point system operation is prohibited/not recommended. However, the mere presence of the equipment does offer a certain increase in safety. This option to the pilot should not be totally withdrawn because of the *potential* inability of the system to be deployed at V_{NE}. In order to use the GARD system for the spin ELOS, the system need only be safely deployed in a spin situation. Deployments at any other time are an increase in safety above that which is required by FARs.

This requirement also significantly affects customer value. Not all aircraft [especially high performance] can offer this equipment with $V5_{NE}$ envelope capability while maintaining an overall aircraft value/utility, due to the severe structural requirements (energy as the square of the velocity). Should pilots of these aircraft be denied the use of this equipment when in a critical low speed situation? As a final note, a maximum deployment speed other than V_{NE} was found to be acceptable for the GARD 150 program, which also began with a V_{NE} requirement, 23–ACE–33, Special Conditions: Ballistic Recovery System, Inc., Modified Cessna 150/A150 Series Airplanes and 152/A152 Model Airplanes to Incorporate the GARD–150 System.

FAA Response. The FAA developed the original special conditions for the Ballistic Recovery System GARD–150 System based on what was believed to be appropriate at that time. Ideally, it is desirable for any safety device to operate over the entire flight envelope of the airplane it is installed in. Based on this ideal, the original special conditions were intended to cover operation from stall to V_{NE}. Prior to the Cessna 150 STC installing the GARD–150, the typical airplanes that installed a ballistic parachute recovery system could use the system over the entire flight envelope because they were very light, low performance vehicles. The Cirrus SR–20 is a heavy, high performance airplane by comparison. There are challenging technical issues to address with this installation, one of them is the maximum demonstrated deployment speed.

Cirrus is installing the BRS GARD system not only for general safety improvements but also for relief from the spin recovery demonstrations required by part 23. The FAA agrees with Cirrus that a requirement for deployment at V_{NE} is not relative to a requirement for an equivalent safety finding for spin recovery. The FAA, however, disagrees with Cirrus's recommended change because it is open ended, allowing any speed above stall to meet the special condition.

The introduction of innovative safety devices, such as ballistic parachute recovery systems, is important to the FAA's goal of reducing fatal accidents. For this reason, the FAA met with representatives from Cirrus to discuss the maximum deployment demonstration issue. Cirrus' concern, as expressed in their comments, focuses on the risk of developing the system that will safely deploy throughout most of the airplane's speed range, falling just short of V_{NE} and, hence, not receiving approval to install the system in their airplane. Furthermore, Cirrus argues that the mere presence of the GARD system offers a certain increase in safety; therefore, specifying a maximum deployment speed that may not be achievable risks negating the GARD system installation. This action would not be in the best interest of safety.

It is important to understand that this issue does not concern operational deployment by pilots directly. It addresses the deployment tests required by this special condition for certification. The test airplane used for the GARD system deployments must be safely used for multiple deployments. This means that the airplane must remain airworthy after GARD system deployment so that the parachute can be cut away and the airplane safely landed. In operational use, the airplane does not need to remain airworthy after parachute deployment because it is committed to returning to the ground. Once the parachute is deployed in operation, the airplane is going to the ground and probably will not be in an airworthy condition after the landing. Moreover, the FAA should be clear that our concern is that of occupant safety. If the initial opening shock of the GARD system fails parts of the airframe, that is acceptable as long as the occupants meet the safety requirements of these special conditions. The point of this discussion is that an acceptable operational deployment of the GARD system may not be acceptable in the flight test deployment case because the airplane could sustain serious damage, preventing the completion of the flight test program.

After discussing all technical points and positions, the FAA agreed that the appropriate course was to require a maximum deployment speed based on the equivalent safety finding. The equivalent safety finding provides relief from the spin recovery demonstration requirements of § 23.221. The entry requirement for a spin is a stall; therefore, the FAA determined that an acceptable maximum demonstrated deployment speed for the GARD system must be at least V_O, the maximum speed at which, with a full deflection control input, the airplane will stall before reaching limit load on the airframe. This will provide adequate margin for the safe application of the equivalent safety finding and reduce Cirrus' concern that their GARD system installation would not be approved. The FAA also acknowledges that it is Cirrus' goal to push the GARD system deployment speed as high as possible within practical constraints.

3. *Comment.* Paragraph 3(b). It is suggested that this paragraph include ''and the parachute assembly.''

FAA Response. The FAA agrees and will incorporate the comment.

4. Comment. Paragraph 4(b). This paragraph states that a ''system failure must be shown to be extremely improbable.'' Previous requirements for this type of system, reference 23–ACE–

76, cited that the system, ''must be shown to function reliably and to perform its intended function.''

The previous requirements were appropriate for equipment that increases the level of safety of the airplane. Reliability of ''extremely improbable,'' as defined in AC 23–1309, cannot be reasonably shown quantitatively. The system, as designed, can deliver functional reliability. The testing required on incipient spin recovery will not quantify a demonstration of ''extremely improbable.''

The critical firing system is designed with similar methodology as redundant load path structure. There are two firing primers, where only one is necessary for ignition of the rocket. The remainder of the system is mechanical in nature with few parts. The following is offered as a possible change to the wording: ''activation system must be shown to function reliably [such as redundant ignition sources] and to perform its intended function.''

FAA Response. The FAA agrees in principle with Cirrus' comments concerning reliability. The following changes are included in these special conditions.

''Discussion'' section:

The probability that the system will operate as designed is very high.

''Special Conditions'' section:

The system must be shown to perform its intended function with a high probability that it will operate as designed.

5. *Comment.* Paragraph 7(b). Based on the comments of Paragraph 1(b)(2) above, it is also recommended that 7(b) be removed from this special condition. Again, the ELOS does not maintain applicability to the high speed portion of the flight envelope and, therefore, the equipment should not be required to operate in this speed range.

FAA Response. Addressed in the earlier discussion concerning deployment demonstration at V_{NE}.

Conclusion

The following special conditions are issued for the Cirrus SR–20 airplane. This action affects only novel and unusual design features on specified model/series airplanes. It is not a rule of general applicability and affects only those applicants who apply to the FAA for approval of these features on these airplanes.

List of Subjects in 14 CFR Part 23

Aircraft, Aviation safety, and Signs and Symbols.

Citation

The authority citation for this special condition is as follows:

Authority: 49 U.S.C. 106(g), 40113 and 44701; 14 CFR 21.16 and 101; and 14 CFR 11.28 and 11.49.

Adoption of Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration issues the following special conditions as part of the type certification basis for the Cirrus Model SR–20 airplanes:

1. Flight Test Demonstration

(a) The system must be demonstrated in flight to satisfactorily perform its intended function, without exceeding the system deployment design loads, for the critical flight conditions.

(b) Satisfactory deployment of the parachute must be demonstrated, at the most critical airplane weight and balance, for the following flight conditions:

(1) One of the two maneuvers, (i) or (ii), must be performed for the low speed end of the flight envelope;

(i) Spin with deployment at one turn or 3 seconds, whichever is longer; or

(ii) Deployment immediately following the maneuver that results from a pro-spin control input held for one turn or 3 seconds, whichever is longer.

(2) A minimum of maneuvering speed, V_O or higher;

2. Occupant Restraint.

Each seat in the airplane must be equipped with a restraint system, consisting of a seat belt and shoulder harness, that will protect the occupants from head and upper torso injuries during parachute deployment and ground impact at the critical load conditions.

3. Parachute Performance

(a) The parachute must comply with the applicable requirements of TSO–C23c, or an approved equivalent, for the maximum airplane weight at paragraph 1(b)(2).

(b) The loads during deployment must not exceed 80 percent of the ultimate design load for the attaching structure, the cabin structure surrounding the occupants, and any interconnecting structure of the airplane.

(c) It must be shown that, although the airplane structure may be damaged, the airplane impact during touchdown will result in an occupant environment in which serious injury to the occupants is improbable.

(d) It must be shown that, with the parachute deployed, the airplane can impact the ground in various adverse weather conditions, including winds up to 15 knots, without endangering the airplane occupants.

4. System Function and Operations

(a) It must be shown that there is no fire hazard associated with activation of the system.

(b) The system must be shown to perform its intended function with a high probability that it will operate as designed.

(c) It must be shown that reliable and functional deployment in the adverse weather conditions that the airplane is approved for have been considered. For example, if the aircraft is certified for flight into known icing, and flight test in actual icing reveals that ice may cover the deployment area, then the possible adverse effects of ice or an ice layer covering the parachute deployment area should be analyzed.

(d) It must be shown that arming and activating the system can only be accomplished in a sequence that makes inadvertent deployment extremely improbable.

(e) It must be demonstrated that the system can be activated without difficulty by various sized people, from a 10th percentile female to a 90th percentile male, while sitting in the pilot or copilot seat.

(f) The system must be labeled to show its identification, function, and operating limitations.

(g) A warning placard must be located on the fuselage near the rocket motor warning of the rocket.

(h) The FAA-approved flight manual must include a thorough explanation of operation and limitations as well as the safe deployment envelope.

(i) It must be shown that the occupants will be protected from serious injury after touchdown under various adverse weather conditions, including high winds.

5. System Protection

(a) All components of the system must provide protection against deterioration due to weathering, corrosion, and abrasion.

(b) Adequate provisions must be made for ventilation and drainage of the parachute canister and associated structure to ensure the sound condition of the system.

6. System Inspection Provisions

(a) Instructions for continued airworthiness must be prepared for the system that meet the requirements of § 23.1529.

(b) Adequate means must be provided to permit the close examination of the parachute and other system components to ensure proper functioning, alignment,

lubrication, and adjustment during the required inspection of the system.

7. Operating Limitations

(a) Operating limitations must be prescribed to ensure proper operation of the system within its deployment envelope. A detailed discussion of the system, including operation, limitations and deployment envelope must be included in the Airplane Flight Manual.

(b) The deployment envelope of the GARD system must be possible at speeds up to V_O or higher.

(c) Operating limitations must be prescribed for inspecting, repacking, and replacing the parachute and deployment mechanism at approved intervals.

Issued in Kansas City, Missouri on September 30, 1997.

Michael Gallagher,

Manager, Small Airplane Directorate Aircraft Certification Service.

[FR Doc. 97–27504 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. NM–135; Special Conditions No. 25–ANM–133]

Special Conditions: Boeing, Model 767–27C Airplanes, Airborne Warning and Control System (AWACS) Modification; Liquid Oxygen System

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions.

SUMMARY: These special conditions are issued for Boeing Model 767–27C airplanes modified by installation of an Airborne Warning and Control System (AWACS). These airplanes will be equipped with an oxygen system utilizing liquid oxygen (LOX). The applicable regulations do not contain adequate or appropriate safety standards for the design and installation of oxygen systems utilizing LOX for storage. These standards are intended to ensure that the design and installation of the liquid oxygen system is such that a level of safety equivalent to that established by the airworthiness standards for transport category airplanes is provided.

EFFECTIVE DATE: November 17, 1997.

FOR FURTHER INFORMATION CONTACT: William Schroeder, FAA, Standardization Branch, ANM–113, Transport Airplane Directorate, Airplane Certification Service, 1601 Lind Avenue SW, Renton, Washington 98055–4056; telephone (425) 227–2148.

SUPPLEMENTARY INFORMATION:

Background

On May 25, 1993, Boeing Commercial Airplane Group—Wichita Division, applied for a supplemental type certificate (STC) to modify Boeing Model 767–27C airplanes to an Airborne Warning and Control System (AWACS) configuration. The AWACS modification includes installation of equipment consoles, seats for console operators, a liquid oxygen (LOX) system (liquid oxygen converter, valves, evaporating coils, lines, regulators, indicators, fittings, etc.), and a radome on the top of the airplane. Boeing will modify the aft lower lobe with hydraulics for the AWACS antenna drive unit, high-powered radio frequency units for the AWACS radar, and other AWACS hardware. Boeing has designed the LOX installation to provide a supply of breathing oxygen sufficient to allow operation of the airplane in the unpressurized mode if this becomes necessary. The FAA will approve the performance of the oxygen system during certification testing.

There are no specific regulations that address the design and installation of oxygen systems that utilize liquid oxygen. Existing requirements, such as §§ 25.1309, 25.1441 (b) & (c), 25.1451, and 25.1453 in the Boeing Model 767–27C original type certification basis, applicable to this modification, provide some design standards for crew and medical oxygen system installations. However, the FAA must specify additional design standards for systems utilizing liquid oxygen to ensure that an acceptable level of safety is maintained.

Supplemental Type Certification Basis

Under the provisions of §§ 21.101 (a) and (b), Boeing Commercial Airplane Group must show that the modified Model 767–27C continues to meet the applicable provisions of the regulations incorporated by reference in Type Certificate (TC) No. A1NM, or the applicable regulations in effect on the date of application for the change. The regulations incorporated by reference in the type certificate are commonly referred to as the ''original type certification basis.'' The regulations incorporated by reference in TC A1NM are basically as follows: Part 25 of the FAR, as amended by Amendments 25–1 through 25–37, plus certain later amended sections as specified in Type Certificate Data Sheet A1NM. In addition, the certification basis includes certain special conditions, exemptions and optional requirements that are not relevant to these special conditions. Also, the modified Model 767–27C must continue to comply with the fuel venting and exhaust emission requirements of part 34 (previously Special Federal Aviation Regulation 27), and the noise certification requirements of part 36 in effect on the date the STC is issued.

If the Administrator finds that the applicable airworthiness regulations (i.e., part 25, as amended and applicable) do not contain adequate or appropriate safety standards for the modified Model 767–27C because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions, as appropriate, are issued in accordance with § 11.49 of the FAR after public notice, as required by § 11.28 and § 11.29(b), and become part of the type certification basis in accordance with § 21.101(b)(2).

Special conditions are initially applicable to the model for which they are issued. Should the applicant apply for a supplemental type certificate to modify any other model included on the same type certificate to incorporate the same novel or unusual design feature, the special conditions would apply to the other model under the provisions of § 21.101(a)(1).

Discussion

There are no specific regulations that address the design and installation of oxygen systems that utilize liquid oxygen for storage. Existing requirements, such as §§ 25.1309, 25.1441 (b) and (c), 25.1451, and 25.1453 of the Boeing 767–200 series certification basis applicable to this STC project, provide some design standards appropriate for oxygen system installations. However, additional design standards for oxygen systems utilizing liquid oxygen are needed to supplement the existing applicable requirements. The quantity of liquid oxygen involved in this installation and the potential for unsafe conditions that may result when the oxygen content of an enclosed area becomes too high because of system leaks, malfunction, or damage from external sources, make it necessary to assure adequate safety standards are applied to the design and installation of the system in Boeing Model 767–27C airplanes.

To ensure that a level of safety is achieved for modified Boeing Model 767–27C airplanes, utilizing liquid oxygen as a storage medium for an oxygen system, equivalent to that intended by the regulations incorporated by reference, special

conditions are needed which require those oxygen systems to be designed and installed to preclude or minimize the existence of unsafe conditions that can result from system leaks, malfunction, installation, or damage from external sources.

Application by Boeing for approval of oxygen systems utilizing liquid oxygen as a storage medium installed in transport airplanes, and the unsafe conditions that can exist when the oxygen content of an enclosed area becomes too high because of system leaks, malfunction, installation or damage from external sources, make development and application of appropriate additional design and installation standards necessary.

Discussion of Comments

On November 21, 1996, the FAA published Notice of Proposed Special Conditions No. SC–96–8–NM for the Boeing Model 767–27C liquid oxygen system installation in the **Federal Register** (61 FR 59202). The Department of the Air Force, commenting to the docket by letter, recommended additional requirements for design and installation of the LOX system. Based on some of those recommendations, the FAA revised special conditions f. and m. and republished the special conditions as Supplemental Notice SC–96–8A–NM on July 21, 1997 (62 FR 38945).

Boeing Commercial Airplane Group, the applicant, provided the only comments in response to Supplemental Notice SC–96–8A.

Boeing suggests that paragraph ''f'' of the special conditions be revised to read:

''The system shall include provisions to ensure complete conversion of the liquid oxygen to gaseous oxygen. The resultant oxygen gas must be delivered to the first oxygen outlet for breathing such that the temperature is no more than 35 °F less than the cabin ambient temperature or 32 °F (whichever is greater) under the conditions of the maximum demand or flow of oxygen gas for normal use of the oxygen system. . . .''

The commenter proposes this change to address the case wherein the airplane may be operated unpressurized, and states that the purpose of the liquid oxygen system being a part of the AWACS modification is to provide a supply of breathing oxygen sufficient to allow operation of the airplane in the unpressurized mode, if this becomes necessary. The commenter's suggested revised wording would limit the lowest temperature of oxygen provided to the occupants to 32 °F during pressurized and unpressurized operations.

The FAA concurs with the commenter. In the original Notice SC–96–8–NM for the Boeing Model 767–27C liquid oxygen system, the FAA proposed that the liquid oxygen system should include provisions to ensure complete conversion of the liquid oxygen to gaseous oxygen. This provision was included to address possible hazards that would exist if oxygen reaching the user was too cold. The Department of the Air Force, commenting in response to that notice, suggested that the proposed special condition be revised to further require that oxygen gas delivered to the first oxygen outlet for breathing have a temperature that was not colder than 20 °F below the cabin ambient temperature under the conditions of the maximum demand or flow of oxygen gas for normal use of the oxygen system. The commenter did not provide a specific reason to support this change. However, the FAA determined that the proposal was acceptable because it would ensure that the oxygen is delivered to the user at a temperature that is not harmful. The FAA therefore revised paragraph ''f'' of the proposed special condition accordingly and issued Supplemental Notice No. SC–96–8A–NM for comment.

The suggested temperature limits proposed by Boeing in response to the Supplemental Notice were reviewed by the FAA, including specialists at the FAA Civil Aeromedical Institute (CAMI). From these reviews, the FAA concluded that the suggested further limiting of temperature limits to ''no more than 35 °F less than the cabin ambient temperature or 32 °F (whichever is greater)'' is commensurate with the basic intent of the proposed special condition to ensure that the oxygen is delivered at a safe temperature to those breathing it. The FAA considers that this change provides an even higher level of safety than the original proposal. As it affects only the applicant who requested the change, further noticing of the special conditions is not considered necessary.

The remainder of the special conditions for the 767–27C liquid oxygen system installation are adopted as proposed.

As discussed above, these special conditions are applicable initially to the Boeing Model 767–27C airplane. Should Boeing Commercial Airplane Group apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, these special conditions would apply to that model as well under the provisions of § 21.101(a)(1).

Conclusion

This action affects only certain novel or unusual design features on one model series of airplane. It is not a rule of general applicability and affects only the applicant who applied to the FAA for approval of these features on the airplane.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation Safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Boeing Model 767–27C airplanes modified to an AWACS configuration:

a. The liquid oxygen converter and other oxygen equipment shall not be installed where baggage, cargo, or loose equipment are stored (unless items are stored within an appropriate container which is secured or restrained by acceptable means).

b. The liquid oxygen converter shall be located in the airplane so that there is no risk of damage due to an uncontained rotor or fan blade failure.

c. The liquid oxygen system and associated gaseous oxygen distribution lines should be designed and located to minimize the hazard from uncontained rotor debris.

d. The flight deck oxygen system shall meet the supply requirements of Part 121 after the distribution line has been severed by a rotor fragment.

e. The pressure relief valves on the liquid oxygen converters shall be vented overboard through a drain in the bottom of the airplane. Means must be provided to prevent hydrocarbon fluid migration from impinging upon the vent outlet of the liquid oxygen system.

f. The system shall include provisions to ensure complete conversion of the liquid oxygen to gaseous oxygen. The resultant oxygen gas must be delivered to the first oxygen outlet for breathing such that the temperature is no more than 35 °F less than the cabin ambient temperature or 32 °F (whichever is greater), under the conditions of the maximum demand or flow of oxygen gas for normal use of the oxygen system. A LOX shutoff valve shall be installed on the main oxygen distribution line prior to any secondary lines. The shutoff

valve must be compatible with LOX temperatures and be readily accessible (either directly if manual, or by remote activation if automatic).

g. If multiple converters are used and manifolded together, check valves shall be installed so that a leak in one converter will not allow leakage of oxygen from any other converter.

h. Flexible hoses shall be used for the airplane systems connections to shock-mounted converters, where movement relative to the airplane may occur.

i. Condensation from system components or lines shall be collected by drip pans, shields, or other suitable collection means and drained overboard through a drain fitting separate from the liquid oxygen vent fitting, as specified in Special Condition e. above.

j. Oxygen system components shall be burst pressure tested to 3.0 times, and proof pressure tested to 1.5 times, the maximum normal operating pressure. Compliance with the requirement for burst testing may be shown by analysis, or a combination of analysis and test.

k. Oxygen system components shall be electrically bonded to the airplane structure.

l. All gaseous or liquid oxygen connections located in close proximity to an ignition source shall be shrouded and vented overboard using the system specified in Special Condition e. above.

m. A means will be provided to indicate the quantity of oxygen in the converter and oxygen availability to the flightcrew. A low LOX level amber caution annunciation will be furnished to the flightcrew prior to the LOX converter oxygen level reaching the quantity required to provide sufficient oxygen for emergency descent requirements.

Issued in Renton, Washington, on October 1, 1997.

Darrell M. Pederson,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service, ANM–100.

[FR Doc. 97–27503 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AAL–9]

Revocation of Class D Airspace; Anchorage, Bryant AHP, AK, and Adak, AK; Revision of Class E Airspace; Adak, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revokes the Class D airspace at Bryant Army Heliport (AHP), Anchorage, AK, and at Adak Naval Air Station (NAS), AK. The Department of the Army closed the Bryant AHP tower on September 27, 1995, and transferred operational control of Bryant AHP to the Alaska National Guard. The Department of the Navy closed the Adak tower on March 31, 1997, following the approval of the 1995 Base Realignment and Closure Commission's recommendation to close Adak NAS, AK, by the Congress of the United States. Additionally, the Class E airspace description at Adak, AK, will be revised to reflect part-time (less than 24-hours a day) operations. The intended effect of this action is to revise the effective times for the Class E airspace at Adak, AK, and also to revoke the Class D airspace at Bryant AHP, and at Adak NAS, AK, since the purpose and requirements for these surface areas no longer exist.

EFFECTIVE DATE: 0901 Coordinated Universal Time (UTC), November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number (907) 271–5863; email; Robert.van.Haastert@faa.dot.gov; Internet: http://www.alaska.faa.gov/at or at http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

Background

The Department of the Army closed the Bryant AHP tower on September 27, 1995, and transferred operational control of Bryant AHP to the Alaska National Guard. The Department of the Navy closed the Adak NAS tower on March 31, 1997, following the approval of the 1995 Base Realignment and Closure Commission's recommendation to close Adak NAS, AK, by the Congress of the United States. The purpose and requirements for these Class D surface areas no longer exist. The Class E effective times at Adak, AK, currently reflect continuous, 24-hour a day operations. This situation no longer exists and the effective times will be changed to indicate a part-time operation.

The coordinates for this airspace docket are based on North American Datum 83. The Class D airspace areas designated as surface areas are published in paragraph 5000 of FAA Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1(62 FR 52491; October 8, 1997). FAA Order 7400.9E, paragraph 6004, lists the Class E airspace areas designated as an extension to a Class D or Class E surface area. The Class D airspace descriptions listed in this document will be removed from the Order. The Class E airspace revision listed in this document will be published subsequently in the Order.

The Rule

The FAA is amending part 71 of the Federal Aviation Regulations (14 CFR part 71) to revoke the Class D airspace at Bryant Army Heliport (AHP), Anchorage, AK and at Adak NAS, AK. Additionally, the Class E effective times at Adak NAS, AK, will change from continuous to part time. The Class D airspace designation listed in this document will be revoked and the Class E airspace revision listed in this document will be published with two additional sentences to reflect the part-time effective times.

Accordingly, since the purpose and requirements for the Class D surface areas at Bryant AHP and Adak NAS no longer exist, notice and public procedure under 5 U.S.C. 553(b) for revoking this airspace are unnecessary. Since the closure of the tower is merely causing a reduction of the effective hours of the Class E airspace at Adak NAS, notice and public procedure under 5 U.S.C. 553(b) is unnecessary.

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

List of Subjects in 14 CFR Part 71

Airspace, incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 5000 Class D Airspace

* * * * *

AAL AK D Anchorge, Bryant AHP, AK [Removed]

* * * * *

AAL AK D Adak, AK [Removed]

* * * * *

Paragraph 6004 Class E airspace areas designated as an extension to a Class D or Class E surface area.

* * * * *

AAL AK E4 Adak, AK [Revised]

Adak NAS Airport, AK

(Lat. 51°52′53″ N. long. 176°38′50″ W)

Adak NDB

(Lat. 51°55′01″ N, long. 176°34′01″ W)

That airspace extending upward from the surface within 3.8 miles each side of the 053° bearing from the Adak NDB extending from the 4.5-mile radius of the Adak NAS to 6.4 miles northeast of the Adak NDB. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).

* * * * *

Issued in Anchorage, AK, on September 10, 1997.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 97–27376 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 97–ACE–11]

Amendment to Class E Airspace, Lee's Summit, MO

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Lee's Summit Municipal Airport, Lee's Summit, MO. The FAA has developed Nondirectional Radio Beacon (NDB) Runway (RWY) 18 and RWY 36 Standard Instrument Approach Procedures (SIAP) to serve the Lee's Summit Municipal Airport. The intended effect of this action is to provide additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) to accommodate these SIAPs, and to provide segregation of aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual weather conditions at the Lee's Summit Municipal Airport.

DATES: *Effective date:* 0901 UTC, February 26, 1998.

Comment date: Comments must be received on or before November 15, 1997.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–11, 601 East 12th St., Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, MO 64106; telephone; (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed NDB SIAPs to RWY 18 and RWY 36 to serve the Lee's Summit Municipal Airport, Lee's Summit, MO. The amendment to Class E airspace at Lee's Summit Municipal Airport, MO, is necessary to provide additional controlled airspace at and above 700 feet AGL in order to contain the new SIAPs within controlled airspace, and thereby facilitate separation of aircraft operating under instrument flight rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depiciting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the **Federal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related 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 action 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–ACE–11.'' The postcard will be date stamped and returned to the commenter.

Agency Findings

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends Part 71 of the Federal Aviation Regulations (14 CFR Part 71) as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS.

1. The authority citation for Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE MO E5 Lee's Summit, MO [Revised]

Lee's Summit Municipal Airport, MO.
(Lat. 38°37′35″ N., long. 94°22′18″ W.)
Lesumit NDB, MO
(Lat. 38°57′39″ N., long. 94°22′16″ W.)

That airspace extending upward from 700 feet above the surface within a 7-mile radius of Lee's Summit Municipal Airport.

* * * * *

Issued in Kansas City, MO, on August 29, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 97–27366 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AAL–8]

Revision of Class E Airspace; Ketchikan, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action revises the Class E airspace designated as the surface area for Ketchikan, AK. The Ketchikan International Airport's surface area is currently effective 24 hours a day and has a mandatory communication requirement. The wording in the last two sentences in the current description applies to surface areas with less than 24 hours operations. These last two sentences are deleted. The effect of this action is to modify the Ketchikan, AK, surface area description to indicate a continuous, 24 hour operation.

EFFECTIVE DATE: 0901 Coordinated Universal Time (UTC), November 17, 1997.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number: (907) 271–5863; email: Robert.van.Haastert@faa.dot.gov. Internet: http://www.alaska.faa.gov/at or at http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On June 11, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to revise the Class E airspace at Ketchikan, AK, was published in the **Federal Register** (62 FR 31769). The Ketchikan International Airport's surface area is currently effective 24 hours a day and has a mandatory communication requirement. The wording in the last two sentences in the current description applies to surface areas with less than 24 hours operations. These last two sentences are deleted to indicate the continuous operation.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No negative comments to the proposal were received. However, part of the airspace description was inadvertently left out from the notice of proposed rulemaking. This missing part of the airspace description has been added to this rule: ''excluding that airspace beyond 2.5-miles of the Ketchikan International Airport beginning 1 mile east of the Ketchikan localizer northwest course clockwise to the 350° bearing from the Ketchikan International Airport.'' The Federal Aviation Administration has determined that these changes are editorial in nature and will not increase the scope of this rule. Except for the non-substantive changes just discussed, the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as a surface area for an airport are published in paragraph 6002 of FAA Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 (62 FR 52491 October 8, 1997). The

Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) revises the Class E airspace located at Ketchikan, AK, to indicate the continuous, 24 hour operation at the Ketchikan International Airport. These two sentences will be removed: ''This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Supplement Alaska (Airport/Facility Directory).''

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

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6002 The Class E airspace areas listed below are designated as a surface area for an airport.

* * * * *

AAL AK E2 Ketchikan, AK [Revised]

Ketchikan International Airport, AK
(Lat. 55°21′20″ N, long 131°42′49″ W)
Ketchikan Localizer
(Lat. 55°20′ 51″ N, long. 131°42′ 00″ W)

Within a 3-mile radius of the Ketchikan International Airport and within 1 mile each side of the Ketchikan localizer northwest/southeast courses extending from the 3-mile radius to 4.6 miles northwest and 4.1 miles southeast of the airport excluding that airspace beyond 2.5-miles of the Ketchikan International Airport beginning 1 mile east of the Ketchikan localizer northwest course clockwise to the 350° bearing from the Ketchikan International Airport.

* * * * *

Issued in Anchorage, AK, on September 10, 1997.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 97–27378 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AAL–7]

Establishment of Class E Airspace; Huslia, AK

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Huslia, AK. The development of Very High Frequency (VHF) omni-directional radio range (VOR) and VOR/Distance Measuring Equipment (DME) instrument approaches to Runway (RWY) 3 and RWY 21 have made this action necessary. The airport status will change from Visual Flight Rules (VFR) to Instrument Flight Rules (IFR). The area will be depicted on appropriate aeronautical charts thereby enabling pilots to circumnavigate the area or otherwise comply with IFR procedures. The intended effect of this action is to provide adequate controlled airspace for IFR operations, segregating aircraft operating in instrument conditions from other aircraft operating in visual weather conditions, at Huslia Airport, AK.

EFFECTIVE DATE: 0901 UTC, January 1, 1998.

FOR FURTHER INFORMATION CONTACT: Robert van Haastert, Operations Branch, AAL–538, Federal Aviation Administration, 222 West 7th Avenue, Box 14, Anchorage, AK 99513–7587; telephone number: (907) 271–5863; email: Robert.van.Haastert@faa.dot.gov. Internet: http://www.alaska.faa.gov/at or at http://162.58.28.41/at.

SUPPLEMENTARY INFORMATION:

History

On June 11, 1997, a proposal to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) to establish Class E airspace at Huslia, AK, was published in the **Federal Register** (62 FR 31770). The development of VOR/DME instrument approaches to RWY 3 and RWY 21 have made this action necessary. The airport status will be upgraded from VFR to IFR.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments to the proposal were received, thus the rule is adopted as written.

The coordinates for this airspace docket are based on North American Datum 83. The Class E airspace areas designated as 700/1200 transition areas are published in paragraph 6005 of FAA Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 (62 FR 52491; October 8, 1997). The Class E airspace designation listed in this document will be published subsequently in the Order.

The Rule

This amendment to part 71 of the Federal Aviation Regulations (14 CFR part 71) establishes the Class E airspace located at Huslia, AK. The development of VOR/DME instrument approaches to RWY 3 and RWY 21 have made this action necessary. The airport status will change from VFR to IFR.

The Federal Aviation Administration has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule will not have a significant economic

impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, *Airspace Designations and Reporting Points,* dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AAL AK E5 Huslia, AK [New]

Huslia Airport, AK
(Lat. 65°41′50″N, long. 156°23′21″W)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of the Huslia Airport.

* * * * *

Issued in Anchorage, AK, on September 10, 1997.

Willis C. Nelson,

Manager, Air Traffic Division, Alaskan Region.

[FR Doc. 97–27379 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. 97–ACE–12]

Amendment to Class E Airspace; Topeka, Philip Billard Municipal Airport, KS

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Direct final rule; request for comments.

SUMMARY: This action amends the Class E airspace area at Philip Billard Municipal Airport, KS. Global Positioning System (GPS) Runway (RWY) 13 and RWY 31. Instrument Landing System (ILS) RWY 13, Localizer Backcourse (LOC BC) RWY 31, and VHF Omnidirectional Range (VOR) or GPS RWY 22 Standard Instrument Approach Procedures (SIAPs) have been developed to serve the Philip Billard Municipal Airport. The intended effect of this action is to provide additional controlled airspace extending upward from 700 feet Above Ground Level (AGL) to accommodate these SIAPs, and to provide segregation of aircraft using instrument approach procedures in instrument conditions from aircraft operating in visual weather conditions at the Philip Billard Municipal Airport. The enlarged area will contain the SIAPs in controlled airspace.

DATES: *Effective date:* 0901 UTC February 26, 1998.

Comment date: Comments must be received on or before November 15, 1997.

ADDRESSES: Send comments regarding the rule in triplicate to: Manager, Airspace Branch, Air Traffic Division, ACE–520, Federal Aviation Administration, Docket Number 97–ACE–12, 601 East 12th St., Kansas City, MO 64106.

The official docket may be examined in the Office of the Assistant Chief Counsel for the Central Region at the same address between 9:00 a.m. and 3:00 p.m., Monday through Friday, except Federal holidays.

An informal docket may also be examined during normal business hours in the Air Traffic Division at the same address listed above.

FOR FURTHER INFORMATION CONTACT: Kathy Randolph, Air Traffic Division, Airspace Branch, ACE–520C, Federal Aviation Administration, 601 East 12th Street, Kansas City, Missouri 64106; telephone: (816) 426–3408.

SUPPLEMENTARY INFORMATION: The FAA has developed SIAPs utilizing the GPS, ILS, LOC BC and VOR to serve the Philip Billard Municipal Airport, Topeka, KS. The amendment to Class E airspace at Topeka, KS, will provide additional controlled airspace at and above 700 feet AGL, to contain the new SIAPs within controlled airspace and thereby facilitate separation of aircraft operating under instrument flight rules (IFR). The area will be depicted on appropriate aeronautical charts. Class E airspace areas extending from 700 feet or more above the surface of the earth are published in paragraph 6005 of FAA Order 7400.9E, dated September 10, 1997, and effective September 16, 1997, which is incorporated by reference in 14 CFR 71.1 The Class E airspace designation listed in this document will be published subsequently in the Order.

The Direct Final Rule Procedure

The FAA anticipates that this regulation will not result in adverse or negative comment and, therefore, is issuing it as a direct final rule. Previous actions of this nature have not been controversial and have not resulted in adverse comments or objections. The amendment will enhance safety for all flight operations by designating an area where VFR pilots may anticipate the presence of IFR aircraft at lower altitudes, especially during inclement weather conditions. A greater degree of safety is achieved by depicting the area on aeronautical charts. Unless a written adverse or negative comment, or a written notice of intent to submit an adverse or negative comment is received within the comment period, the regulation will become effective on the date specified above. After the close of the comment period, the FAA will publish a document in the F**ederal Register** indicating that no adverse or negative comments were received and confirming the date on which the final rule will become effective. If the FAA does receive, within the comment period, an adverse or negative comment, or written notice of intent to submit such a comment, a document withdrawing the direct final rule will be published in the **Federal Register**, and a notice of proposed rulemaking may be published with a new comment period.

Comments Invited

Although this action is in the form of a final rule and was not preceded by a notice of proposed rulemaking, 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 or withdrawn in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of this action and determining whether additional rulemaking action would be needed.

Comments are specifically invited on the overall regulatory, economic, environmental, and energy-related

aspects of the rule 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 action 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–ACE–12.'' The postcard will be date stamped and returned to the commenter.

Agency Finds

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 noncontroversial and unlikely to result in adverse or negative comments. For the reasons discussed in the preamble, I certify that this regulation (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034, February 26, 1979); and (3) if promulgated, will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

Accordingly, the Federal Aviation Administration amends part 71 of the Federal Aviation Regulations (14 CFR part 71) as follows:

PART 71—DESIGNATION OF CLASS A, CLASS B, CLASS C, CLASS D, AND CLASS E AIRSPACE AREAS; AIRWAYS; ROUTES; AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Com., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9E, Airspace Designations and Reporting Points, dated September 10, 1997, and effective September 16, 1997, is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ACE KS E5 Topeka, Philip Billard Municipal Airport, KS [Revised]

Philip Billard Municipal Airport, KS
(lat. 39°04′07″N., long. 95°37′21″W.)
Topeka VORTAC
(lat. 39°08′14″N., long. 95°32′57″W.)
BILOY LOM
(lat. 39°07′13″N., long. 95°41′14″W.)

That airspace extending upward from 700 feet above the surface within a 6.5-mile radius of Philip Billard Municipal Airport and within 3.4 miles each side of the 025° radial of the Topeka VORTAC extending from the 6.5-mile radius to 5.6 miles northeast of the VORTAC and within 4 miles southwest and 7 miles northeast of the Philip Billard Municipal Airport ILS localizer course extending from 15 miles southeast of the airport to 12 miles northwest of BILOY LOM.

* * * * *

Issued in Kansas City, MO, on August 29, 1997.

Christopher R. Blum,

Acting Manager, Air Traffic Division, Central Region.

[FR Doc. 97–27382 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29035; Amdt. No. 1826]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

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

The Rule

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

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

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 3, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

** * * Effective November 6, 1997*

Crescent City, CA, Jack McNamara Field, ILS/DME RWY 11, Amdt 7
Miami, FL, Miami Intl, GPS RWY 9R, Orig
Miami, FL, Miami Intl, GPS RWY 27R, Orig
Miami, FL, Miami Intl, VOR/DME RNAV OR GPS RWY 27R, ORIG–A, CANCELLED
St. Joseph, MO, Rosecrans Memorial, VOR OR TACAN RWY 17, Amdt 13
St. Joseph, MO, Rosecrans Memorial, LOC BC RWY 17, Amdt 8
St. Joseph, MO, Rosecrans Memorial, ILS RWY 35, Amdt 30
Omaha, NE, Eppley Airfield, ILS RWY 14R, Amdt 1
Salisbury, NC, Rowan County, NDB OR GPS–B, Amdt 10, CANCELLED
Southern Pines, NC, Moore County, LOC RWY 5, Amdt 5, CANCELLED
Southern Pines, NC, Moore County, ILS RWY 5, Orig
Conway, SC, Conway-Horry County, NDB RWY 4, Amdt 2
Conway, SC, Conway-Horry County, NDB OR GPS–A, Amdt 2
Clarendon, TX, Clarendon Muni, NDB OR GPS RWY 1, Amdt 2, CANCELLED
Fort Worth, TX, Fort Worth Meacham Intl, ILS RWY 34R, Amdt 1
Salt Lake City, UT, Salt Lake City Intl, ILS/DME RWY 16L, Amdt 10

** * * Effective December 4, 1997*

Knox, Inc, Starke County, VOR OR GPS RWY 18, Amdt 1
Rockland, ME, Knox County Regional, ILS RWY 13, Amdt 1
Davison, MI, Athelone Williams Memorial, VOR OR GPS RWY 8, Amdt 3
Excelsior Springs, MO, Excelsior Springs Memorial, VOR OR GPS RWY 19, Amdt 1
Lexington, NE, Jim Kelly Field, VOR OR GPS RWY 14, Amdt 3
Lexington, NE, Jim Kelly Field, NDB RWY 14, Amdt 2
Lexington, NE, Jim Kelly Field, GPS RWY 32, Orig
Janesville, WI, Rock County, VOR OR GPS RWY 4, Amdt 26
Janesville, WI, Rock County, VOR/DME RWY 22, Orig
Janesville, WI, Rock County, ILS RWY 4, Amdt 11
Milwaukee, WI, Lawrence J. Timmerman, VOR OR GPS RWY 4L, Amdt 8
Milwaukee, WI, Lawrence J. Timmerman, VOR OR GPS RWY 15L, Amdt 13
Milwaukee, WI, Lawrence J. Timmerman, LOC RWY 15L, Amdt 5

** * * Effective January 1, 1998*

Deadhorse, AK, Deadhorse, GPS RWY 4, Orig
Deadhorse, AK, Deadhorse, GPS RWY 22, Orig
Clinton, IA, Clinton Muni, VOR OR GPS RWY 3, Amdt 14
Clinton, IA, Clinton Muni, VOR/DME RWY 21, Amdt 9
Clinton, IA, Clinton Muni, NDB RWY 3, Amdt 6
Clinton, IA, Clinton Muni, NDB RWY 14, Amdt 4
Clinton, IA, Clinton Muni, ILS RWY 3, Amdt 4
Clinton, IA, Clinton Muni, GPS RWY 14, Amdt 1
Clinton, IA, Clinton Muni, GPS RWY 21, Amdt 1
Clinton, IA, Clinton Muni, GPS RWY 32, Amdt 1
Eagle Grove, IA, Eagle Grove Muni, GPS RWY 31, Orig
Rensselaer, IN, Jasper County, GPS RWY 18, Orig
Winchester, IN, Randolph County, GPS RWY 25, Orig
Brainerd, MN, Brainerd-Crow Wing Co Regional, GPS RWY 5, Orig
Chapel Hill, NC, Horace Williams, GPS RWY 9, Orig
Waxhaw, NC, Jaars-Townsend, GPS RWY 4, Orig
Waxhaw, NC, Jaars-Townsend, GPS RWY 22, Orig
Waxhaw, NC, Jaars-Townsend, RNAV RWY 4, Amdt 2, CANCELLED
Cincinnati, OH, Cincinnati-Blue Ash, GPS RWY 24, Orig
London, OH, Madison County, GPS RWY 8, Orig
Portsmouth, OH, Greater Portsmouth Regional, GPS RWY 36, Amdt 1

Portsmouth, OH, Greater Portsmouth Regional, VOR/DME RNAV OR GPS RWY 18, Amdt 6
Aurora, OR, Aurora State, GPS RWY 17, Amdt 1
Aurora, OR, Aurora State, GPS RWY 35, Amdt 1
Anderson, SC, Anderson County, GPS RWY 23, Orig
Anderson, SC, Anderson County, RNAV OR GPS RWY 23, Amdt 5A, CANCELLED
Cheraw, SC, Cheraw Muni/Lynch Bellinger Field, GPS RWY 25, Orig
Florence, SC, Florence Regional, GPS RWY 27, Orig
Florence, SC, Florence Regional, RNAV OR GPS RWY 27, Amdt 2, CANCELLED
Shelton, WA, Sanderson Field, GPS RWY 5, Orig
Shelton, WA, Sanderson Field, GPS RWY 23, Orig

[FR Doc. 97–27403 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29036; Amdt. No. 1827]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on October 3, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
09/18/97	ME	Houlton	Houlton Intl	FDC 7/6173	VOR RWY 5 AMDT 10...
09/18/97	NC	Greensboro	Greensboro/Piedmont Triad Intl	FDC 7/6177	RADAR–1, AMDT 9A...
09/18/97	NC	Greensboro	Greensboro/Piedmont Triad Intl	FDC 7/6178	NDB or GPS RWY 14 AMDT...
09/19/97	NE	Ogallala	Searle Field	FDC 7/6185	VOR or GPS RWY 8, AMDT 4...
09/19/97	NE	Ogallala	Searle Field	FDC 7/6187	VOR or GPS RWY 26, AMDT 4...
09/22/97	SD	Sioux Falls	Joe Foss Field	FDC 7/6232	ILS RWY 21 AMDT 8...
09/23/97	IL	Belleville	MidAmerica	FDC 7/6255	ILS RWY 14R, ORIG...
09/23/97	TN/VA	Bristol-Johnson-Kingsport.	Tri-Cities Regional	FDC 7/6279	ILS RWY 23, AMDT 24A, ILS RWY 23 (CAT II), AMDT 24A...
09/25/97	NC	Raleigh/Durham	Raleigh-Durham Intl	FDC 7/6330	RADAR 1 AMDT 7B...
09/26/97	FL	Melbourne	Melbourne Intl	FDC 7/6345	ILS RWY 9R, AMDT 10...

[FR Doc. 97–27404 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 28969; Amdt. No. 1809]

RIN 2120–AA65

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

The large number of SIAPs, their complex nature, and the need of a special format make their verbatim publication in the **Federal Register** expensive and impractical. Further, airmen do not use the regulatory text of the SIAPs, but refer to their graphic depiction of charts printed by publishers of aeronautical materials. Thus, the advantages of incorporation by reference are realized and publication of the complete description of each SIAP contained in FAA form documents in unnecessary. The

provisions of this amendment state the affected CFR (and FAR) sections, with the types and effective dates of the SIAPs. This amendments also identifies the airport, its location, the procedure identification and the amendment number.

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC on July 11, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

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

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
06/25/97	IN	Anderson	Anderson Municipal-Darlington Field	7/3868	LOC Rwy 30 Amdt 5...
06/26/97	IL	Galesburg	Galesburg Muni	7/3912	VOR or GPS Rwy 20, Amdt 6...
06/26/97	IL	Galesburg	Galesburg Muni	7/3913	VOR or GPS Rwy 2, Amdt 6...
06/26/97	IL	Galesburg	Galesburg Muni	7/3914	ILS RWY 2, Amdt 9...
06/26/97	OH	Wapakoneta	Neil Armstrong	7/3928	VOR–A Amdt 7A...
06/26/97	OH	Wapakoneta	Neil Armstrong	7/3929	LOC Rwy 26 Amdt 3...
06/26/97	OR	Newport	Newport Muni	7/3953	ILS Rwy 16 Orig-A...
06/27/97	FM	Pohnpei Island	Pohnpei Intl	7/3998	PTPN). NDB/DME or GPS–A, Amdt 1...
06/27/97	MI	Detroit/Grosse Ile	Grossee Ile Muni	7/3979	NDB or GPS Rwy 4, Amdt 1...
06/27/97	MI	Detroit/Grosse Ile	Grosse Ile Muni	7/3980	VOR or GPS–A, Amdt 6...
06/27/97	MI	Monroe	Custer	7/3981	VOR or GPS Rwy 21, Amdt 1...
06/27/97	MI	Monroe	Custer	7/3982	VOR or GPS Rwy 3, Amdt 1...
06/27/97	OH	Cincinnati	Cincinnati-Blue Ash	7/3976	NDB Rwy 6, Amdt 1...
06/27/97	OH	Cincinnati	Cincinnati-Blue Ash	7/3977	VOR Rwy 24, Amdt 5...
06/27/97	OH	Cincinnati	Cincinnati-Blue Ash	7/3978	NDB or GPS Rwy 24, Amdt 1...
06/27/97	OH	Cincinnati	Cincinnati-Blue Ash	7/3996	GPS Rwy 6, Amdt 1...
06/30/97	NC	Raleigh/Durham	Raleigh-Durham Intl	7/4040	VOR Rwy 23L Amdt 14B...
06/30/97	NC	Raleigh/Durham	Raleigh-Durham Intl	7/4041	NDB or GPS Rwy 23L Amdt 4...
06/30/97	NC	Raleigh/Durham	Raleigh-Durham Intl	7/4043	ILS Rwy 23L Amdt 5D...
07/01/97	NY	Stormville	Stormville	7/4064	VOR or GPS–A Amdt 4...
07/01/97	WI	Milwaukee	General Mitchell Intl	7/4060	Radar-1, Amdt 23...
07/01/97	WI	Milwaukee	General Mitchell Intl	7/4061	NDB or GPS Rwy 7R, Amdt 10...
07/02/97	MN	Windom	Windom Muni	7/4088	NDB or GPS Rwy 17, Amdt 4A...
07/03/97	OH	Wapakoneta	Neil Armsrong	7/4162	VOR/DME RNAV Rwy 26 Amdt 5A...
07/07/97	OK	Tulsa	Tulsa Intl	7/4134	ILS Rwy 36R, Amdt 28A...
07/07/97	OK	Tulsa	Tulsa Intl	7/4136	HI–NDB or IIS Rwy 18L, Amdt 4...

FDC date	State	City	Airport	FDC No.	SIAP
07/07/97	OK	Tulsa	Tulsa Intl	7/4138	HI–VOR/DME or TACAN Rwy 26...
07/07/97	OK	Tulsa	Tulsa Intl	7/4143	ILS Rwy 18R, Amdt 6...
07/07/97	OK	Tulsa	Tulsa Intl	7/4145	NDB or GPS Rwy 18L, Amdt 10...
07/07/97	OK	Tulsa	Tulsa Intl	7/4151	NDB or GPS Rwy 36R, Amdt 19...
07/07/97	OK	Tulsa	Tulsa Intl	7/4153	ILS Rwy 18L, Amdt 13A...
07/07/97	OK	Tulsa	Tulsa Intl	7/4259	VOR or TACAN or GPS Rwy 26, Amdt 22...
07/07/97	OK	Tulsa	Tulsa Intl	7/4260	VOR/DME or TACAN or GPS Rwy 8, Amdt 3A...
07/07/97	OK	Tulsa	Tulsa Intl	7/4261	HI–NDB or ILS Rwy 36R...
07/08/97	IL	Peoria	Greater Peoria Regional	7/4271	ILS Rwy 13 Amdt 6A...
07/08/97	TX	Denton	Denton Muni	7/4269	NDB or GPS Rwy 17, Amdt 6...
07/08/97	TX	Denton	Denton Muni	7/4270	ILS Rwy 17, Amdt 6...

[FR Doc. 97–27500 Filed 10–15–97; 8:45 am]
BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29007; Amdt. No. 1819]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

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

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

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

The FAA has determined through extensive analysis that current SIAP's intended for use by Area Navigation (RNAV) equipped aircraft can be flown by aircraft utilizing various other types of navigational equipment. In consideration of the above, those SIAP's

currently designated as ''RNAV'' will be redesignated as ''VOR/DME RNAV'' without otherwise reviewing or modifying the SIAP's.

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

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC on August 22, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

** * * Effective Oct 9, 1997*

Monte Vista, CO, Monte Vista Muni, NDB GPS RWY 20, Orig CANCELLED
Monte Vista, CO, Monte Vista Muni, NDB RWY 20, Orig Plant City, FL, Plant City Muni, NDB RWY 9, Orig CANCELLED
Plant City, FL, Plant City Muni, NDB RWY 9, Amdt 1 Carmi, IL, Carni Muni, NDB RWY 36, Amdt 5 CANCELLED
Carmi, IL, Carni Muni, NDB RWY 36, Orig Keene, NH, Dillant-Hopkins, VOR or GPS RWY 2, Amdt 11 CANCELLED
Keene, NH, Dillant-Hopkins, VOR RWY 2, Amdt 12 Ogden, UT, Ogden-Hinckley, VOR or GPS RWY 7, Amdt 5 CANCELLED
Ogden, UT, Ogden-Hinckley, VOR RWY 7, Amdt 5 Eagle River, WI, Eagle River Union, VOR/DME or GPS RWY 4, Amdt 1 CANCELLED
Eagle River, WI, Eagle River Union, VOR/DME RWY 4, Amdt 1

[FR Doc. 97–27499 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29037; Amdt. No. 1828]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

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

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

conditions existing or anticipated at the affected airports.

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

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

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

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (air).

Issued in Washington, DC, on October 3, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

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

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

** * * Effective Nov 6, 1997*

Auburn, AL, Auburn-Opelika Robert G. Pitts, VOR or GPS RWY 28, Amdt. 9B, Cancelled
Auburn, AL, Auburn-Opelika Robert G. Pitts, VOR RWY 28, Amdt. 9B
Forrest City, AR, Forrest City Muni, NDB or GPS RWY 35, Amdt. 3, Cancelled
Forrest City, AR, Forrest City Muni, NDB RWY 35
Helena/West Helena, AR, Thomspon-Robbins Field, NDB or GPS RWY 17, Amdt. 4, Cancelled
Helena/West Helena, AR, Thomspon-Robbins Field, NDB RWY 17, Amdt. 4
Orlando, FL, Executive, NDB or GPS RWY 7, Amdt. 15, Cancelled
Orlando, FL, Executive, NDB RWY 7, Amdt. 15
Elmira, NY, Elmira/Corning Regional, NDB or GPS RWY 24, Amdt. 13A, Cancelled
Elmira, NY, Elmira/Corning Regional, NDB RWY 24, Amdt. 13A

[FR Doc. 97–27405 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29005; Amdt. No. 1817]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which the affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase

Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

By Subscription

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

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

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

examination or purchase as stated above.

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

The Rule

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

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

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

List of Subjects in 14 CFR Part 97

Air traffic control, Airports, Navigation (Air).

Issued in Washington, DC, on August 22, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, LSMLS, MLS, MLS/DME, MLS/RNAV; § 97.31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

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

** * * Effective September 11, 1997*

Deadhorse, AK, Deadhorse, VOR/DME OR TACAN RWY 4L, Orig, CANCELLED
Deadhorse, AK, Deadhorse, VOR/DME OR TACAN RWY 4, Orig
Deadhorse, AK, Deadhorse, VOR/DME OR TACAN RWY 22, Amdt 2
Deadhorse, AK, Deadhorse, ILS/DME RWY 4, Amdt 8
Deadhorse, AK, Deadhorse, LOC/DME BC RWY 22, Amdt 8
Los Angeles, CA, Los Angeles Intl, ILS RWY 25R, Amdt 11
Los Angeles, CA, Los Angeles Intl, ILS RWY 25L, Amdt 7
Bloomington/Normal, IL, Central IL Regl Arpt at Bloomington Normal, ILS RWY 20, Orig
Decatur, TX, Decatur Muni, VOR/DME RWY 16, Amdt 1
Decatur, TX, Decatur Muni, RADAR–1, Amdt 16

** * * Effective October 9, 1997*

Vacaville, CA, Nut Tree, RNAV RWY 20, Amdt 1, CANCELLED
Rochester, IN, Fulton County, GPS RWY 29, Orig
Scribner, NE, Scribner State, VOR RWY 35, Amdt 1
Fort Worth, TX, Fort Worth Alliance, ILS RWY 34R, Amdt 3
Summersville, WV, Summersville, SDF RWY 4, Amdt 1, CANCELLED
Summersville, WV, Summersville, NDB RWY 4, Amdt 2, CANCELLED

** * * Effective November 6, 1997*

Fort Payne, AL, Isbell Field, GPS RWY 4, Orig
Fort Payne, AL, Isbell Field, GPS RWY 22, Orig
Fayetteville, AR, Drake Field, VOR/DME–B, Orig
Fayetteville, AR, Drake Field, VOR/DME RWY 34, Orig, CANCELLED
Fayetteville, AR, Drake Field, LOC RWY 16, Amdt 16
Fayetteville, AR, Drake Field, LDA/DME RWY 34, Amdt 1
Fayetteville, AR, Drake Field, MLS RWY 34 Amdt 1
Titusville, FL, Arthur Dunn Air Park, GPS RWY 15, Orig
Titusville, FL, Arthur Dunn Air Park, GPS RWY 33, Orig
Hampton, GA, Clayton County-Tara Fields, GPS RWY 24, Amdt 1
Waycross, GA, Waycross-Ware County, GPS RWY 18, Orig
Waycross, GA, Waycross-Ware County, GPS RWY 36, Orig
Waycross, GA, Waycross-Ware County, RNAV OR GPS RWY 18, Amdt 4B, CANCELLED
Charles City, IA, Charles City Muni, GPS RWY 30, Orig
Nampa, ID, Nampa Muni, GPS–B, Orig
Nampa, ID, Nampa Muni, GPS RWY 11, Orig
Bedford, IN, Virgil I. Grisson Muni, VOR/DME RWY 13, Amdt 10
Bedford, IN, Virgil I. Grisson Muni, VOR/DME RWY 31, Amdt 9
Bedford, IN, Virgil I. Grisson Muni, NDB RWY 13, Amdt 8
Bedford, IN, Virgil I. Grisson Muni, NDB RWY 31, Amdt 10
Bedford, IN, Virgil I. Grisson Muni, GPS RWY 13, Orig
Bedford, IN, Virgil I. Grisson Muni, GPS RWY 31, Orig
Kendallville, IN, Kendallville Muni, GPS RWY 27, Orig
Louisville, KY, Bowman Field, VOR OR GPS RWY 24, Amdt 7
Friendly, MD, Potomac Airfield, GPS RWY 6, Orig
Friendly, MD, Potomac Airfield, VOR/DME RWY 6, Orig
Crookston, MN, Crookston Muni Kirkwood Fld, GPS RWY 31, Orig
Lee's Summit, MO, Lee's Summit Muni, VOR/DME–A, Orig
Lee's Summit, MO, Lee's Summit Muni, VOR OR GPS–B, Amdt 3, CANCELLED
Harvey, ND, Harvey Muni, GPS RWY 11, Orig
Harvey, ND, Harvey Muni, GPS RWY 29 Orig

New Philadelphia, OH, Harry Clever Field, GPS RWY 14, Orig

[FR Doc. 97–27497 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 97

[Docket No. 29006; Amdt. No. 1818]

Standard Instrument Approach Procedures; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

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

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

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

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

For Examination—

1. FAA Rules Docket, FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591;

2. The FAA Regional Office of the region in which affected airport is located; or

3. The Flight Inspection Area Office which originated the SIAP.

For Purchase—Individual SIAP copies may be obtained from:

1. FAA Public Inquiry Center (APA–200), FAA Headquarters Building, 800 Independence Avenue, SW., Washington, DC 20591; or

2. The FAA Regional Office of the region in which the affected airport is located.

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

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

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

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

The Rule

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

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

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

Conclusion

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

List of Subjects in 14 CFR Part 97

Air Traffic Control, Airports, Navigation (Air).

Issued in Washington, DC, on August 22, 1997.

Thomas E. Stuckey,

Acting Director, Flight Standards Service.

Adoption of the Amendment

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

PART 97—STANDARD INSTRUMENT APPROACH PROCEDURES

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

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

2. Part 97 is amended to read as follows:

By amending: § 97.23 VOR, VOR/DME, VOR or TACAN, and VOR/DME or TACAN; § 97.25 LOC, LOC/DME, LDA, LDA/DME, SDF, SDF/DME; § 97.27 NDB, NDB/DME; § 97.29 ILS, ILS/DME, ISMLS, MLS, MLS/DME, MLS/RNAV; § 97/31 RADAR SIAPs; § 97.33 RNAV SIAPs; and § 97.35 COPTER SIAPs, identified as follows:

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

* * * *Effective Upon Publication*

FDC date	State	City	Airport	FDC No.	SIAP
06/27/97	FM	Pohnpei Island	Pohnpei Intl	FDC7/3998	PTPN). NDB/DME or GPS-A, AMDT 1 ...
08/06/97	DC	Washington	Washington Dulles Intl	FDC7/5199	ILS/DME RWY 1L AMDT 5 ...
08/08/97	FL	Miami	Miami Intl	FDC7/5269	ILS RWY 9L, AMDT 28 ...
08/11/97	MI	Escanaba	Delta County	FDC7/5362	VOR or GPS RWY 18, AMDT 7 ...
08/12/97	NE	Norfolk	Karl Stefan Memorial	FDC7/5380	ILS RWY 1, AMDT 4 ...
08/14/97	MT	Missoula	Missoula International	FDC7/5442	ILS RWY 11, AMDT 10 ...
08/15/97	MA	Hyannis	Barnstable Muni–Boardman/Polando Field.	FDC7/5451	ILS RWY 24, AMDT 16C ...
08/18/97	IN	Greensburg	Greensburg-Decatur County	FDC7/5523	VOR or GPS–A, AMDT 2 ...
08/18/97	KS	Olathe	Johnson County Executive	FDC7/5519	NDB or GPS RWY 18, AMDT 3A ...
08/18/97	VA	Richmond/Ashland	Hanover County Muni	FDC7/5524	VOR RWY 16 ORIG–A ...
08/18/97	VA	Richmond/Ashland	Hanover County Muni	FDC7/5525	VOR RWY 16 ORIG–A ...

[FR Doc. 97–27498 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF DEFENSE

Corps of Engineers, Department of the Army

33 CFR Part 334

Danger Zone, Pacific Ocean, Naval Air Weapons Station, Point Mugu, Ventura County, CA

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

ACTION: Final rule.

SUMMARY: On July 28, 1997, the Corps published an interim final rule in the **Federal Register**, which established a danger zone in the waters of the Pacific Ocean extending 5,000 meters offshore from the small arms range at the Naval Air Weapons Station, in Point Mugu, Ventura County, California. The danger zone would provide an appropriate and enforceable zone in which the Navy may conduct small arms test firing to qualify military and civilian security personnel. The comment period for the interim final rule ended on August 27, 1997. No comments were received.

DATES: Effective July 28, 1997.

ADDRESSES: HQUSACE, CECW–OR, Washington, DC 20314–1000.

FOR FURTHER INFORMATION CONTACT: Ms. Tiffany Welch at (805) 641–2935 or Mr. Ralph Eppard at (202) 761–1783.

SUPPLEMENTARY INFORMATION: Pursuant to its authorities in section 7 of the Rivers and Harbors Act of 1917 (40 Stat. 266; 33 U.S.C. 1) and Chapter XIX of the Army Appropriations Act of 1919 (40 Stat. 892; 33 U.S.C. 3), the Corps is amending the regulations in 33 CFR part 334 by adding a new danger zone regulation in § 334.1125. On July 28, 1997, the Corps published the new danger zone regulations in the **Federal Register** (62 FR 40278) as an interim final rule, effective on the date of publication, with public comments invited until August 27, 1997. Based on comments received, the Corps would take appropriate action which could include further revision or suspension of the rules. We received no comments.

List of Subjects in 33 CFR Part 334

Danger zones, Navigation (water), Transportation.

PART 334—DANGER ZONE AND RESTRICTED AREA REGULATIONS

Accordingly, the interim final rule adding 33 CFR 334.1125 on July 28, 1997, (62 FR 40278) is adopted as a final rule, without change.

Dated: October 7, 1997.

Approved:

Russell L. Fuhrman,

Major General, USA, Director of Civil Works.

[FR Doc. 97–27318 Filed 10–15–97; 8:45 am]

BILLING CODE 3710–92–M

DEPARTMENT OF ENERGY

48 CFR Parts 901, 903, 904, 912, 913, 915, 916, 932, 933, 939, 944 and 970

RIN 1991–AB35

Acquisition Regulation: Acquisition Streamlining

AGENCY: Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) is amending the Department of Energy Acquisition Regulation (DEAR) to supplement the Federal Acquisition Regulation's (FAR) implementation of certain provisions of the Federal Acquisition Streamlining Act of 1994 and the Clinger-Cohen Act of 1996. In addition, DOE is amending the DEAR to eliminate unnecessary and obsolete coverage and to make certain technical and conforming amendments, as appropriate.

DATES: This final rule is effective November 17, 1997.

FOR FURTHER INFORMATION CONTACT: John R. Bashista (202) 586–8192 (telephone); (202) 586–0545 (facsimile); john.bashista@hq.doe.gov (electronic mail).

SUPPLEMENTARY INFORMATION:

I. Background.

The Federal Acquisition Streamlining Act of 1994 (FASA), Pub. L. 103–355, was enacted on October 13, 1994, and provides authorities that streamline the acquisition process and minimize burdensome government-unique requirements. Among the many changes brought about by this legislation, FASA established new and innovative acquisition streamlining concepts and methods pertaining to the acquisition of commercial items; simplified acquisition procedures; multiple award, task and delivery order contracts; protests; and changes to the Truth in Negotiations Act. The Clinger-Cohen Act of 1996, Pub. L. 104–208, was enacted on September 30, 1996, to further streamline the Federal procurement system in such areas as competition requirements, debriefings, procurement integrity and the acquisition of commercial items and information technology products and services. The issuance of interim and final rules implementing these statutes in the FAR has been largely completed. Accordingly, this rulemaking will implement and supplement, as appropriate, the FAR's implementation of certain provisions of the FASA and Clinger-Cohen Act of 1996. This final rule will also eliminate obsolete coverage and make necessary technical and conforming amendments to the DEAR.

II. Section-by-Section Analysis

1. The authority for citations for parts 901, 903, 904, 913, 915, 916, 932, 933, 939 and 944 are restated.

2. Section 901.601, General, which addresses contracting authority and responsibilities, is amended by designating the current paragraph as paragraph (a), and by adding new paragraph (b) to identify that the authority set forth at 48 CFR 1.601(b) is delegated within DOE to the Procurement Executive.

3. Subsection 903.104–11, Processing violations or possible violations under procurement integrity, is redesignated as subsection 903.104–10, and the subsection heading and coverage are revised to conform to recent FAR changes.

4. Subsection 904.804–1, Close out by the office administering the contract, which addresses contract closeout procedures, is amended by deleting the reference to section 942.708 and substituting in lieu thereof a reference to 48 CFR 42.708.

5. Part 912, Acquisition of Commercial Items, is added and the authority for new Part 912 is stated as 42 U.S.C. 7254 and 40 U.S.C. 486(c).

6. Section 912.302, Tailoring of provisions and clauses for the acquisition of commercial items, is added to incorporate DOE's procedures for waiving the prohibition at 48 CFR 12.302(c) on tailoring or adding terms or conditions that are inconsistent with customary commercial practice for a solicitation or contract for commercial items.

7. Subsection 913.505–1, which addresses the use of certain forms for simplified acquisitions, is amended by redesignating subparagraph (a)(2) as paragraph (a); deleting the last sentence of redesignated paragraph (a) and substituting in lieu thereof a reference to 48 CFR 12.204 regarding the use of the Standard Form 1449, Solicitation/Contract/Order for Commercial Items; and removing subparagraph (b)(2) in its entirety as the coverage is obsolete.

8. Subsection 915.804–3, Exemptions from or waiver of submission of certified cost or pricing data, is redesignated as subsection 915.804–1, and the subsection heading and coverage are revised to conform with recent changes to the FAR.

9. Subsection 915.804–6, which addresses the authority to waive requirements for cost or pricing data under certain circumstances, is amended to conform with recent FAR changes by revising the subsection heading, and removing paragraph (i) which contains obsolete coverage.

10. Subsection 915.806–2, Prospective subcontractor cost or pricing data, is added to implement FAR coverage regarding the authority to excuse a prospective contractor from submitting subcontractor cost or pricing data.

11. Subpart 915.10, Preaward, Award, and Postaward Notifications, Protests and Mistakes, which addresses the debriefing of unsuccessful offerors, is removed as the coverage is obsolete and unnecessary pursuant to recent changes to 48 CFR 15.10.

12. Section 916.504, Indefinite-quantity contracts, is added to implement the Department's policy regarding the incorporation of minimum ordering guarantees in multiple award contracts.

13. Section 916.505, Ordering, is added to implement the Department's policies and procedures pertaining to Task Order Contract and Delivery Order Contract Ombudsman duties and responsibilities.

14. Subpart 932.4 is amended to revise the heading of the subpart to conform with recent changes to the FAR.

15. Subsection 933.102, General, is added to identify that the authority set forth at 48 CFR 33.102(b) to provide corrective relief in response to a protest is delegated within DOE to the Heads of Contracting Activities.

16. Part 939, Acquisition of Federal Information Processing Resources By Contracting, is revised to update the coverage pursuant to recent FAR changes resulting from the passage and implementation of Section E of the Clinger-Cohen Act of 1996.

17. Part 944, Subcontracting Policies and Procedures, which addresses obsolete internal DOE subcontracting policies and procedures pertaining to contractors' purchasing system reviews, is removed.

18. The authority citation for Part 970 is restated.

19. Subsection 970.1508–1, which addresses the applicability of cost or pricing data to DOE cost-reimbursement management and operating contracts, is amended to update and clarify the Department's coverage pursuant to recent changes to the FAR resulting from FASA and Clinger-Cohen Act amendments to the Truth in Negotiations Act and to prescribe the use of appropriate FAR clauses regarding requirements for subcontractor cost or pricing data.

20. Subsection 970.5204–22, Contractor purchasing system, is amended by revising paragraph (a) to incorporate requirements for the management of a Self-Assessment Program, and the Government's review of contractors' purchasing systems in accordance with FAR subpart 44.3 and other DOE implementing policy and guidance. The section is further amended by revising paragraph (b) to correct an obsolete reference.

21. Subsection 970.5204–24, Subcontractor cost or pricing data, is removed and the subsection reserved pursuant to the amendments made to subsections 970.1508–1 and 970.5204–44.

22. Subsection 970.5204–44, which prescribes subcontract flowdown requirements for DOE management and operating contractors, is amended to revise the coverage set forth therein regarding the flowdown of subcontractor cost or pricing data requirements.

23. Subsection 970.5204–60, Facilities management, is amended to update the clause pursuant to the cancellation and/or redesignation of several internal DOE Directives referenced therein.

III. Procedural Requirements.

A. Review Under Executive Order 12612

Executive Order 12612, entitled ''Federalism,'' 52 FR 41685 (October 30, 1987), requires that regulations, rules, legislation, and any other policy actions be reviewed for any substantial direct effects on States, on the relationship between the Federal Government and the States, or in the distribution of power and responsibilities among various levels of government. If there are sufficient substantial direct effects, then the Executive Order requires preparation of a federalism assessment to be used in all decisions involved in promulgating and implementing a policy action. DOE has determined that this rule will not have a substantial direct effect on the institutional interests or traditional functions of States.

B. Review Under Executive Order 12866

This regulatory action has been determined not to be a ''significant regulatory action'' under Executive Order 12866, ''Regulatory Planning and Review,'' 58 FR 51735 (October 4, 1993). Accordingly, this action was not subject to review, under that Executive Order, by the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB).

C. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3(a) of Executive Order 12988, ''Civil Justice Reform,'' 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to adhere to the following requirements: (1) Eliminate drafting errors and ambiguity; (2) write regulations to minimize litigation; and (3) provide a clear legal standard for affected conduct rather than a general standard and promote simplification and burden reduction. With regard to the review required by section 3(a), section 3(b) of Executive Order 12988 specifically requires that Executive agencies make every reasonable effort to ensure that the regulation: (1) Clearly specifies the preemptive effect, if any; (2) clearly specifies any effect on existing Federal law or regulation; (3) provides a clear legal standard for affected conduct while promoting simplification and burden reduction; (4) specifies the retroactive effect, if any; (5) adequately defines key terms; and (6) addresses other important issues affecting clarity and general draftsmanship under any guidelines issued by the Attorney General. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met or it is unreasonable to meet one or more of them. DOE has completed the required review and determined that, to the extent permitted by law, the regulations meet the relevant standards of Executive Order 12988.

D. Review Under the National Environmental Policy Act

Pursuant to the Council on Environmental Quality Regulations (40 CFR 1500–1508), the Department has established guidelines for its compliance with the provisions of the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321, et seq.). Pursuant to Appendix A of Subpart D of 10 CFR part 1021, National Environmental Policy Act Implementing Procedures (Categorical Exclusion A6), DOE has determined that this rule is categorically excluded from the need to prepare an environmental impact statement or environmental assessment.

E. Review Under the Paperwork Reduction Act

No new information collection or recordkeeping requirements are imposed by this rule. Accordingly, no OMB clearance is required under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501, et seq.).

F. Review Under Small Business Regulatory Enforcement Fairness Act of 1996

As required by 5 U.S.C. 801, DOE will report to Congress promulgation of the rule prior to its effective date. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(3).

G. Review Under the Unfunded Mandates Reform Act of 1995

The Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4) generally requires a Federal agency to perform a detailed assessment of costs and benefits of any rule imposing a Federal Mandate with costs to State, local or tribal governments, or to the private sector, of $100 million or more. This rulemaking only affects private sector entities, and the impact is less than $100 million.

List of Subjects in 48 CFR Parts 901, 903, 904, 912, 913, 915, 916, 932, 933, 939, 944 and 970

Government procurement.

Issued in Washington, D.C. on October 9, 1997.

Richard H. Hopf,

Deputy Assistant Secretary for Procurement and Assistance Management.

For the reasons set forth in the preamble, Chapter 9 of Title 48 of the Code of Federal Regulations is amended as set forth below.

1. The authority citations for parts 901, 903, 904, 913, 915, 916, 932, 933, 939 and 944 continue to read as follows:

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

PART 901—FEDERAL ACQUISITION REGULATIONS SYSTEM

2. Section 901.601 is amended to designate the existing paragraph as paragraph (a) and by adding new paragraph (b) to read as follows:

901.601 General.

(a) * * *

(b) The Procurement Executive has been authorized, without power of redelegation, to perform the functions set forth at 48 CFR 1.601(b) regarding the assignment of contracting functions and responsibilities to another agency, and the creation of joint or combined offices with another agency to exercise acquisition functions and responsibilities.

PART 903—IMPROPER BUSINESS PRACTICES AND PERSONAL CONFLICTS OF INTEREST

3. Subsection 903.104–11 is redesignated as subsection 903.104–10, and revised to read as follows:

903.104–10 Violations or possible violations (DOE coverage—paragraph (a)).

(a) Except for Headquarters activities, the individual within DOE responsible for fulfilling the requirements of 48 CFR 3.104–10(a) (1) and (2) relative to contracting officer conclusions on the impact of a violation or possible violation of subsections 27 (a), (b), (c) or (d) of the Office of Federal Procurement Policy Act shall be the legal counsel assigned direct responsibility for providing legal advice to the contracting office making the award or selecting the source. The legal counsel is the Chief Counsel for the Operations Offices or the Federal Energy Technology Center; the Counsel, or the Chief Counsel, for the Support Offices or the Naval Reactors Offices; and the General Counsel for the Power Administrations. For Headquarters activities, the individual designated to perform the responsibilities in 48 CFR 3.104–10(a) (1) and (2) regarding questions of disclosure of proprietary or source

selection information is the Assistant General Counsel for Procurement and Financial Assistance. The designated individual for other questions regarding 48 CFR 3.104–10(a) (1) and (2) for Headquarters activities is the Agency Ethics Official (Designated Agency Ethics Official).

PART 904—ADMINISTRATIVE MATTERS

4. Subsection 904.804–1 is amended by revising the section heading and paragraph (b) to read as follows:

904.804–1 Closeout by the office administering the contract (DOE Coverage—paragraphs (a) and (b)).

* * * * *

(b) Quick closeout procedures for cost reimbursable and other than firm fixed price type contracts are covered under 48 CFR 42.708.

5–6. Part 912 is added in Subchapter B to read as follows:

PART 912—ACQUISITION OF COMMERCIAL ITEMS

Subpart 912.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

Sec.
912.302 Tailoring of provisions and clauses for the acquisition of commercial items.

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

Subpart 912.3—Solicitation Provisions and Contract Clauses for the Acquisition of Commercial Items

912.302 Tailoring of provisions and clauses for the acquisition of commercial items. (DOE coverage—paragraph (c))

(c) The waiver required by 48 CFR 12.302(c) shall be in writing and approved by the contracting officer.

PART 913—SIMPLIFIED ACQUISITION PROCEDURES

7. Subsection 913.505–1 is revised to read as follows:

913.505–1 Optional Form (OF) 347, Order for Supplies or Services, and Optional Form 348, Order for Supplies or Services Schedule-Continuation or DOE F 4250.3, Order for Supplies or Services. (DOE coverage—paragraph (a))

(a) Optional Forms 347 and 348, or DOE F 4250.3, may be used for purchase orders using simplified acquisition procedures. These forms shall not be used as the contractor's invoice. See 48 CFR 12.204 regarding the use of SF–1449 for the acquisition of commercial items using simplified acquisition procedures.

PART 915—CONTRACTING BY NEGOTIATION

8. Subsection 915.804–3 is redesignated as subsection 915.804–1, and revised to read as follows:

915.804–1 Prohibition on obtaining cost or pricing data (DOE coverage—paragraph (b)).

(b) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may approve the finding required by 48 CFR 15.804–1(b)(1)(i)(B), and the determination required by 48 CFR 15.804–1 (b)(1)(ii)(B).

9. Subsection 915.804–6 is revised to read as follows:

915.804–6 Instructions for the submission of cost or pricing data or information other than cost or pricing data (DOE coverage—paragraph (e)).

(e) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may, without power of redelegation, waive the requirements for cost or pricing data under the circumstances set forth in 48 CFR 15.804–6(e). Such waivers shall be reported to the Procurement Executive.

10. Subsection 915.806–2 is added in Subchapter C to read as follows:

915.806–2 Prospective subcontractor cost or pricing data (DOE coverage—paragraph (e)).

(e) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may, without power of redelegation, approve the contracting officer's determination to excuse a prospective contractor from submitting subcontractor cost or pricing data before completion of negotiations of the prime contract, subject to the requirements set forth in 48 CFR 15.806–2(e).

Subpart 915.10 [Removed]

11. Subpart 915.10 in Subchapter C is removed.

PART 916—TYPES OF CONTRACTS

12. Section 916.504 is added in Subchapter C to read as follows:

916.504 Indefinite-quantity contracts (DOE coverage-paragraph (c)).

(c) The contracting officer shall establish minimum ordering guarantees with each awardee for all indefinite-quantity, multiple award contracts to ensure that adequate consideration exists to contractually bind each awardee to participate in the ordering process throughout the term of the multiple award contract. Minimum ordering guarantees should be equal among all awardees, and shall be determined on a case-by-case basis for each acquisition commensurate with the size, scope and complexity of the contract requirements.

13. Section 916.505 is added in Subchapter C to read as follows:

916.505 Ordering (DOE coverage—paragraph (b)).

(b) (4) The Director, Office of Management Systems, Office of Procurement and Assistance Management, is designated as the DOE Ombudsman for task and delivery order contracts in accordance with 48 CFR 16.505(b)(4).

(5) The Heads of Contracting Activities shall designate a senior manager to serve as the Contracting Activity Ombudsman for task and delivery order contracts. If, for any reason, the Contracting Activity Ombudsman is unable to execute the duties of the position, the Head of the Contracting Activity shall designate an Acting Contracting Activity Ombudsman.

(6) The Contracting Activity Ombudsman shall:

(i) Be independent of the contracting officer who awarded and/or is administering the contract under which a complaint is submitted;

(ii) Not assume any duties and responsibilities pertaining to the evaluation or selection of an awardee for the issuance of an order under a multiple award, task or delivery order contract;

(iii) Review complaints from contractors awarded a task or delivery order contract;

(iv) Collect all facts from the cognizant organizations or individuals that are relevant to a complaint submitted to ensure that the complainant and all contractors were afforded a fair opportunity to be considered for the order issued in accordance with the procedures set forth in each awardees' contract;

(v) Maintain a written log to track each complaint submitted from receipt through disposition;

(vi) Ensure that no information is released which is determined to be proprietary or is designated as source selection information; and

(vii) Resolve complaints at the contracting activity for which they have cognizance.

(7) If, upon review of all relevant information, the Contracting Activity Ombudsman determines that corrective action should be taken, the Contracting Activity Ombudsman shall report the determination to the cognizant

contracting officer. Issues which cannot be so resolved should be forwarded to the DOE Ombudsman.

PART 932—CONTRACT FINANCING

14. Subpart 932.4 is amended by revising the heading of the subpart to read as follows:

Subpart 932.4—Advance Payments for Non-Commercial Items

PART 933—PROTESTS, DISPUTES AND APPEALS

15. Section 933.102 is added in Subchapter E to read as follows:

933.102 General (DOE coverage—paragraph (b)).

(b) The Heads of Contracting Activities, for contracts estimated to be within the limits of their delegated authority, may, without power of redelegation, provide corrective relief in response to a protest in accordance with 48 CFR 33.102(b).

16. Part 939 is revised in its entirety to read as follows:

PART 939—ACQUISITION OF INFORMATION TECHNOLOGY

Subpart 939.70—Implementing DOE Policies and Procedures

Sec.
939.7000 Scope.
939.7001 Outdated information technology equipment.
939.7002 Contractor acquisition of information technology.

Authority: 42 U.S.C. 7254; 40 U.S.C. 486(c).

Subpart 939.70—Implementing DOE Policies and Procedures

939.7000 Scope.

This part sets forth the policies and procedures that apply to the acquisition of information technology by the Department of Energy (DOE).

939.7001 Outdated information technology equipment.

Solicitations and contracts for, or using, outdated information technology equipment shall be submitted to the Office of Management Systems, Office of Procurement and Assistance Management for review and approval. The Office of Information Management shall review these documents and make the decision whether to allow the acquisition or use of outdated information technology equipment.

939.7002 Contractor acquisition of information technology.

(a) *Management and operating (M&O) contracts.* Except as provided in paragraph (c) of this section, M&O contractors and their subcontractors shall not be used to acquire information technology unrelated to the mission of the M&O contract either for sole use by DOE employees or employees of other DOE contractors, or for use by other Federal agencies or their contractors.

(b) *Other than M&O contracts.* Where it has been determined that a contractor (other than an M&O contractor or its subcontractor) will acquire information technology either for sole use by DOE employees or for the furnishing of the information technology as government-furnished property under another contract, and after receiving written authorization from their cognizant DOE contracting office pursuant to 48 CFR part 51, DOE contractors working under cost-reimbursement-type contracts may place orders against authorized contracts. All authorizations to contractors shall expressly and specifically reference the restriction regarding contractor use of the items acquired, cited at 48 CFR 951.102(e)(4)(iii).

(c) *Consolidated contractor acquisitions.* When common information technology requirements in support of DOE programs have been identified and it is anticipated that the consolidation of such requirements will promote cost or other efficiencies, the Designated Senior Official for Information Management may authorize an M&O contractor to acquire information technology for use by the following:

(1) One or more other contractor(s) performing on-site at the same DOE-owned or -leased facility as the M&O contractor, or

(2) Other M&O contractors.

PART 944—[REMOVED]

17. Part 944 in Subchapter G is removed.

PART 970—DOE MANAGEMENT AND OPERATING CONTRACTS

18. The authority citation for Part 970 continues to read as follows:

Authority: Sec. 161 of the Atomic Energy Act of 1954 (42 U.S.C. 2201), sec. 644 of the Department of Energy Organization Act, Public Law 95–91 (42 U.S.C. 7254).

19. Subsection 970.1508–1 is revised to read as follows:

970.1508–1 Cost or pricing data.

(a) The certification requirements of FAR 15.804–2 are not applied to DOE cost-reimbursement management and operating contracts.

(b) The contracting officer shall ensure that management and operating contractors and their subcontractors obtain cost or pricing data prior to the award of a negotiated subcontract or modification of a subcontract in accordance with 48 CFR 15.804–2, and incorporate appropriate contract provisions similar to those set forth at 48 CFR 52.215–22 and 48 CFR 52.215–23 that provide for the reduction of a negotiated subcontract price by any significant amount that the subcontract price was increased because of the submission of defective cost or pricing data by a subcontractor at any tier.

(c) The clauses at 48 CFR 52.215–24 and 48 CFR 52.215–25 shall be included in management and operating contracts.

20. Subsection 970.5204–22 is amended by revising the clause date and paragraphs (a) and (b) to read as follows:

970.5204–22 Contractor purchasing system.

* * * * *

Contractor Purchasing System (NOV 1997)

(a) *General.* The contractor shall develop, implement, and maintain formal policies, practices, and procedures to be used in the award of subcontracts consistent with this clause, 48 CFR (DEAR) 970.5204–44, and 48 CFR (DEAR) 970.71. The contractor's purchasing system and methods shall be fully documented, consistently applied, and acceptable to DOE in accordance with 48 CFR (DEAR) 970.7102. The contractor shall maintain file documentation which is appropriate to the value of the purchase and is adequate to establish the propriety of the transaction and the price paid. The contractor's purchasing performance will be evaluated against such performance criteria and measures as may be set forth elsewhere in this contract. DOE reserves the right at any time to require that the contractor submit for approval any or all purchases under this contract. The contractor shall not purchase any item or service the purchase of which is expressly prohibited by the written direction of DOE and shall use such special and directed sources as may be expressly required by the DOE contracting officer. The contractor shall manage a Self-Assessment Program and shall submit to the contracting officer a copy of Self-Assessment reports in accordance with written direction and guidance provided by the contracting officer. DOE reserves the right to review and approve the contractor's purchasing system in accordance with 48 CFR subpart 44.3, and DOE implementing policy and guidance. The contractor's approved purchasing system and methods shall include the requirements set forth in paragraphs (b) through (w) of this clause.

(b) *Acquisition of utility services.* Utility services shall be acquired in accordance with the requirements of 48 CFR 970.41.

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970.5204–24 [Removed and Reserved]

21. Subsection 970.5204–24 in Subchapter I is removed and reserved.

22. Subsection 970.5204–44 is amended by revising paragraph (b)(5) to read as follows:

970.5204–44 Flowdown of contract requirements to subcontracts.

* * * * *

(b) * * *

(5) Cost or Pricing Data. Clauses prescribed at 48 CFR (DEAR) 970.1508–1, and appropriate contract provisions similar to those set forth at 48 CFR 52.215–22 and 48 CFR 52.215–23, that provide for the reduction of a negotiated subcontract price by any significant amount that the subcontract price was increased because of the submission of defective cost or pricing data by a subcontractor at any tier.

* * * * *

23. Subsection 970.5204–60 is amended by revising the clause date and paragraphs (a), (b) and (c) to read as follows:

970.5204–60 Facilities management.

* * * * *

FACILITIES MANAGEMENT (NOV 1997)

* * * * *

(a) *Site development planning.* The Government shall provide to the contractor site development guidance for the facilities and lands for which the contractor is responsible under the terms and conditions of this contract. Based upon this guidance, the contractor shall prepare, and maintain through annual updates, a Long-Range Site Development Plan (Plan) to reflect those actions necessary to keep the development of these facilities current with the needs of the Government and allow the contractor to successfully accomplish the work required under this contract. In developing this Plan, the contractor shall follow the procedural guidance set forth in the applicable DOE Directives in the Life Cycle Facility Operations Series listed elsewhere in this contract. The contractor shall use the Plan to manage and control the development of facilities and lands. All plans and revisions shall be approved by the Government.

(b) *General design criteria.* The general design criteria which shall be utilized by the contractor in managing the site for which it is responsible under this contract are those specified in the applicable DOE Directives in the 6430, Design Criteria, series listed elsewhere in this contract. The contractor shall comply with these mandatory, minimally acceptable requirements for all facility designs with regard to any building acquisition, new facility, facility addition or alteration or facility lease undertaken as part of the site development activities of paragraph (a) above. This includes on-site constructed buildings, pre-engineered buildings, plan-fabricated modular buildings, and temporary facilities. For existing facilities, original design criteria apply to the structure in general; however, additions or modifications shall comply with this directive and the associated latest editions of the references therein. An exception may be granted for off-site office space being leased by the contractor on a temporary basis.

(c) *Energy management.* The contractor shall manage the facilities for which it is responsible under the terms and conditions of this contract in an energy efficient manner in accordance with the applicable DOE Directives in the Life Cycle Facility Operations Series listed elsewhere in this contract. The contractor shall develop a 10-year energy management plan for each site with annual reviews and revisions. The contractor shall submit an annual report on progress toward achieving the goals of the 10-year plan for each individual site, and an energy conservation analysis report for each new building or building addition project. Any acquisition of utility services by the contractor shall be conducted in accordance with 48 CFR 970.41.

* * * * *

[FR Doc. 97–27422 Filed 10–15–97; 8:45 am]

BILLING CODE 6450–01–P

Proposed Rules

Federal Register
Vol. 62, No. 200
Thursday, October 16, 1997

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

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 58

[DA–97–13]

RIN 0581–AB50

Grading and Inspection, General Specifications for Approved Plants and Standards for Grades of Dairy Products; Proposed Increase in Fees

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: The Agricultural Marketing Service proposes to increase the fees charged for services provided under the dairy inspection and grading program. The program is a voluntary, user-fee program conducted under the authority of the Agricultural Marketing Act of 1946, as amended. The proposed increases would result in a fee of $51.00 per hour for continuous resident services and $56.00 per hour for nonresident services between the hours of 6:00 a.m. and 6:00 p.m. The fee for nonresident services between the hours of 6:00 p.m. and 6:00 a.m. would be $61.60 per hour. These proposed fees represent an increase of four dollars per hour. The fees are being increased to cover the costs of anticipated salary increases and locality adjustments, the costs necessary to maintain adequate levels of service during changing production and purchasing patterns within the dairy industry, the continued full funding for standardization activities, and other operating costs.

DATES: Comments should be mailed by November 17, 1997.

ADDRESSES: Comments should be mailed to: Richard McKee, Office of the Director, USDA/AMS/Dairy Division, Room 2968-S, P.O. Box 96456, Washington, DC 20090–6456. Comments received will be available for public inspection at this location during regular business hours.

FOR FURTHER INFORMATION CONTACT: Lynn G. Boerger, USDA/AMS/Dairy Division, Dairy Grading Branch, Room 2750-South Building, P.O. Box 96456, Washington, DC 20090–6456, (202) 720–9381.

SUPPLEMENTARY INFORMATION: This proposed rule has been determined to be not significant for purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget.

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have preemptive effect with respect to any State or local laws, regulations, or policies. This rule is not intended to have retroactive effect. There are no administrative procedures which must be exhausted prior to any judicial challenge to this rule or the application of its provisions.

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

There are more than 600 users of Dairy Grading Branch's inspection and grading services. Many of these users are small entities under the criteria established by the Small Business Administration (13 CFR 121.601). This rule will raise the fee charged to businesses for voluntary inspection services and grading services for dairy and related products. Even though the fee will be raised, the increase is approximately 8.0 percent and will not significantly affect these entities. These businesses are under no obligation to use these services, and any decision on their part to discontinue the use of the services would not prevent them from marketing their products. The Agricultural Marketing Service (AMS) estimates that overall this rule will yield an additional $343,000 during 1998. The proposed rule reflects certain fee increases needed to recover the cost of inspection and grading services rendered in accordance with the Agricultural Marketing Act (AMA) of 1946.

AMS regularly reviews its user-fee financed programs to determine if the fees are adequate. The existing fee schedule will not generate sufficient revenues to cover programs costs while maintaining an adequate reserve balance (four months of costs) as called for by Agency policy (AMS Directive 408.1). Without a fee increase, revenue projections for FY 1998 would remain constant at $4.695 million. Costs are projected to increase to $5.628 million. The shortfall, if allowed to continue, would translate into an approximate 1.6 month operating reserve at the end of FY 1998, which is less than Agency policy requires.

The Agricultural Marketing Service (AMS) has determined that this action will not have a significant impact on a substantial number of small entities, as defined in the Regulatory Flexibility Act (5 U.S.C. 601).

The Agricultural Marketing Act of 1946, as amended, authorizes the Secretary of Agriculture to provide Federal dairy grading and inspection services that facilitate marketing and help consumers obtain the quality of dairy products they desire. The Act provides that reasonable fees be collected from the users of the services to cover, as nearly as practicable, the cost of maintaining the program.

FY 1997 revenue was projected to be $4.733 million and costs to be $5.240 million. The shortfall during the year reduced the operating reserve from 5.6 months at the beginning of the year to 3.8 months at the end of August, and is projected to further reduce the operating reserve to approximately 1.6 months at the end of FY 1998. With this proposed increase, assuming a slightly increased workload, revenue for FY 1998 is projected to be $5.540 million with costs totaling $5.628 million. Of these costs, the general salary increase represents $110,000 per year and is scheduled to be effective in January, 1998. Employee salaries and benefits are major program costs and account for approximately 70 percent of the total operating budget. Program travel costs (of which approximately 80 percent are reimbursed by the industry), general contract obligations and Agency overhead account for another 24 percent of the budget. Changing workloads are analyzed on a regular basis in order to maximize grading assignment efficiency and to minimize grader and supervisory costs. Future increases would be proposed as necessary in following years to cover any annual increases in program costs and to maintain the capital reserve at 4 months.

Since the costs of the grading program are covered entirely by user fees, it is

essential that fees be increased when necessary to cover the cost of maintaining a financially self-supporting program. The last fee increase under this program became effective on January 5, 1997. On the same effective date, Congress increased the salaries of Federal employees by 3.0 percent which included locality pay. Also, there have been normal increases in other nonpay operating costs that include utilities, office space, and reimbursable travel. In addition, recent congressional action will result in additional salary increases of appoximately 3.0 percent in 1998. Although the program's operating reserves were adequate to cover the January 5, 1997, salary increase, this will not be the case for 1998 salary increases, and a fee increase is needed.

The grading program fees need to be increased to cover the costs associated with maintaining adequate levels of service during shifting production patterns within the dairy industry. The industry changes include plant consolidations, geographical shifts of dairy production areas, and changes in the types of dairy products being manufactured and offered for inspection and grading services. To minimize the necessary fee increase, the Department has initiated cost-reduction efforts which include the reduction of staff and program overhead.

Proposed Changes

This rule proposes the following changes in the regulations implementing the dairy inspection and grading program:

1. Increase the hourly fee for nonresident services from $52.00 to $56.00 for services performed between 6:00 a.m. and 6:00 p.m. The nonresident hourly rate is charged to users who request an inspector or grader for particular dates and amounts of time to perform specific grading and inspection activities. These users of nonresident services are charged for the amount of time required to perform the task and undertake related travel plus travel costs.

2. Increase the hourly fee for continuous resident services from $47.00 to $51.00. The resident hourly rate is charged to those who are using grading and inspection services performed by an inspector or grader assigned to a plant on a continuous, year-round resident basis.

Timing of Fee Increase

It is contemplated that the proposed fee increases would be implemented on an expedited basis in order to minimize the period of revenue shortfall. Accordingly, it is anticipated that the fee increases, if adopted, would become effective upon publication, or very soon after publication, of the final rule in the **Federal Register**. An approximate effective date would be January 4, 1998.

Also, a thirty day comment period is deemed appropriate in view of the need to implement any fee increases as early as possible in FY 1998.

All written submissions made pursuant to this notice will be made available for public inspection in the Dairy Division during regular business hours.

List of Subjects in 7 CFR Part 58

Dairy products, Food grades and standards, Food labeling, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, it is proposed that 7 CFR Part 58 be amended as follows:

PART 58—GRADING AND INSPECTION, GENERAL SPECIFICATIONS FOR APPROVED PLANTS AND STANDARDS FOR GRADES OF DAIRY PRODUCTS

1. The authority citation for Part 58 continues to read as follows:

Authority: 7 U.S.C. 1621–1627.

Subpart A—[Amended]

2. In subpart A, § 58.43 is revised to read as follows:

§ 58.43 Fees for inspection, grading, and sampling.

Except as otherwise provided in §§ 58.38 through 58.46, charges shall be made for inspection, grading, and sampling service at the hourly rate of $56.00 for service performed 6 a.m., for the time required to perform the service calculated to the nearest 15-minute period, including the time required for preparation of certificates and reports and the travel time of the inspector or grader in connection with the performance of the service. A minimum charge of one-half hour shall be made for service pursuant to each request or certificate issued.

3. Section 58.45 is revised to read as follows:

§ 58.45 Fees for continuous resident services.

Irrespective of the fees and charges provided in §§ 58.39 and 58.43, charges for the inspector(s) and grader(s) assigned to a continuous resident program shall be made at the rate of $51.00 per hour for services performed during the assigned tour of duty. Charges for service performed in excess of the assigned tour of duty shall be made at a rate of 1½ times the rate stated in this section.

Dated: October 8, 1997.

Lon Hatamiya,

Administrator, Agricultural Marketing Service.

[FR Doc. 97–27324 Filed 10–15–97; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Parts 300 and 319

[Docket No. 97–016–1]

Importation of Tomatoes From France, Morocco and Western Sahara, Chile, and Spain

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to amend the regulations governing fruits and vegetables to allow tomatoes from France, Morocco and Western Sahara, and Chile to be imported into the United States subject to certain conditions. The proposed action would provide importers and consumers in the United States with additional sources of tomatoes, while continuing to provide protection against the introduction and dissemination of injurious plant pests. We are also proposing to amend the regulations pertaining to importation of tomatoes from Spain by requiring containers of pink or red tomatoes to be sealed before shipment if the containers will transit any other fruit fly supporting areas while en route to the United States, and by requiring records to be kept by Spain's plant protection service regarding trapping practices and fruit fly captures. These actions appear necessary to prevent the introduction of exotic fruit flies into the United States.

DATES: Consideration will be given only to comments received on or before December 15, 1997.

ADDRESSES: Please send an original and three copies of your comments to Docket No. 97–016–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please state that your comments refer to Docket No. 97–016–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to

inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION CONTACT: Mr. Ronald C. Campbell, Staff Officer, Phytosanitary Issues Management Team, PPQ, APHIS, 4700 River Road Unit 140, Riverdale, MD 20737–1236, (301) 734–6799; fax (301)734–5786; E-mail: rcampbell@aphis.usda.gov.

SUPPLEMENTARY INFORMATION:

Background

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

Tomatoes from France, Morocco and Western Sahara, and Chile

We are proposing to amend the regulations to allow tomatoes (*Lycopersicon esculentum*) from France, Morocco and Western Sahara, and Chile to be imported into the United States under certain conditions, which are discussed below. We are proposing to allow these importations at the request of various importers and foreign ministries of agriculture, and after conducting pest risk analyses [1] that indicate the tomatoes can be imported under the proposed conditions without presenting any significant risk of introducing fruit flies or other injurious plant pests into the United States.

The imported tomatoes would be subject to the requirements in § 319.56–6 of the regulations. Section 319.56–6 provides, among other things, that all imported fruits and vegetables, as a condition of entry, shall be subject to inspection, disinfection, or both, at the port of first arrival, as may be required by a United States Department of Agriculture (USDA) inspector to detect and eliminate plant pests. Section 319.56–6 also provides that any shipment of fruits and vegetables may be refused entry if the shipment is infested with fruit flies or other injurious plant pests and an inspector determines that it cannot be cleaned by disinfection or treatment.

In this proposed rule, as well as in the current regulations for importing tomatoes from Spain, contained in §§ 319.56–2t and 319.56–2dd, we use the terms ''pink or red'' and ''green'' tomatoes. Green tomatoes are unripened tomatoes. Once tomatoes start to ripen, they show more and more pink coloring, which deepens to red as the tomatoes ripen.

Tomatoes From France

We are proposing to allow tomatoes to be imported from France under conditions very similar to current requirements for importing tomatoes from Spain. Section 319.56–2t includes green tomatoes from Spain in the list of fruits and vegetables that may be imported subject to inspection and disinfection at the port of arrival, in accordance with § 319.56–6 of the regulations. Section 319.56–2t allows green, or unripened, tomatoes to be imported into the United States from any area of Spain, including Almeria Province. Because green tomatoes are not a host to the Mediterranean fruit fly (Medfly), which is known to occur in Spain, or, in Spain, to any other pest of concern to the United States, they are not subject to the special conditions in § 319.56–2dd. Pink and red tomatoes from Spain are hosts, albeit poor ones, to the Medfly. Therefore, the regulations at § 319.56–2dd currently allow the importation of pink and red tomatoes only from the Almeria Province and only under certain conditions, which protect the tomatoes from Medfly infestation.

As in Spain, the pest of concern for tomatoes in France is Medfly. We are proposing to add green tomatoes from France to the list of fruits and vegetables in § 319.56–2t that may be imported into the United States subject to inspection and disinfection at the port of arrival in accordance with § 319.56–6 of the regulations. Green tomatoes are not a host to Medfly, or, in France, to any other pest of concern to the United States. We would require that, to be eligible for importation, the tomatoes must still be green upon arrival in the United States. This requirement would ensure that the tomatoes at no time, either in France or en route, become suitable Medfly host material. (As discussed later in this document, we are also proposing to add this requirement for the importation of green tomatoes from Spain.) We are also proposing to allow pink or red tomatoes to be imported into the United States from France if they are grown in the Region of Brittany and meet certain conditions.

Although Medfly is not known to exist in Brittany, incidental introductions are possible. Therefore, we propose to require that the tomatoes be grown in Brittany in greenhouses registered with, and inspected by, the Service de la Protection Vegetaux (SRPV). From June 1 through September 30, SRPV would be required to set and maintain Medfly traps baited with trimedlure at a rate of one inside and one outside each greenhouse. All traps would have to be checked every 7 days. Brittany, in the northeast of France, has a temperate climate. Temperatures from October through May are too cold for Medfly to survive. It is unlikely that Medfly would become even temporarily established in Brittany during the months of June through September, but trapping would help ensure detection of Medfly should it be introduced. Capture of a single Medfly inside or outside a registered greenhouse would immediately result in cancellation of exports to the United States from that greenhouse until the source of infestation is determined, the Medfly infestation is eradicated, and measures have been taken to preclude any future infestation. The Animal and Plant Health Inspection Service (APHIS) generally considers eradication to have occurred when there is no evidence of reproducing populations of Medfly (for example, no finding of Medfly larvae, mated females, or both male and female flies) for two life cycles of the Medfly. We propose to require SRPV to maintain records of trap placement, checking of traps, and any Medfly captures, and to make the records available to APHIS upon request.

Also from June 1 through September 30, we would require that the tomatoes be packed within 24 hours of harvest, safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. These requirements do not appear to be necessary during other times of the year when the climate would not support fruit flies. At all times of the year, however, we are proposing to require the fruit fly-proof containers of tomatoes to be sealed by SRPV before shipment, and the seal number recorded on a phytosanitary certificate that must accompany the tomatoes, if the containers will transit any other fruit fly supporting areas while en route to the United States. This would ensure that the containers are not opened and exposed to fruit flies, or contaminated with fruit fly infested fruit during shipment to the United States. Flight over a fruit fly supporting area without stopping does not constitute

[1] Information on these pest risk analyses and any other pest risk analysis referred to in this document may be obtained by writing to the person listed under **FOR FURTHER INFORMATION CONTACT** or by calling the Plant Protection and Quarantine (PPQ) fax vault at 301–734–3560.

''transit'' and thus does not trigger the SRPV seal and records requirements.

SRPV would be responsible for export certification inspection and issuance of phytosanitary certificates. We propose to require each shipment of pink or red tomatoes to be accompanied by a phytosanitary certificate issued by SRPV and bearing the declaration, ''These tomatoes were grown in registered greenhouses in the Brittany Region of France.''

The provisions for importing pink or red tomatoes from France would be added to § 319.56–2dd, and the heading for that section, which now refers only to pink or red tomatoes from Spain, would be changed.

Tomatoes From Morocco and Western Sahara

As in France and Spain, the pest of concern for tomatoes in Morocco and Western Sahara is Medfly. We are proposing to add green tomatoes from Morocco and Western Sahara to the list of fruits and vegetables in § 319.56–2t that may be imported, provided that the tomatoes are still green upon arrival in the United States, subject to inspection and disinfection at the port of arrival in accordance with § 319.56–6 of the regulations. Green tomatoes are not a host to Medfly, or, in Morocco and Western Sahara, to any other pest of concern to the United States.

We are also proposing to add provisions to § 319.56–2dd to allow pink tomatoes to be imported into the United States from El Jadida and Safi Provinces, Morocco, and from Dahkla Province, Western Sahara, under conditions similar to those discussed above for tomatoes from France. We are proposing to allow pink, but not fully ripe, red tomatoes, as an additional precaution because of the endemic presence of Medflies and Medfly host material in Morocco and Western Sahara, and the free movement of Medfly host materials throughout Morocco and Western Sahara. The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. A red tomato is more than 60 percent pink and/or red. Tomatoes at any stage of ripeness are poor hosts for Medfly, and pink tomatoes are less suitable Medfly host material than red tomatoes.

The tomatoes would have to be grown in greenhouses registered with, and inspected by, the Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF). Because of the prevalence of Medfly in Morocco and Western Sahara, the greenhouses would have to be insect-proof.

The tomatoes would only be allowed to be shipped from Morocco and Western Sahara between December 1 and April 30, inclusive. Although Morocco and Western Sahara are capable of supporting year-round populations of Medfly, population levels are lower during these months than during late spring through early autumn.

Commercial greenhouses in Morocco and Western Sahara range in size from less than 1 hectare to more than 14 hectares. Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF would be required to set and maintain Medfly traps baited with trimedlure inside the registered greenhouses at a rate of four traps per hectare. In Morocco traps would also be required outside registered greenhouses within a 2 kilometer radius at a rate of four traps per square kilometer. In Western Sahara, a single trap outside each registered greenhouse would be required. Fewer traps would be required in Western Sahara because of the scarcity of endemic Medfly host material and arid conditions in the tomato production areas. All traps in Morocco and Western Sahara would have to be checked every 7 days. We propose to require DPVCTRF to maintain records of trap placement, checking of traps, and any Medfly captures, and to make the records available to APHIS upon request.

Capture of a single Medfly in a registered greenhouse would immediately result in cancellation of exports to the United States from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 200 meters of a registered greenhouse would necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Six additional traps would have to be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of two Medflies within 200 meters of a registered greenhouse and within a 1-month time period would require Malathion bait sprays within 200 meters of the trap or traps where Medflies were caught every 7 to 10 days for 60 days to ensure eradication.

As with pink and red tomatoes from France and Spain, we propose to require pink tomatoes from Morocco and Western Sahara to be packed within 24 hours of harvest, safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. The tomatoes must be pink at the time of packing. In addition, we are proposing to require that the fruit fly-proof containers of tomatoes be sealed by the Moroccan Ministry of Agriculture, Fresh Product Export (EACCE), before shipment, and the seal number recorded on a phytosanitary certificate that must accompany the tomatoes, if the containers will transit any other fruit fly supporting areas while en route to the United States. This action appears necessary to ensure that the containers are not opened and exposed to fruit flies, or contaminated with fruit fly infested fruit during shipment to the United States.

EACCE would be responsible for export certification inspection and issuance of phytosanitary certificates. We propose to require each shipment of pink tomatoes to be accompanied by a phytosanitary certificate issued by EACCE and bearing the declaration, ''These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco and were pink at the time of packing'' or ''These tomatoes were grown in registered greenhouses in Dahkla Province, Western Sahara and were pink at the time of packing.''

The provisions for importing pink tomatoes from Morocco and Western Sahara would be added to § 319.56–2dd.

Tomatoes From Chile

In Chile the primary pests of concern in tomatoes are the tomato fruit moth (*Scrobopalpula absoluta*) and the tomato fruit fly (*Rhagoletis tomatis*). These are temperate pests that infest tomatoes at all stages of ripeness, including when they are green. USDA has determined that a methyl bromide treatment, developed in Chile, is an effective treatment for these pests in tomatoes. The treatment schedule is as follows: Methyl bromide at the rate of 48 ounces per 1,000 cubic feet at 70 °F for 2 hours. We are proposing to allow tomatoes from Chile to be imported into the United States if the tomatoes are treated in Chile with methyl bromide as described above. The treatment would have to be conducted in facilities registered with the Secretario de Agricultura y Ganaderia (SAG) and with APHIS personnel monitoring the treatments. Requiring the treatment under these conditions would ensure that the treatments were effectively administered.

In addition, we would require that the tomatoes be treated and packed within

24 hours of harvest. They would have to be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers under APHIS monitoring for transit to the airport and subsequent shipping to the United States. We believe these requirements are necessary to protect the tomatoes against reinfestation by the tomato fruit moth and fruit flies between the time of treatment and the arrival of the tomatoes in the United States.

The proposed methyl bromide treatment of tomatoes in Chile under APHIS monitoring prior to export of the tomatoes to the United States would be required due to the nature of tomato production in Chile. Tomatoes in Chile would be produced in open fields under normal cultural practices that do not incorporate safeguards to mitigate the risk of introducing tomato fruit fly and tomato fruit moth into the United States. Furthermore, the tomato fruit fly and tomato fruit moth are temperate pests that could potentially impact domestic tomato production in the United States. Post harvest methyl bromide treatment in Chile would be the only mitigative measure to ensure that tomato fruit flies and tomato fruit moths are not inadvertently shipped to the United States. By contrast, tomatoes from France, Morocco and Western Sahara, and Spain would be produced in greenhouses under a systems approach that incorporates multiple safeguards that mitigate the risk of introducing Medflies into the United States.

We propose that SAG enter into a trust fund agreement with APHIS before tomatoes from Chile could be precleared for import into the United States. A trust fund agreement is required to recover APHIS costs associated with monitoring the preclearance program in Chile. The trust fund agreement would require SAG to pay in advance all estimated costs to be incurred by APHIS in providing preclearance services during a shipping season. These costs would include administrative expenses incurred in conducting preclearance, as well as all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. SAG would be required to deposit a certified or cashier's check with APHIS for the amount of these costs for the entire shipping season, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement would further require that, if the deposit does not meet the actual costs incurred by APHIS, SAG would deposit with APHIS a certified or cashier's check for the amount of the known remaining costs, as determined by APHIS, before completion of the inspections. The agreement would also specify that unanticipated end-of-season costs must be paid upon demand, and that further service will be withheld until payment is made. If the amount SAG pays during a shipping season exceeds the total costs incurred by APHIS in providing preclearance services, the difference would be refunded to SAG by APHIS at the end of the shipping season. Requiring payment of costs in advance is necessary to help defray the costs to APHIS of providing inspection services in Chile.

The provisions for importing tomatoes from Chile would be added to § 319.56–2dd. The treatment schedule for methyl bromide would be added to the Plant Protection and Quarantine Treatment Manual (PPQ Treatment Manual), which is incorporated into the regulations by reference (see 7 CFR 300.1).

Tomatoes From Spain

The regulations at § 319.56–2dd for importing pink or red tomatoes from Almeria Province in Spain already require, among other things, that the greenhouse grown pink or red tomatoes be packed within 24 hours of harvest, be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. We are proposing to require the fruit fly-proof containers of tomatoes to be sealed by the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF) before shipment, and the seal number recorded on the phytosanitary certificate that must accompany the tomatoes to the United States, if the containers will transit any other fruit fly supporting areas while en route to the United States. We believe the additional requirements for containers that will transit fruit fly supporting areas are necessary to ensure that the shipments are not opened and exposed to fruit flies or contaminated with fruit-fly infested fruit during shipment to the United States.

The regulations at § 319.56–2dd for importing pink or red tomatoes from Spain also require MAFF to maintain Medfly traps inside and outside the registered greenhouses, but do not require MAFF to maintain records regarding the trapping. We propose to require MAFF to maintain records of trap placement, checking of traps, and any Medfly captures, and to make the records available to APHIS upon request. This would help ensure that trapping is done properly and that appropriate action is taken when fruit flies are found.

As discussed previously in this document, the regulations at § 319.56–2t for importing green tomatoes from Spain do not now require that the tomatoes still be green upon arrival in the United States. We propose to require that green tomatoes from Spain still be green upon arrival in the United States. This requirement would ensure that the tomatoes at no time, either in Spain or en route, become suitable host material for Medfly.

Executive Order 12866 and the Regulatory Flexibility Act

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

This proposed rule would allow tomatoes from France, Morocco and Western Sahara, and Chile to be imported into the United States subject to certain conditions. This proposed action would provide importers and consumers in the United States with additional sources of tomatoes, while continuing to provide protection against the introduction and dissemination of injurious plant pests. The proposal would also make some minor changes to the provisions for importing tomatoes from Spain, but these changes are not expected to have any effect on the volume of tomatoes imported from Spain, and, therefore, are not expected to have any economic impact. Under the Federal Plant Pest Act and the Plant Quarantine Act (7 U.S.C. 150dd, 150ee, 150ff, 151–165, and 167), the Secretary of Agriculture is authorized to regulate the importation of fruits and vegetables to prevent the introduction of injurious plant pests.

During 1995 about 12.3 million metric tons of tomatoes were supplied to the United States market. Domestic production accounted for about 95.4 percent of total supply. Imports from Spain accounted for less than one-tenth of one percent of total tomatoes supplied to United States consumers during 1995. Prices and sources of tomatoes supplied to the United States market are summarized in the following table.

Source of U.S. tomato supply	Quantity (metric tons)	Total value ($1,000,000)	Average value per metric ton	Percentage (% of total supply) [2]
Domestic Production	11,719,214	$1,576.01	$134.48	95.44
Imported Tomatoes [1]	559,117	404.95	724.27	4.45
Spanish Imports	657	1.11	1,695.58	0.0001
Total Supply	12,278,988	1,982.07	161.42	100.0

[1] From countries other than Spain.
[2] Percentage column may not sum due to rounding.
Sources: Agricultural Statistics 1995–96; Table 233 (figures converted to metric tons); USDA-NASS; Washington, DC.
Foreign Agriculture Trade of the United States—FY 1995 Supplement; Table 25; USDA-ERS; Washington, DC.

It is estimated that annual tomato imports will increase by about 13,700 metric tons under this proposed rule. About 6,000 metric tons are expected from Chile; the remaining 7,700 metric tons would arrive from France and Morocco and Western Sahara. Currently, Spanish imports arrive during the off-season for tomato production in the United States (December 1 through April 30) and, therefore, do not directly compete with United States tomatoes produced during the spring and summer months. Proposed tomato imports from Morocco and Western Sahara will also be restricted to arrival during the off-season. Imports from Chile and France will be allowed entry throughout the year. However, Chilean tomatoes are expected to be primarily imported during the off-season due to seasonal growing differences between the northern and southern hemispheres, and shipments from France are likely to fill a special market niche (for higher quality fresh tomatoes).

Therefore, proposed imports would largely compete with existing imports rather than with domestic production. This is further supported by the price per ton that imports currently command in the United States market. The value of imported tomatoes (from countries other than Spain) averaged $724 per metric ton during 1995. Spanish imports averaged $1,695 per metric ton during the same year. This price discrepancy is likely due to the relatively high quality of off-season tomato imports from Spain. In contrast to imports, prices for U.S. produced tomatoes averaged about $161 per metric ton. Price discrepancies between the import and domestic markets indicate that imports cannot compete with domestic supplies unless they arrive during the off-season or for specialty markets. During the off-season there may be some U.S. producers who grow greenhouse tomatoes at higher than average prices. However, this price differential is not reflected in the data.

Even if all the proposed imports were directly substitutable for domestic supplies, the net impact on United States society is anticipated to be positive. Assuming a perfectly inelastic supply, a demand elasticity of −0.5584, an initial quantity supplied of 12.3 million metric tons, and an increase in imports of 13,700 metric tons, it is estimated that average U.S. tomato prices will decline from $161.42 to $161.10 per metric ton.[2] This represents a price decrease of $0.32 per metric ton. Consumer welfare would increase by $3,935,852. United States producers, however, would experience a revenue decrease of $3,933,660, or about 0.2 percent of the total value of domestic tomato supplies. This would result in a positive, albeit small, net impact to United States society totaling about $2,192. Foreign producers realize a gain of about $2,207,070. These results are summarized in the following table.

U.S. consumer gain	U.S. producer revenue loss	Net gain to U.S. society	Foreign producer gain
$3,935,852	$3,933,660	$2,192	$2,207,070

This proposed rule would provide U.S. consumers with additional sources of tomatoes during winter months and for specialty markets. Domestic producers who propagate greenhouse tomatoes during the off-season may be slightly impacted. However, it is estimated that this proposed rule will have a negligible economic impact on domestic tomato producers. Most imports from Chile and Morocco and Western Sahara will arrive during the off-season and not directly compete with U.S. produced tomatoes. Even if imports could be readily substituted for domestic production, U.S. producers would only be marginally impacted due to the low volume of expected imports. A relatively small annual quantity increase (13,700 metric tons valued at $2.2 million) of imported tomatoes would not likely erode the market share of domestic producers.

The Regulatory Flexibility Act requires that APHIS specifically consider the economic impact of this proposed rule on ''small'' entities. The SBA has set forth size criteria by Standard Industrial Classification (SIC) which was used as a guide in determining which economic entities meet the definition of a ''small'' business.

The SBA does not maintain specific size standards for domestic entities that either import or produce tomatoes. Therefore, this analysis uses the size standards established for Vegetable and Melon Producers (SIC code 0161) and Wholesale Traders of Fresh Fruits and Vegetables (SIC code 5148). The SBA's definition of a ''small'' entity included in the vegetable and melon producer classification is one that generates less than $500,000 in annual receipts.[3] Wholesale traders of fresh fruits and vegetables are classified as ''small'' if they employ fewer than 100 people.

Currently there are about 15,438 ''small'' tomato producers and 5,122 ''small'' wholesale traders of fresh fruits and vegetables according to the SBA criteria. The proposed rule change could negligibly impact some ''small'' domestic entities. However, because the supply of tomatoes in the United States market would only increase by about

[2] The demand elasticity is obtained from J.E. Epperson and L.F. Lei, ''A Regional Analysis of Vegetable Production with Changing Demand for Row Crops Using quadratic Programming,'' Southern Journal of Agricultural Economics, Volume 21, Number 1, July 1989, pp. 87–96.

[3] Small Business Administration; Washington, DC. SBA data was modified by tomato specific information contained in the 1992 Census of Agriculture.

13,700 metric tons (less than one-tenth of one percent of total domestic supply) and domestic producers would continue to supply more than 95 percent of the tomatoes consumed in the United States each year, it does not appear that this proposed rule would have a significant economic impact on ''small'' entities. However, APHIS invites public comments concerning the potential economic effects of this proposed rule change on ''small'' United States entities. The Agency is particularly interested in identifying potential economic impacts on United States entities that produce tomatoes during the winter months. All comments will be considered prior to finalization of this Regulatory Flexibility Analysis.

Reporting and recordkeeping requirements of the proposed rule are described below under ''The Paperwork Reduction Act'' section of this document.

Executive Order 12778

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

Paperwork Reduction Act

In accordance with section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), the information collection or recordkeeping requirements included in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB). Please send written comments to the Office of Information and Regulatory Affairs, OMB, Attention: Desk Officer for APHIS, Washington, DC 20503. Please state that your comments refer to Docket No. 97–016–1. Please send a copy of your comments to: (1) Docket No. 97–016–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238, and (2) Clearance Officer, OIRM, USDA, room 404–W, 14th Street and Independence Avenue SW., Washington, DC 20250. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication of this proposed rule.

We are proposing to allow tomatoes from France, Morocco and Western Sahara, and Chile to be imported into the United States subject to certain conditions. We are also proposing to amend the regulations pertaining to importation of tomatoes from Spain by requiring containers of pink or red tomatoes to be sealed before shipment if the containers will transit any other fruit fly supporting areas while en route to the United States, and by requiring records to be kept by Spain's plant protection service regarding trapping practices and fruit fly captures. These proposed regulatory revisions would facilitate the importation of tomatoes from France, Morocco and Western Sahara, Chile and Spain while ensuring that tomatoes imported into the United States do not harbor insect pests such as the Mediterranean fruit fly, tomato fruit moth, and tomato fruit fly.

The implementation of these proposed regulatory actions would require us to engage in certain information collection activities. We are seeking approval from the Office of Management and Budget (OMB) to engage in these information collection activities, which are described below.

Phytosanitary certificate: The proposed rule would require that pink or red tomatoes imported into the United States from registered greenhouses in the Brittany Region of France and pink tomatoes imported into the United States from registered greenhouses in El Jadida and Safi Provinces, Morocco, and Dahkla Province, Western Sahara, be accompanied by a phytosanitary certificate. The certificate would be issued by a representative of the plant protection agency in the respective country of origin after the representative examines the shipment and ensures that it has been prepared in compliance with our regulations.

Records of Medfly trap placement and Medfly captures: The proposed rule would require that Medfly traps be placed in and/or around registered greenhouses in Almeria Province, Spain; El Jadida and Safi Provinces, Morocco; Dahkla Province, Western Sahara; and the Brittany Region of France. Representatives from the respective national plant protection agencies would be responsible for recording trap placement, checking of traps, and Medfly captures. This information would be made available to APHIS upon request.

We are soliciting comments from the public (as well as affected agencies) concerning our proposed information collection requirements. We need this outside input to help us:

(1) Evaluate whether the information collection is necessary for the proper performance of our agency's functions, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the information collection, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the information collection on those who are to respond such as through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Estimate of burden: Public reporting burden for this collection of information is estimated to average 0.670 hours per response.

Respondents: Foreign plant health protection authorities.

Estimated number of respondents: 6.

Estimated annual number of responses: 328.

Estimated average number of responses per respondent: 54.66.

Estimated total annual burden on respondents: 220 hours.

Copies of this information collection can be obtained from: Clearance Officer, OIRM, USDA, Room 404–W, 14th Street and Independence Ave., SW., Washington, DC 20250.

List of Subjects

7 CFR Part 300

Incorporation by reference, Plant diseases and pests, Quarantine.

7 CFR Part 319

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

Accordingly, title 7, chapter III, of the Code of Federal Regulations would be amended as follows:

PART 300—INCORPORATION BY REFERENCE

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

Authority: 7 U.S.C. 150ee, 154, 161, 162 and 167; 7 CFR 2.22, 2.80, and 371.2(c).

2. In § 300.1, paragraph (a), introductory text, would be revised to read as follows:

§ 300.1 Materials incorporated by reference.

(a) *Plant Protection and Quarantine Treatment Manual.* The Plant Protection and Quarantine Treatment Manual, which was reprinted November 30, 1992, and includes all revisions through [insert date], has been approved for incorporation by reference in 7 CFR chapter III by the Director of the Office of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51.

* * * * *

PART 319—FOREIGN QUARANTINE NOTICES

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

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

4. In § 319.56–2t, the table would be amended by revising the entry for tomato from Spain and by adding new entries for tomato from France and Morocco and Western Sahara, in alphabetical order, to read as follows:

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

* * * * *

Country/locality	Common name	Botanical name	Plant part(s)
* *	*	* *	* * *
France	Tomato	(Lycopersicon esculentum)	Fruit, only if it is green upon arrival in the United States (pink or red fruit may only be imported from the Region of Brittany and only in accordance with § 319.56–2dd of this subpart).
* *	*	* *	* * *
Morocco and Western Sahara	Tomato	(Lycopersicon esculentum)	Fruit, only if it is green upon arrival in the United States (pink fruit may only be imported from El Jadida or Safi Province, Morocco, or Dahkla Province, Western Sahara, and only in accordance with § 319.56–2dd of this subpart).
* *	*	* *	* * *
Spain	Tomato	(Lycopersicon esculentum)	Fruit, only if it is green upon arrival in the United States (pink or red fruit may only be imported from Almeria Province and only in accordance with § 319.56–2dd of this subpart).
* *	*	* *	* * *

* * * * *

5. Section 319.56–2dd would be revised to read as follows:

§ 319.56–2dd Administrative instructions: conditions governing the entry of tomatoes.

(a) *Tomatoes (fruit) (Lycopersicon esculentum) from Spain.* Pink or red tomatoes may be imported into the United States from Spain only under the following conditions: [1]

(1) The tomatoes must be grown in the Almeria Province of Spain in greenhouses registered with, and inspected by, the Spanish Ministry of Agriculture, Fisheries, and Food (MAFF);

(2) The tomatoes may be shipped only from December 1 through April 30, inclusive;

(3) Two months prior to shipping, and continuing through April 30, MAFF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In all areas outside the greenhouses and within 8 kilometers, including urban and residential areas, MAFF must place Medfly traps at a rate of four traps per square kilometer. All traps must be checked every 7 days;

(4) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 2 kilometers of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Capture of two Medflies within 2 kilometers of a registered greenhouse and within a 1-month time period will result in cancellation of exports from all registered greenhouses within 2 kilometers of any of the finds until the source of infestation is determined and the Medfly infestation is eradicated;

(5) MAFF must maintain records of trap placement, checking of traps, and any Medfly captures, and must make the records available to APHIS upon request;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. Transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by MAFF before shipment and the official seal number is recorded on the phytosanitary certificate; and

(7) MAFF is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by MAFF and bearing the declaration, ''These tomatoes were grown in registered greenhouses in Almeria Province in Spain.''

(b) *Tomatoes (fruit) (Lycopersicon esculentum) from France.* Pink or red tomatoes may be imported into the United States from France only under the following conditions: [1]

(1) The tomatoes must be grown in the Brittany Region of France in greenhouses registered with, and

[1] The surface area of a pink tomato is more than 30 percent but not more than 60 percent pink and/or red. The surface area of a red tomato is more than 60 percent pink and/or red. Green tomatoes may be imported in accordance with § 319.56–2t of this subpart.

inspected by, the Service de la Protection Vegetaux (SRPV);

(2) From June 1 through September 30, SRPV must set and maintain one Medfly trap baited with trimedlure inside and one outside the greenhouse and must check the traps every 7 days;

(3) Capture of a single Medfly inside or outside a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation is eradicated, and measures are taken to preclude any future infestation;

(4) SRPV must maintain records of trap placement, checking of traps, and any Medfly captures, and must make them available to APHIS upon request;

(5) From June 1 through September 30, the tomatoes must be packed within 24 hours of harvest. They must be safeguarded by fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. At all times of the year, transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by SRPV before shipment and the official seal number is recorded on the phytosanitary certificate; and

(6) SRPV is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by SRPV and bearing the declaration, ''These tomatoes were grown in registered greenhouses in the Brittany Region of France.''

(c) *Tomatoes (fruit) (Lycopersicon esculentum) from Morocco and Western Sahara.* Pink tomatoes may be imported into the United States from Morocco and Western Sahara only under the following conditions: [1]

(1) The tomatoes must be grown in the provinces of El Jadida or Safi in Morocco or in the province of Dahkla in Western Sahara in insect-proof greenhouses registered with, and inspected by, the Moroccan Ministry of Agriculture, Division of Plant Protection, Inspection, and Enforcement (DPVCTRF);

(2) The tomatoes may be shipped from Morocco and Western Sahara only between December 1 and April 30, inclusive;

(3) Beginning 2 months prior to the start of the shipping season and continuing through the end of the shipping season, DPVCTRF must set and maintain Mediterranean fruit fly (Medfly) traps baited with trimedlure inside the greenhouses at a rate of four traps per hectare. In Morocco, traps must also be placed outside registered greenhouses within a 2 kilometer radius at a rate of four traps per square kilometer. In Western Sahara, a single trap must be placed outside each registered greenhouse. All traps in Morocco and Western Sahara must be checked every 7 days;

(4) DPVCTRF must maintain records of trap placement, checking of traps, and any Medfly captures, and make the records available to APHIS upon request;

(5) Capture of a single Medfly in a registered greenhouse will immediately result in cancellation of exports from that greenhouse until the source of the infestation is determined, the Medfly infestation has been eradicated, and measures are taken to preclude any future infestation. Capture of a single Medfly within 200 meters of a registered greenhouse will necessitate increasing trap density in order to determine whether there is a reproducing population in the area. Six additional traps must be placed within a radius of 200 meters surrounding the trap where the Medfly was captured. Capture of two Medflies within 200 meters of a registered greenhouse and within a 1 month time period will necessitate Malathion bait sprays in the area every 7 to 10 days for 60 days to ensure eradication;

(6) The tomatoes must be packed within 24 hours of harvest. They must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and packed in fruit fly-proof containers for transit to the airport and subsequent shipping to the United States. The tomatoes must be pink at the time of packing. Transit through other fruit fly supporting areas is prohibited unless the fruit fly-proof containers are sealed by the Moroccan Ministry of Agriculture, Fresh Product Export (EACCE), before shipment and the official seal number is recorded on the phytosanitary certificate; and

(7) EACCE is responsible for export certification inspection and issuance of phytosanitary certificates. Each shipment of tomatoes must be accompanied by a phytosanitary certificate issued by EACCE and bearing the declaration, ''These tomatoes were grown in registered greenhouses in El Jadida or Safi Province, Morocco, and were pink at the time of packing'' or ''These tomatoes were grown in registered greenhouses in Dahkla Province, Western Sahara and were pink at the time of packing.''

(d) *Tomatoes from Chile.* Tomatoes (fruit) (*Lycopersicon esculentum*) from Chile, whether green or at any stage of ripeness, may be imported into the United States only under the following conditions:

(1) The tomatoes must be treated in Chile with methyl bromide in accordance with the PPQ Treatment Manual. The treatment must be conducted in facilities registered with the Secretario de Agricultura y Ganaderia (SAG) and with APHIS personnel monitoring the treatments;

(2) The tomatoes must be treated and packed within 24 hours of harvest. Once treated, the tomatoes must be safeguarded by a fruit fly-proof mesh screen or plastic tarpaulin while in transit to the packing house and while awaiting packing, and be packed in fruit fly-proof containers under APHIS monitoring for transit to the airport and subsequent shipping to the United States; and

(3) Tomatoes may be imported into the United States from Chile only if SAG has entered into a trust fund agreement with APHIS for that shipping season. This agreement requires SAG to pay in advance all costs that APHIS estimates it will incur in providing the preclearance services prescribed in this section for that shipping season. These costs will include administrative expenses incurred in conducting the preclearance services; and all salaries (including overtime and the Federal share of employee benefits), travel expenses (including per diem expenses), and other incidental expenses incurred by the inspectors in providing these services. The agreement requires SAG to deposit a certified or cashier's check with APHIS for the amount of these costs for the entire shipping season, as estimated by APHIS based on projected shipment volumes and cost figures from previous inspections. The agreement further requires that, if the initial deposit is not sufficient to meet all costs incurred by APHIS, SAG must deposit with APHIS another certified or cashier's check for the amount of the remaining costs, as determined by APHIS, before the inspections will be completed. The agreement also requires that, in the event of unexpected end-of-season costs, SAG must deposit with APHIS a certified cashier's check sufficient to meet such costs as estimated by APHIS, before any further preclearance services will be provided. If the amount SAG deposits during a shipping season exceeds the total cost incurred by APHIS in providing preclearance services, the difference will be returned to SAG by APHIS at the end of the shipping season.

Done in Washington, DC, this 9th day of October 1997.

Terry L. Medley,

Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27427 Filed 10–15–97; 8:45 am]

BILLING CODE 3410–34–P

NORTHEAST DAIRY COMPACT COMMISSION

7 CFR Chapter XIII

Compact Over-Order Price Regulation

AGENCY: Northeast Dairy Compact Commission.

ACTION: Notice of Meeting.

SUMMARY: The Compact Commission will hold its monthly meeting to consider whether to adopt a Final Rule extending the current over-order price regulation beyond its present December 31, 1997 deadline, and whether to amend the regulation, generally. The Commission will also review procedures relating to ongoing studies and consider matters of administration.

DATES: The meeting is scheduled for October 23, 1997, 9:00 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held at the Grist Mill Restaurant, 520 South Street in Bow, NH.

FOR FUTHER INFORMATION CONTACT: Daniel Smith, Executive Director, Northeast Dairy Compact Commission, 43 State Street, PO Box 1058, Montpelier, VT 05601. Telephone (802) 229–1941.

SUPPLEMENTARY INFORMATION: Notice is hereby given that the Compact Commission will hold its regular monthly meeting. The Commission will consider whether to adopt a Final Rule extending the current over-order price regulation beyond its present December 31, 1997 deadline, and whether to amend the regulation, generally. See Proposed Rule, 62 FR 47156 (September 8, 1997). The Commission will also review procedures for conducting a study of regional dairy farm cost of production and a study for assessing the regional impact of over-order price regulation. The Commission will also consider certain matters relating to administration.

Daniel Smith,

Executive Director.

(Authority: (a) Article V, Section 11 of the Northeast Interstate Dairy Compact, and all other applicable Articles and Sections, as approved by Section 147, of the Federal Agriculture Improvement and Reform Act (FAIR ACT), Pub. L. 104–127, and as thereby set forth in S.J. Res. 28(1)(b) of the 104th Congress (codified at 7 U.S.C. 7256); Finding of Compelling Public Interest by United States Department of Agriculture Secretary Dan Glickman, August 8, 1996 and March 20, 1997. (b) Bylaws of the Northeast Dairy Compact Commission, adopted November 21, 1996.)

[FR Doc. 97–27572 Filed 10–15–97; 8:45 am]

BILLING CODE 1650–01–P

FEDERAL DEPOSIT INSURANCE CORPORATION

12 CFR Part 329

RIN 3064–AC13

Interest on Deposits

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Deposit Insurance Corporation (FDIC) is proposing to amend its regulation entitled ''Interest on Deposits.'' Section 18(g) of the Federal Deposit Insurance Act (FDI Act) requires that the FDIC by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. This regulation implements this prohibition. The proposed rule provides as an exception to the prohibition, the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C. 371a and 461, or by regulation of the Board of Governors of the Federal Reserve System (FRB). This proposal is in accordance with the FDIC's review of its regulations under section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994.

DATES: Written comments must be received by the FDIC on or before December 15, 1997.

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: Marc Goldstrom, Counsel, Regulation and Legislation Section, Legal Division, (202–898–8807); Louise Kotoshirodo, Review Examiner, Division of Compliance and Consumer Affairs, (202–942–3599).

SUPPLEMENTARY INFORMATION:

Background

Section 18(g) of the FDI Act provides that the Board of Directors of the FDIC shall by regulation prohibit the payment of interest or dividends on demand deposits in insured nonmember banks and in insured branches of foreign banks. (12 U.S.C. 1828(g)). Accordingly, the FDIC promulgated regulations prohibiting the payment of interest or dividends on demand deposits at 12 CFR part 329. Section 11 of the Banking Act of 1933 (12 U.S.C. 371a) prohibits member banks from paying interest on demand deposits and is implemented by Regulation Q, (12 CFR part 217) of the FRB.

Section 18(g) of the FDI Act also provides that the FDIC shall make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks by section 19 of the Federal Reserve Act, as amended, or by regulation of the FRB (12 U.S.C. 1828(g)). Generally, member banks, state nonmember banks and insured branches of foreign banks are subject to the same prohibition and exceptions to such prohibition, albeit under different statutes and regulations.

From time to time the FRB issues or authorizes a new exception to the prohibition applicable to member banks, and the FDIC later issues or authorizes a similar exception affecting state nonmember banks and insured branches of foreign banks. For example, the FRB recently amended its interpretation with respect to limitations on premiums given on demand deposits (62 FR 26736 (May 15, 1997)) and the FDIC later issued a similar interpretive rule affecting state nonmember banks and insured branches of foreign banks (62 FR 40731 (July 30, 1997)).

In the periods of time in which the FRB has issued or authorized an exception to the prohibition, but the FDIC has yet to act, state nonmember banks and insured branches of foreign banks faced a possible competitive disadvantage with respect to member banks. In order to eliminate the potential for any such competitive disadvantage in the future and in light of the FDIC's statutory mandate to make such exceptions to this prohibition as are prescribed with respect to demand deposits in member banks, the FDIC is proposing to create an omnibus exception to the prohibition on the payment of interest on demand

deposits. The proposed rule would allow for the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C. 371a and 461, or by regulation of the FRB. The effect of this proposal is that state nonmember banks and insured branches of foreign banks would become subject to the same exceptions to the prohibition that member banks are subject to, regardless of whether the FDIC had issued or authorized the specific exception.

The FDIC is also proposing this rule in response to section 303 of the Riegle Community Development and Regulatory Improvement Act of 1994 (CDRIA), Pub. L. 103–325, 108 Stat. 2160 (Sept. 23, 1994). This statute requires that each federal banking agency, consistent with the principles of safety and soundness, statutory law and policy, and the public interest, conduct a review of the regulations and written policies of that agency to, among other things, make uniform all regulations and guidelines implementing common statutory or supervisory policies. The FDIC believes that the proposal is in accordance with section 303 of the CDRIA in that it seeks to make uniform a regulation implementing a common statutory policy.

Regulatory Flexibility Act

The Board hereby certifies that the proposed rule would not have a significant economic impact on a substantial number of small entities within the meaning of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). The effect of this proposal is that state nonmember banks and insured branches of foreign banks would become subject to the same exceptions to the prohibition that member banks are subject to, regardless of whether the FDIC had issued or authorized the specific exception.

Paperwork Reduction Act

The proposed rule would not constitute a ''collection of information'' within the meaning of section 3502(3) of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*). Consequently, no material has been submitted to the Office of Management and Budget for review.

List of Subjects in 12 CFR Part 329

Banks, banking, Interest rates.

For the reasons set forth in the preamble, the Board of Directors of the FDIC proposes to amend 12 CFR part 329 as set forth below:

PART 329—INTEREST ON DEPOSITS

1. The authority citation for part 329 continues to read as follows:

Authority: 12 U.S.C. 1819, 1828(g) and 1832(a).

2. Section 329.3 is added to read as follows:

§ 329.3 Exception to prohibition on payment of interest.

Section 329.2 shall not apply to the payment of interest or other remuneration on any deposit which, if held by a member bank, would be allowable under 12 U.S.C.371a and 461, or by regulation of the Board of Governors of the Federal Reserve System.

By order of the Board of Directors.

Dated at Washington, DC this 6th day of October, 1997.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 97–27300 Filed 10–15–97; 8:45 am]

BILLING CODE 6714–01–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD05–97–072]

RIN 2115–AE47

Drawbridge Operation Regulations; Atlantic Intracoastal Waterways, NC

AGENCY: Coast Guard, DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard is proposing to change the regulations governing the operation of the Onslow Beach Bridge across the Atlantic Intracoastal Waterway (AICW), mile 240.7, at Camp Lejeune, North Carolina, at the request of the United States Marine Corps (USMC).

The proposal would continue to provide for openings on signal, except that from 7 a.m. to 7 p.m., the draw would only open on the hour and half hour, year-round. This change in the bridge opening schedule is intended to reduce vehicular traffic delays while still providing for the reasonable needs of navigation.

DATES: Comments must be received on or before December 15, 1997.

ADDRESSES: Comments may be mailed to Commander (Aowb), USCG Atlantic Area, Federal Building, 4th Floor, 431 Crawford Street, Portsmouth, Virginia 23704–5004, or may be hand-delivered to the same address between 8 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays. The telephone number is (757) 398–6222. Comments will become part of this docket and will be available for inspection and copying at the above address.

FOR FURTHER INFORMATION CONTACT: Ann Deaton, Bridge Administrator, USCG Atlantic Area, (757) 398–6222.

SUPPLEMENTARY INFORMATION:

Request for Comments

The Coast Guard encourages interested persons to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses and should identify this rulemaking (CGD05–97–072). Commenters should identify the specific section of this proposed rule to which each comment applies, and give reasons for each comment. The Coast Guard requests that all comments and attachments be submitted in an unbound format suitable for copying and electronic filing. If that is not practical, a second copy of any bound material is requested. Persons wanting acknowledgment of receipt of comments should enclose a stamped, self-addressed postcard or envelope. The Coast Guard will consider all comments received during the comment period. It may change this proposed rule in view of the comments.

The Coast Guard plans no public hearing. Persons may request a public hearing by writing to the address listed under **ADDRESSES**. The request should include reasons why a hearing would be beneficial. If it determines that the opportunity for oral presentations will aid this rulemaking, the Coast Guard will hold a public hearing at a time and place announced by a later notice in the **Federal Register**.

Background and Purpose

The Onslow Beach Bridge and adjoining property are part of the Marine Corps Base at Camp Lejeune military reservation, located adjacent to Jacksonville, North Carolina. The current regulations require the Onslow Beach Bridge to open on signal at all times. This requirement is included in the general operating regulations in 33 CFR 117.5.

The USMC has requested changes in the regulation to require the bridge to open on signal, except from 7 a.m. to 7 p.m., when the bridge would open on the hour and half hour year-round. Bridge logs from October 1993 through July 1997 revealed on average of 38 bridge opening requests per day. During

peak opening periods in the Fall and Spring, bridge tenders received an average of 45 bridge opening request per day. Considering the minimal number of openings identified by the bridge logs, the Coast Guard believes that the proposed changes will more fairly balance the competing needs of vehicular and vessel traffic.

Other drawbridges along the AICW in North Carolina are governed by specific regulations listed in 33 CFR 117.821 which require them to open on the hour or on the hour and half hour. The USMC's requested change to the regulations for the Onslow Beach Bridge would make its schedule consistently with those of the other AICW drawbridges.

Discussion of Proposed Amendments

The Coast Guard proposes to amend the regulations governing the Onslow Beach Bridge across the AICW, mile 240.7, at Camp Lejeune, North Carolina, to allow openings on the hour and half hour, between 7 a.m. to 7 p.m., year-round. The Coast Guard proposes to insert this new regulation at 33 CFR 117.821(a)(3).

The Coast Guard intends to remove the current text at 33 CFR 117.821(a) which states that drawbridges shall open on signal for public vessels of the United States, state and local government vessels, and any vessel in an emergency involving danger to life or property. This general requirement is currently published in 33 CFR 117.31 and is no longer required to be published in each specific bridge regulation. Commercial vessels would continue to pass on signal as provided in new paragraph (a). To ensure clarity and consistency of the operating regulation, the regulatory requirements for the current 33 CFR 117.821(b) would be reworded and redesignated paragraph (a). Although no substantive changes are proposed to current 117.821(b)(1)–(6), additional text changes would be made to clarify the existing regulations.

Finally, the Coast Guard proposes to revise 33 CFR 117.821 by redesignating the following paragraphs: Paragraph (b)(1) governing the S.R. 94 Bridge, at AICW mile 113.7, would be redesignated (a)(1); Paragraph (b)(2) governing the S.R. 304 Bridge, at AICW mile 157.2, would be redesignated (a)(2); Paragraph (b)(3) governing the S.R. 50 Bridge, at AICW mile 260.7, would be redesignated (a)(4); Paragraph (b)(4) governing the Figure Eight Swing Bridge, at AICW mile 278.1, would be redesignated (a)(5); Paragraph (b)(5) governing the S.R. 74 Bridge, at AICW mile 283.1, would be redesignated (a)(6); Paragraph (b)(6) governing the S.R. 1172 Bridge, at AICW mile 337.9, would be redesignated (a)(7); and paragraph (c) would be redesignated (b).

Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposal to be so minimal that a full Regulatory Evaluation, under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary. The Coast Guard reached this conclusion based on the fact that the changes and actions proposed by this rule would not prevent mariners from transiting the bridge. The proposed rule would merely require pleasure vessels to plan to be in position to take advantage of scheduled bridge openings between 7 a.m. to 7 p.m. At all other times, the bridge would continue to open on signal.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposal, if adopted, will have a significant economic impact on a substantial number of small entities ''Small entities'' include small independently owned and operated businesses which are not dominant in their fields and that otherwise qualify as ''small business concerns'' under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposal to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities.

Collection of Information

This proposal does not provide for the collection of information requirements under the Paper Reduction Act (44 U.S.C. 301 *et seq.*).

Federalism

The Coast Guard has analyzed this proposed rule under the principles and criteria contained in Executive Order 12612 and has determined that this proposed rule will not have sufficient federalism implications to warrant preparation of a Federalism Assessment.

Environment

The Coast Guard considered the environmental impact of this proposed rule and concluded that under section 2.B.2.e.(32)(e) of Commandant Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

In consideration of the foregoing, the Coast Guard proposes to amend part 117 of Title 33, Code of Federal Regulations as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); Section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. Section 117.821 is revised to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Albermarle Sound to Sunset Beach, North Carolina.

(a) The drawbridges across the Atlantic Intracoastal Waterway in North Carolina shall open on signal for commercial vessels at all times and on signal for pleasure vessels, except at the times and during the periods specified below.

(1) S.H. 94 Bridge, mile 113.7, at Fairfield, NC, from April 1 to November 30, between 7 a.m. and 7 p.m., the draw need only open on the hour.

(2) S.R. 304 Bridge, mile 157.2, at Hobucken, NC, from April 1 to November 30, between 7 a.m. and 7 p.m., the draw need only open on the hour and half hour.

(3) Onslow Beach Bridge, mile 240.7, at Camp Lejeune, NC between 7 a.m. and 7 p.m., the draw need only open on the hour and half hour.

(4) S.R. 50 Bridge, mile 260.7, at Surf City, NC, between 7 a.m. and 7 p.m. the draw need only open on the hour.

(5) Figure Eight Swing Bridge, mile 278.1, at Scotts Hill, NC, the draw need only open on the hour and half hour.

(6) S.R. 74 Bridge, mile 283.1, at Wrightsville Beach, NC ,between 7 a.m. and 7 p.m. the draw need only open on the hour.

(7) S.R. 1172 Bridge, mile 337.9, at Sunset Beach, NC, shall open on the

hour on signal between 7 a.m. and 7 p.m., April 1 to November 30, except that on Saturdays, Sundays and Federal holidays, form June 1 through September 30, the bridge shall open on signal on the hour between 7 a.m. and 7 p.m.

(b) If a pleasure vessel is approaching a drawbridge which is only required to open on the hour or on the hour and half hour, and cannot reach the drawbridge on the hour or on the half hour, the drawtender may delay the required opening up to 10 minutes past the hour or half hour.

Dated: October 1, 1997.

Roger Rufe Jr.,

Vice Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 97–27359 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–14–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 20

[CC Docket No. 94–102; DA 97–2151]

Compatibility of Wireless Services With Enhanced 911

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; further request for comment.

SUMMARY: In the wireless Enhanced 911 (E911) rulemaking proceeding, the Commission seeks additional comment on a September 25, 1997, *ex parte* letter (Joint Letter) filed by two wireless industry groups and three public safety community groups. In the Joint Letter, the Cellular Telecommunications Industry Association (CTIA), the Personal Communications Industry Association (PCIA), the Association of Public-Safety Communications Officials-International, Inc. (APCO), the National Emergency Number Association (NENA), and the National Association of State Nine-One-One Administrators (NASNA) propose modifications to terms used in this proceeding and rules for processing 911 calls and permitting Public Safety Answering Points (PSAPs) to choose which 911 calls they will receive. The letter also supports an extension of the compliance date for implementation of 911 service over digital wireless services for TTY users. Additional comment on these responses is sought to assist the Commission in determining whether to revise the Commission's Rules. The effect of revising the Commission's Rules would be to clarify the implementation of basic 911 services to wireless customers, including people with hearing or speech disabilities.

DATES: Comments must be filed by October 17,1997, and reply comments must be filed by October 27, 1997.

ADDRESSES: Federal Communications Commission, Washington, D.C. 20554.

FOR FURTHER INFORMATION CONTACT: Won Kim, Policy Division, Wireless Telecommunications Bureau, (202) 418–1310.

SUPPLEMENTARY INFORMATION:

Additional Comment Sought in Wireless Enhanced 911 Reconsideration Proceeding Regarding Rules and Schedules

1. In the wireless Enhanced 911 (E911) rulemaking proceeding, the Commission seeks additional comment on a September 25, 1997, *ex parte* letter (Joint Letter) filed by two wireless industry groups and three public safety community groups. In the Joint Letter, the Cellular Telecommunications Industry Association (CTIA), the Personal Communications Industry Association (PCIA), the Association of Public-Safety Communications Officials-International, Inc. (APCO), the National Emergency Number Association (NENA), and the National Association of State Nine-One-One Administrators (NASNA) propose modifications to the 911 rules and support an extension of the compliance date for implementation of TTY compatibility requirements. The full text of the Joint Letter is available for inspection and duplication during regular business hours in the FCC Reference Center, Federal Communications Commission, 1919 M Street, NW., Room 239, Washington, DC 20554. Copies may also be obtained from International Transcription Service, Inc. (ITS), 1231 20th Street, NW., Washington, DC 20036, (202) 857–3800.

2. Pursuant to § 1.415(d) of the Commission's Rules, 47 CFR 1.415(d), additional comment is hereby sought in the wireless E911 reconsideration proceeding [1] concerning issues raised in an *ex parte* presentation filed by several parties in the proceeding. In the *E911 Report and Order*, the Commission established rules requiring wireless carriers to implement basic 911 and E911 services.

3. In a September 25, 1997, *ex parte* letter (Joint Letter), two wireless industry groups (the Cellular Telecommunications Industry Association (CTIA) and the Personal Communications Industry Association (PCIA)) and three public safety community groups (the Association of Public-Safety Communications Officials-International, Inc., the National Emergency Number Association, and the National Association of State Nine-One-One Administrators) propose modifications to terms used in the *E911 Report and Order* and rules for processing 911 calls and permitting Public Safety Answering Points (PSAPs) to choose which 911 calls they will receive. The letter also supports an extension of the compliance date for implementation of 911 service over digital wireless services for TTY/TDD users from October 1, 1997, to April 1, 1999,[2] and requests that the Commission refrain from addressing certain additional issues until the industry has had the opportunity to fully consider such issues in meetings with the relevant parties.

4. We have also received other *ex parte* comments addressing issues raised in the Joint Letter. In a September 29, 1997, letter, Congresswoman Anna Eshoo provided the Commission with her initial assessment of the recommendations made in the Joint Letter and reiterated her view that ''it is in the public's best interest that all wireless 911 calls should be passed through to the public safety authority.'' On September 30, 1997, the Ad Hoc Alliance for Public Access to 911 also filed an *ex parte* letter opposing the Joint Letter.[3]

5. The Wireless Telecommunications Bureau took note of the pending petitions for reconsideration and *ex parte* filings and on September 30, 1997,

[1] *See* Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Notice of Proposed Rulemaking, 59 FR 54878 (November 2, 1994); Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems, CC Docket No. 94–102, Report and Order and Further Notice of Proposed Rulemaking, 61 FR 40348, 40374 (August 2, 1996) (*E911 Report and Order*), *recon. pending.*

[2] *See also* PCIA, Request for Extension of Time to Implement E911/TTY Compatibility Requirement for Wireless Operators (Aug. 27, 1997); CTIA *Ex Parte* Filing (Sept. 23, 1997).

[3] Following the Joint Letter, CTIA filed another *ex parte* letter dated September 26, 1997, concerning carrier liability with respect to E911 calls. We have also received certain *ex parte* filings prior to the Joint Letter which relate to the issues raised in that letter. For example, with respect to the proposed 18-month extension of the TTY compliance date, the National Association of the Deaf and the Consumer Action Network oppose it as too long and propose additional obligations. Opposition to Request for Extension of Eighteen Months to Implement E911/TTY Compatibility Requirement for Wireless Operators (Sept. 11, 1997). Nextel Communications, on the other hand, supports the requested extension. Motion in Support of Request for Extension of time to Implement E911/TTY Compatibility Requirement for Wireless Operators (Sept. 9, 1997).

adopted an *Order* staying the provisions and effective date of §§ 20.18(a)-(c) inclusive of the Commission's Rules, 47 CFR 20.18(a)-(c), which would require wireless carriers to forward certain 911 calls to PSAPs, including calls from TTY devices. The stay defers the effective date of those rules from October 1, 1997, to November 30, 1997, in order to permit the Commission to complete its review.

6. Pursuant to applicable procedures set forth in §§ 1.145(d) and 1.419 of the Commission's Rules, 47 CFR 1.415(d), 1.419, interested parties may file comments on the issues raised in the Joint Letter no later than October 17, 1997. Reply comments may be filed no later than October 27, 1997. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding. To file formally in this proceeding, participants must file an original and five copies of all comments. If participants want each Commissioner to receive a personal copy of their comments, an original and nine copies must be filed. All comments should be filed with the Office of the Secretary, Federal Communications Commission, 1919 M Street, NW., Room 222, Washington, DC 20554, referencing CC Docket No. 94–102.

List of Subjects in 47 CFR Part 20

Communications common carriers.

Federal Communications Commission.

Daniel B. Phythyon,

Chief, Wireless Telecommunications Bureau.

[FR Doc. 97–27582 Filed 10–15–97; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF INTERIOR

Fish and Wildlife Service

50 CFR Part 32

RIN 1018–AE18

1997–98 Refuge-Specific Hunting and Sport Fishing Regulations

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Reopening of comment period.

SUMMARY: This proposed rule adds additional national wildlife refuges to the list of areas open for hunting and/or sport fishing, along with pertinent refuge-specific regulations for such activities; and amends certain regulations on other refuges that pertain to migratory game bird hunting, upland game hunting, big game hunting and sport fishing. The Fish and Wildlife Service (Service) provides notice of reopening of the comment period for only the specific proposal to hunt bison on the National Elk Refuge in Wyoming.

DATES: The public comment period closes November 17, 1997 to ensure consideration by the Service.

ADDRESSES: Written comments and materials concerning this proposal should be sent directly to Assistant Director, Refuges and Wildlife, U.S. Fish and Wildlife Service, 1849 C Street, NW, MS 670 ARLSQ, Washington, DC 20240.

FOR FURTHER INFORMATION CONTACT: Stephen R. Vehrs, at the above address; Telephone (703) 358–2397.

SUPPLEMENTARY INFORMATION: The Service had received a second request from the Fund for Animals to extend the comment period on the proposal to permit bison hunting on the National Elk Refuge. The original comment period was open for 30 days and then extended to September 19, 1997 (62 FR 38959 published July 21, 1997 and 62 FR 47372, Sept. 9, 1997) to accommodate a public review of a pending interagency bison herd management plan. Due to the need by the Service for additional time to complete their portion of the herd management plan and review information and comments from interested parties on this proposed action, the comment period is reopened for an additional 30 days. The herd management plan was signed on September 30, 1997. In addition to this reopening of comments, several other documents, such as a compatibility determination and a National Elk Refuge Hunt Plan Amendment needed to be finalized before a bison hunt would take place. Both documents were signed on October 1, 1997. All parties are invited to submit comments on the proposed bison hunt. Copies of the Hunt Plan Amendment and the compatibility determination are available from the Refuge Manager, National Elk Refuge, Box C, Jackson, Wyoming 83001.

Refuge hunting programs are reviewed annually to determine whether additional refuges should be added or whether individual refuge regulations governing existing programs should be modified, deleted or have additions made to them. Changing environmental conditions, State and Federal regulations, and other factors affecting wildlife populations and habitat may warrant modifications ensuring continued compatibility of hunting with the purposes for which individual refuges, and the National Wildlife Refuge System (System) were established.

Statutory Authority

The National Wildlife Refuge System Administration Act (NWRSAA) of 1966, as amended (16 U.S.C. 668dd), and the Refuge Recreation Act of 1962 (16 U.S.C. 460k) govern the administration and public use of national wildlife refuges. Specifically, section 4(d)(1)(A) of the NWRSAA authorizes the Secretary of the Interior (Secretary) to permit the use of any area within the System for any purpose, including but not limited to, hunting, fishing and public recreation, accommodations and access, when he determines that uses are compatible with the major purpose(s) for which the area was established.

The Refuge Recreation Act (RRA) authorizes the Secretary to administer areas within the System for public recreation as an appropriate incidental or secondary use only to the extent that it is practicable and not inconsistent with the primary purpose(s) for which the areas were established. The NWRSAA and the RRA also authorize the Secretary to issue regulations to carry out the purposes of the Acts and regulate uses.

Primary Author

Stephen R. Vehrs, Division of Refuges, U.S. Fish and Wildlife Service, Washington, DC 20240, is the primary author of this rulemaking document.

List of Subjects in 50 CFR Part 32

Fishing, Hunting, Reporting and recordkeeping requirements, Wildlife, Wildlife refuges.

For the reasons set forth in the preamble, the Service amends Title 50, Chapter I, subchapter C of the *Code of Federal Regulations* as follows:

PART 32—[AMENDED]

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

Authority: 5 U.S.C. 301; 16 U.S.C. 460k, 664, 668dd, and 715i.

2. Amend § 32.70 *Wyoming* by revising paragraph C. of National Elk Refuge to read as follows:

§ 32.70 Wyoming.

* * * * *

National Elk Refuge

* * * * *

C. Big Game Hunting. Hunters may hunt elk and bison on designated areas of the refuge subject to the following conditions:

* * * * *

Dated: October 3, 1997.

Ralph O. Morgenweck,

Regional Director, Denver, Colorado.

[FR Doc. 97–27398 Filed 10–15–97; 8:45 am]

BILLING CODE 4310–55–M

Notices

Federal Register
Vol. 62, No. 200
Thursday, October 16, 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.

FEDERAL HOUSING FINANCE BOARD

[No. 97–N–7]

Federal Home Loan Bank Members Selected for Community Support Review

AGENCY: Federal Housing Finance Board.

ACTION: Notice.

SUMMARY: The Federal Housing Finance Board (Finance Board) is announcing the Federal Home Loan Bank (FHLBank) members it has selected for the 1996–97 seventh quarter review cycle under the Finance Board's community support requirement regulation. This notice also prescribes the deadline by which FHLBank members selected for review must submit Community Support Statements to the Finance Board.

DATES: FHLBank members selected for the 1996–97 seventh quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board on or before December 1, 1997.

ADDRESSES: FHLBank members selected for the 1996–97 seventh quarter review cycle under the Finance Board's community support requirement regulation must submit completed Community Support Statements to the Finance Board either by regular mail: Office of Policy, Compliance Assistance Division, Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006; or by electronic mail: COMSUP@FHFB.GOV.

FOR FURTHER INFORMATION CONTACT: Penny S. Bates, Program Analyst, Office of Policy, Compliance Assistance Division, at 202/408–2574; at the following electronic mail address: COMSUP@FHFB.GOV; or at the Federal Housing Finance Board, 1777 F Street, NW., Washington, DC 20006. A telecommunications device for deaf persons (TDD) is available at 202/408–2579.

SUPPLEMENTARY INFORMATION:

I. Selection for Community Support Review

Section 10(g)(1) of the Federal Home Loan Bank Act (Bank Act) requires the Finance Board to promulgate regulations establishing standards of community investment or service that FHLBank members must meet in order to maintain access to long-term advances. *See* 12 U.S.C. 1430(g)(1).The regulations promulgated by the Finance Board must take into account factors such as the FHLBank member's performance under the Community Reinvestment Act of 1977 (CRA), 12 U.S.C. 2901 *et seq.*, and record of lending to first-time homebuyers. *See* 12 U.S.C. 1430(g)(2). Pursuant to the requirements of section 10(g) of the Bank Act, the Finance Board amended its community support requirement regulation effective June 30, 1997. *See* 62 FR 28983 (May 29, 1997), *codified at* 12 CFR part 936.

As amended, the community support requirement regulation establishes standards a FHLBank member must meet in order to maintain access to long-term advances, and review criteria the Finance Board must apply in evaluating a member's community support performance. *See* 12 CFR 936.3. The regulation includes standards and criteria for the two statutory factors—CRA performance and record of lending to first-time homebuyers. *Id.* Only members subject to the CRA must meet the CRA standard. *Id.* § 936.3(b). All members, including those not subject to CRA, must meet the first-time homebuyer standard. *Id.* § 936.3(c).

Under the rule, the Finance Board selects approximately one-eighth of the members in each FHLBank district for community support review each calendar quarter. *Id.* § 936.2(a). The Finance Board will not review an institution's community support performance until it has been a FHLBank member for at least one year. Selection for review is not, nor should it be construed as, any indication of either the financial condition or the community support performance of the member.

Each FHLBank member selected for review must complete a Community Support Statement and submit it to the Finance Board by the December 1, 1997 deadline prescribed in this notice. *Id.* § 936.2(b)(1)(ii), (c). On or before October 31, 1997, each FHLBank will notify the members in its district that have been selected for the 1996–97 seventh quarter community support review cycle that they must complete and submit to the Finance Board by the deadline a Community Support Statement. *Id.* § 936.2(b)(2)(i). The member's FHLBank will provide a blank Community Support Statement Form, which also is available on the Finance Board's web site: WWW.FHFB.GOV. Upon request, the member's FHLBank also will provide assistance in completing the Community Support Statement.

The Finance Board has selected the following members for the 1996–97 seventh quarter community support review cycle:

Federal Home Loan Bank of Boston—District 1

Bank of Boston, Connecticut	Hartford	CT
American Savings Bank	New Britain	CT
Putnam Savings Bank	Putnam	CT
Belmont Savings Bank	Belmont	MA
BayBank	Burlington	MA
Lenox National Bank	Lenox	MA
Butler Bank—A Cooperative Bank	Lowell	MA
Enterprise Bank and Trust Company	Lowell	MA
Northmark Bank	North Andover	MA
South Weymouth Savings Bank	South Weymouth	MA
RTN Federal Credit Union	Waltham	MA

Westborough Savings Bank	Westborough	MA
Commerce Bank and Trust Company	Worcester	MA
Merrill Merchants Bank	Bangor	ME
Union Trust Company	Ellsworth	ME
Fraser Employees Federal Credit Union	Medawaska	ME
Norway Savings Bank	Norway	ME
University Credit Union	Orono	ME
Oxford Federal Credit Union	Oxford	ME
Infinity Federal Credit Union	Portland	ME
Maine Bank and Trust Company	Portland	ME
Bank of New Hampshire	Manchester	NH
Seabord Federal Credit Union	Pawtucket	RI
New England IBM Employees C.U	Williston	VT

Federal Home Loan Bank of New York—District 2

Medical Inter-Insurance Exchange	Lawrenceville	NJ
First Savings Bank of Little Falls, FSB	Little Falls	NJ
Millville Savings and Loan Association	Millville	NJ
CloverBank	Pennsauken	NJ
Pulse Savings Bank	South River	NJ
Cenlar Federal Savings Bank	Trenton	NJ
Union City Savings Bank, S.L.A	Union City	NJ
Llewellyn-Edison Savings Bank, F.S.B	West Orange	NJ
State Employees Federal Credit Union	Albany	NY
Cortland Savings Bank	Cortland	NY
Flushing Savings Bank, F.S.B	Flushing	NY
Gouverneur Savings and Loan Association	Gouverneur	NY
Poughkeepsie Savings Bank, FSB	Poughkeepsie	NY
WCTA Federal Credit Union	Sodus	NY
Power Federal Credit Union	Syracuse	NY
Homestead Savings, F.A	Utica	NY
Wyoming County Bank	Warsaw	NY
Community Mutual Savings	White Plains	NY
Hudson Valley Bank	Yonkers	NY
Firstbank	Santurce	PR

Federal Home Loan Bank of Pittsburgh—District 3

Delaware Savings Bank, F.S.B	Wilmington	DE
Wilmington Trust Company	Wilmington	DE
First Columbia Bank & Trust Company	Bloomsburg	PA
Fidelity S&LA of Bucks County	Bristol	PA
Chambersburg Trust Company	Chambersburg	PA
Citizens Savings Association	Clarks Summit	PA
Advanta	Claymont	PA
CSB Bank	Curwensville	PA
Fidelity Deposit and Discount Bank	Dunmore	PA
Lafayette Bank	Easton	PA
First National Bank in Fleetwood	Fleetwood	PA
Glen Rock State Bank	Glen Rock	PA
S&T Bank	Indiana	PA
Jonestown Bank and Trust Company	Jonestown	PA
Commercial N.B. of Westmoreland	Latrobe	PA
Farmers First Bank	Lititz	PA
Three Rivers Bank and Trust Company	McKeesport	PA
Members First Federal Credit Union	Mechanicsburg	PA
First National Bank of Mercersburg	Mercersburg	PA
Swineford National Bank	Middleburg	PA
Juniata Valley Bank	Mifflintown	PA
Mid Penn Bank	Millersburg	PA
United Federal Credit Union	Nanty-Glo	PA
Royal Bank of Pennsylvania	Narberth	PA
Peoples Bank of Western Pennsylvania	New Castle	PA
Atlantic Employees Credit Union	Newtown Square	PA
Peoples Thrift Savings Bank	Norristown	PA
Peoples Bank of Oxford	Oxford	PA
Port Richmond Savings	Philadelphia	PA
Dwelling House S & LA	Pittsburgh	PA
First Pennsylvania Savings Association	Pittsburgh	PA
Stanton FS&LA	Pittsburgh	PA
Union Bank and Trust Company	Pottsville	PA
Citadel Federal Credit Union	Thorndale	PA
Turbotville National Bank	Turbotville	PA
Merck, Sharp & Dohme F.C.U	West Point	PA
Woodlands Bank	Williamsport	PA

First Community Bank, Inc.	Buckhannon	WV
Greenbrier Valley National Bank	Lewisburg	WV
Bank of Paden City	Paden City	WV
Commercial Banking and Trust Company	Parkersburg	WV
One Valley Bank, F.S.B	Point Pleasant	WV
Peoples Bank of Point Pleasant	Point Pleasant	WV
Jefferson Security Bank	Shepherdstown	WV
One Valley Bank of Summersville	Summersville	WV
Steel Works Community F.C.U	Weirton	WV
Fed One Bank	Wheeling	WV

Federal Home Loan Bank of Atlanta—District 4

Compass Bank	Birmingham	AL
First Alabama Bank	Birmingham	AL
National Bank of Commerce	Birmingham	AL
First National Bank of Shelby County	Columbiana	AL
Bank of Dadeville	Dadeville	AL
Peoples Bank of Coffee County	Elba	AL
First Southern Bank	Florence	AL
First National Bank of Greenville	Greenville	AL
Citizens Bank and Savings Company	Russellville	AL
Troy Bank and Trust	Troy	AL
Security Federal Bank	Tuscaloosa	AL
State Bank and Trust	Winfield	AL
Crestar Bank, N.A	Washington	DC
IDB—IIC Federal Credit Union	Washington	DC
Treasury Bank	Washington	DC
BankBoynton, FSB	Boynton Beach	FL
Cape Coral National Bank	Cape Coral	FL
First Federal Savings Bank of the Glades	Clewiston	FL
Merchants and Southern Bank	Gainesville	FL
Gibraltar Bank, FSB	Hialeah	FL
Compass Bank/Florida	Jacksonville	FL
Bank of Newberry	Newberry	FL
Community Savings, F.A	North Palm Beach	FL
Ocala National Bank	Ocala	FL
U.S. Trust Company of Florida S.B	Palm Beach	FL
J.P. Morgan Florida Federal Savings Bank	Palm Way	FL
Bankers Insurance	St. Petersburg	FL
First Bank of Tallahassee	Tallahassee	FL
Suncoast Schools Federal Credit Union	Tampa	FL
Citrus Bank, N.A	Vero Beach	FL
Great Southern Bank	West Palm Beach	FL
SunTrust Bank, Mid-Florida, N.A	Winter Haven	FL
SunTrust Bank, South Georgia, N.A	Albany	GA
CDC Federal Credit Union	Atlanta	GA
Bank of Camilla	Camilla	GA
Rabun County Bank	Clayton	GA
Columbus Bank and Trust Company	Columbus	GA
First State Bank of Donaldsonville	Donaldsonville	GA
Bank of Dodge County	Eastman	GA
Lanier National Bank	Gainesville	GA
Gordon Bank	Gordon	GA
Bank of Hartwell	Hartwell	GA
Planters Bank	Hawkinsville	GA
Georgia State Bank	Mableton	GA
First South Bank	Macon	GA
SunTrust Bank of Middle Georgia	Macon	GA
First Community Bank of Henry County	McDonough	GA
United Banking Company	Nashville	GA
Pelham Banking Company	Pelham	GA
Bank of Perry	Perry	GA
United Bank and Trust	Rockmart	GA
AmeriBank, N.A	Savannah	GA
Savannah Bank, N.A.	Savannah	GA
Southern Crescent Bank	Union City	GA
Citizens Community Bank	Valdosta	GA
Park Avenue Bank	Valdosta	GA
Citizens Bank	Vienna	GA
Oconee State Bank	Watkinsville	GA
Atlantic Coast Federal Credit Union	Waycross	GA
Patterson Bank	Waycross	GA
Waycross Bank and Trust	Waycross	GA
First National Bank of Waynesboro	Waynesboro	GA
First National Bank	West Point	GA

Bradford Federal Savings Bank	Baltimore	MD
First Mariner Bank	Baltimore	MD
Fullerton Federal Savings Association	Baltimore	MD
Johns Hopkins Federal Credit Union	Baltimore	MD
Kosciuszko Federal Savings Bank	Baltimore	MD
Midstate FS&LA	Baltimore	MD
Centreville National Bank of Maryland	Centerville	MD
Columbia Bank	Columbia	MD
County Banking and Trust Company	Elkton	MD
Bank of Glen Burnie	Glen Burnie	MD
Farmers & Merchants Bank of Hagerstown	Hagerstown	MD
Sandy Spring National Bank	Olney	MD
BUCS Credit Union	Owings Mills	MD
Cedar Point Federal Credit Union	Patuxent River	MD
Peninsula Bank	Salisbury	MD
Sparks State Bank	Sparks	MD
Bank of Maryland	Towson	MD
Prince Georges Federal Savings Bank	Upper Marlboro	MD
Union National Bank	Westminister	MD
Carroll County Bank and Trust Company	Westminster	MD
Belmont FS&LA	Belmont	NC
Black Mountain Savings Bank, SSB	Black Mountain	NC
Morganton Federal Savings and Loan	Morganton	NC
Coastal Federal Credit Union	Raleigh	NC
Security Savings Bank, SSB	Southport	NC
Bank of North Carolina	Thomasville	NC
Chesnee State Bank	Chesnee	SC
Clemson Bank and Trust	Clemson	SC
M.S. Bailey & Son, Bankers	Clinton	SC
Clover Community Bank	Clover	SC
Peoples National Bank	Easley	SC
Carolina First Bank	Greenville	SC
Carolina Community Bank	Hilton Head Island	SC
Williamsburg First National Bank	Kingstree	SC
Anchor Bank	Myrtle Beach	SC
Arthur State Bank	Union	SC
Provident Community Bank	Union	SC
Woodruff State Bank	Woodruff	SC
United States Senate Federal Credit Union	Alexandria	VA
Union Bank & Trust Company	Bowling Green	VA
First National Bank of Christiansburg	Christiansburg	VA
National Bank of Fredericksburg	Fredericksburg	VA
F & M Bank—Massanutten	Harrisonburg	VA
Bank of Carroll	Hillsville	VA
Bank of McKenney	McKenney	VA
Central Virginia Bank	Powhaton	VA
First Savings Bank of Virginia	Springfield	VA
Greater Atlantic Savings Bank, F.S.B	Vienna	VA
Southern Financial Bank	Warrenton	VA

Federal Home Loan Bank of Cincinnati—District 5

Union National Bank and Trust Company	Barbourville	KY
Bank of Benton	Benton	KY
Trans Financial Bank, N.A	Bowling Green	KY
Trigg County Farmers Bank	Cadiz	KY
Taylor County Bank	Campbellsville	KY
Provident Bank of Kentucky	Cold Springs	KY
First Federal S. B. of Elizabethtown	Elizabethtown	KY
City National Bank	Fulton	KY
Commonwealth Community Bank	Hartford	KY
Citizens Bank	Hickman	KY
Pennyrile Citizens Bank & Trust Company	Hopkinsville	KY
First State Bank	Irvington	KY
Anderson National Bank	Lawrenceburg	KY
First Federal Savings & Loan of Lexington	Lexington	KY
Traditional Bank, FSB	Lexington	KY
Whitaker Bank, N.A	Lexington	KY
Cumberland Valley N.B. & Trust Co	London	KY
First National Bank	Louisa	KY
PNC Bank, Kentucky, Inc	Louisville	KY
First National Bank	Manchester	KY
Green River Bank	Morgantown	KY
Citizens National Bank	Paintsville	KY
West Point National Bank	Radcliff	KY
Sebree Deposit Bank	Sebree	KY

Shelby County Trust Bank	Shelbyville	KY
Peoples Bank	Taylorsville	KY
United Bank and Trust Company	Versailles	KY
Community First Bank of Kentucky	Warsaw	KY
Farmers & Merchants State Bank	Archbold	OH
Citizens Bank of Ashville	Ashville	OH
Caldwell Savings and Loan Company	Caldwell	OH
Cinco Federal Credit Union	Cincinnati	OH
Century Federal Credit Union	Cleveland	OH
Pioneer Savings Bank	Cleveland	OH
Cylde-Findley Area Credit Union	Clyde	OH
Citizens Bank of Delphos	Delphos	OH
First FS&LA of Delta	Delta	OH
Ohio Central Federal Credit Union, Inc	Dublin	OH
Croghan Colonial Bank	Fremont	OH
First Service Federal Credit Union	Groveport	OH
Killbuck Saving Bank Company	Killbuck	OH
Cardinal State Bank	Maineville	OH
Old Fort Banking Company	Old Fort	OH
Springfield Federal Savings Bank	Springfield	OH
Glass City Federal Credit Union	Toledo	OH
OC Federal Credit Union	Toledo	OH
Peoples Savings Bank of Troy	Troy	OH
First National Bank of Wellston	Wellston	OH
Peoples National Bank	Wooster	OH
Metropolitan Savings Bank of Ohio	Youngstown	OH
Brownsville Bank	Brownsville	TN
First Federal Savings Bank	Clarksville	TN
The Bank/First Citizens Bank	Cleveland	TN
Peoples Bank	Clifton	TN
Middle Tennessee Bank	Columbia	TN
Victory Bank and Trust Company	Cordova	TN
Union Savings Bank	Covington	TN
Bank of Dickson	Dickson	TN
Home Bank of Tennessee	Ducktown	TN
Security Bank	Dyersburg	TN
Greeneville Federal Bank, FSB	Greeneville	TN
SunTrust Bank, Northeast Tennessee, N.A	Johnson City	TN
Citizens Bank of Blount County	Maryville	TN
City Bank & Trust Company	McMinnville	TN
NBC Bank, FSB	Memphis	TN
NBC Knoxville Bank,	FSB Memphis	TN
First Bank and Trust	Mount Juliet	TN
First American National Bank	Nashville	TN
ORNL Federal Credit Union	Oak Ridge	TN
Oakland Deposit Bank	Oakland	TN
Bank of Sharon	Sharon	TN
Merchants and Planters Bank	Toone	TN
AEDC Federal Credit Union	Tullahoma	TN
First State Bank	Union City	TN

Federal Home Loan Bank of Indianapolis—District 6

Star Financial Bank	Anderson	IN
First Community Bank and Trust	Bargersville	IN
Hoosier Hills Credit Union	Bedford	IN
IU Employees Federal Credit Union	Bloomington	IN
Hendricks County Bank & Trust Company	Brownsburg	IN
First Farmers Bank and Trust	Converse	IN
Bank of Western Indiana	Covington	IN
Lincolnland Bank	Dale	IN
First National Bank of Dana	Dana	IN
Chiphone Federal Credit Union	Elkhart	IN
Permanent Federal Savings Bank	Evansville	IN
Firefighter's City-County FCU	Fort Wayne	IN
Midwest American Federal Credit Union	Fort Wayne	IN
Norwest Bank Indiana, NA	Fort Wayne	IN
Professional Federal Credit Union	Fort Wayne	IN
Garrett State Bank	Garrett	IN
Griffith Savings Bank	Griffith	IN
Eli Lilly Federal Credit Union	Indianapolis	IN
Finance Center Federal Credit Union	Indianapolis	IN
Indiana Members Credit Union	Indianapolis	IN
Dubois County Bank	Jasper	IN
First National Bank	Kokomo	IN
Dearborn Savings Association, F.A	Lawrenceburg	IN

Farmers State Bank	Mentone	IN
North Salem State Bank	North Salem	IN
Notre Dame Federal Credit Union	Notre Dame	IN
Ripley County Bank	Osgood	IN
Community Trust Bank	Otwell	IN
Tri-County Bank & Trust Company	Roachdale	IN
Central Bank	Russiaville	IN
Teachers Credit Union	South Bend	IN
Valley American Bank & Trust Company	South Bend	IN
First Bank and Trust	Sullivan	IN
Peoples Bank and Trust Company	Sunman	IN
Citizens National Bank of Tell City	Tell City	IN
Merchantes National Bank of Terre Haute	Terre Haute	IN
AmBank	Vincennes	IN
First National Bank	Warsaw	IN
Bank of Lenawee	Adrian	MI
Republic Bank	Ann Arbor	MI
Blissfield State Bank	Blissfield	MI
Byron Center State Bank	Byron Center	MI
Capac State Bank	Capac	MI
Independent Bank East MIchigan	Caro	MI
Exchange State Bank	Carsonville	MI
First National Bank of Crystal Falls	Crystal Falls	MI
State Savings Bank	Frankfort	MI
First National Bank of Gaylord	Gaylord	MI
First of American Bank—Michigan, N.A	Grand Rapids	MI
Founders Trust Personal Bank	Grand Rapids	MI
First Community Bank	Harbor Springs	MI
MFC First National Bank	Ironwood	MI
G. W. Jones Exchange Bank	Marcellus	MI
Isabella Bank and Trust	Mount Pleasant	MI
University Bank	Sault Ste. Marie	MI
Shelby State Bank	Shelby	MI
Sparta State Bank	Sparta	MI
Midwest Guaranty Bank	Troy	MI
SOC Credit Union	Troy	MI
USA Federal Credit Union	Troy	MI

Federal Home Loan Bank of Chicago—District 7

State Bank of the Lakes	Antioch	IL
Aurora National Bank	Aurora	IL
First National Bank of Ava	Ava	IL
First of America Bank—Illinois, N.A	Bannockburn	IL
Farmers State Bank	Buffalo	IL
American Union S & LA	Chicago	IL
First Bank of the Americas, S.S.B	Chicago	IL
First East Side Savings Bank	Chicago	IL
International Bank of Chicago	Chicago	IL
LaSalle Bank FSB	Chicago	IL
LaSalle National Bank	Chicago	IL
Park Federal Savings Bank	Chicago	IL
Selfreliance Ukranian Federal Credit Union	Chicago	IL
TCF Bank Illinois, fsb	Chicago	IL
The Private Bank and Trust Company	Chicago	IL
First National Bank	Chicago Heights	IL
Cissna Park Bank	Cissna Park	IL
Evanston Bank	Evanston	IL
National Bank	Hillsboro	IL
Farmers State Bank of Hoffman	Hoffman	IL
Community Trust Bank	Irvington	IL
Advance Bank, s.b.	Lansing	IL
Peoples National Bank	McLeansboro	IL
Amcore Bank, N.A., Mendota	Mendota	IL
First Midwest Bank, N.A	Moline	IL
National Bank of Monmouth	Monmouth	IL
Bank of Illinois in Normal	Normal	IL
Hemlock Federal Bank for Savings	Oak Forest	IL
Community Bank & Trust, S.B	Olney	IL
Palos Bank and Trust Company	Palos Heights	IL
Citizens Equity Federal Credit Union	Peoria	IL
Pontiac National Bank	Pontiac	IL
First Bankers Trust Company, N.A	Quincy	IL
Banco Popular	River Grove	IL
Amcore Bank N.A., Rockford	Rockford	IL
First National Bank in Toledo	Toledo	IL

Busey Bank	Urbana	IL
Cole Taylor Bank	Wheeling	IL
Household Bank, FSB	Wood Dale	IL
Fox Communities Credit Union	Appleton	WI
Belleville State Bank	Belleville	WI
First National Bank and Trust Company	Beloit	WI
Citizens State Bank	Cadott	WI
Bank of Buffalo	Cochrane	WI
Denmark State Bank	Denmark	WI
Security National Bank of Durand	Durand	WI
Union Bank and Trust Company	Evansville	WI
First Security Credit Union	Green Bay	WI
Mitchell Savings Bank, S.A	Greenfield	WI
Heritage Bank of Hayward	Hayward	WI
State Bank of Howards Grove	Howards Grove	WI
State Bank of La Crosse	La Crosse	WI
Trane Federal Credit Union	La Crosse	WI
Capitol Bank	Madison	WI
Park Bank	Madison	WI
Marion State Bank	Marion	WI
Bay View FS& LA	Milwaukee	WI
TCF Bank Wisconsin, fsb	Milwaukee	WI
Farmers Savings Bank	Mineral Point	WI
Bank of Mondovi	Mondovi	WI
Necedah Bank	Necedah	WI
Farmers Exchange Bank of Neshkoro	Neshkoro	WI
Associate Bank Corp.	Portage	WI
State Bank of St. Cloud	St. Cloud	WI
Community State Bank	Union Grove	WI
American Community Bank	Wausau	WI
Associated Bank North	Wausau	WI

Federal Home Loan Bank of Des Moines—District 8

Union National Bank	Anita	IA
Quad City Bank and Trust Company	Bettendorf	IA
Exchange State Bank	Collins	IA
Mercantile Bank of Western Iowa	Des Moines	IA
Security Savings Bank	Eagle Grove	IA
Iowa State Bank and Trust Company	Fairfield	IA
The First National Bank	Farragut	IA
First Bank and Trust Company	Glidden	IA
American National Bank	Holstein	IA
First National Bank	Iowa City	IA
Home State Bank	Jefferson	IA
Security Savings Bank	Larchwood	IA
Farmers & Merchants Savings Bank	Manchester	IA
First Citizens National Bank	Mason City	IA
First Iowa Bank	Monticello	IA
Northwoods State Bank	Northwood	IA
Farmers Savings Bank	Oskaloosa	IA
Pilot Grove Savings Bank	Pilot Grove	IA
Liberty Bank and Trust, N.A.	Pocahontas	IA
Midwest FSB	Rock Rapids	IA
Alliance Bank	Rockwell City	IA
Cedar Valley State Bank	Saint Ansgar	IA
Citizens State Bank	Sheldon	IA
Morningside Bank & Trust	Sioux City	IA
Tama State Bank	Tama	IA
First American Bank	Webster City	IA
First Bank	West Des Moines	IA
National Chiropractic Insurance Company	West Des Moines	IA
Peoples State Bank	Winthrop	IA
Security Bank Minnesota	Albert Lea	MN
First Security Bank	Byron	MN
Miners National Bank of Eveleth	Eveleth	MN
Itasca State Bank of Grand Rapids	Grand Rapids	MN
Melrose State Bank	Melrose	MN
National City Bank	Minneapolis	MN
Peoples State Bank of Plainview	Plainview	MN
United Prairie Bank-Slayton	Slayton	MN
First Security State Bank	Sleepy Eye	MN
Cherokee State Bank of St. Paul	St. Paul	MN
First National Bank in Wadena	Wadena	MN
Wadena State Bank	Wadena	MN
State Bank of Young America, Norwood	Young America	MN

Polk County Bank	Bolivar	MO
First Security State Bank	Charleston	MO
Peoples Bank	Cuba	MO
Century Bank of the Ozarks	Gainesville	MO
The Hamilton Bank	Hamilton	MO
Farmers and Merchants Bank	Hannibal	MO
City National Savings Bank, FSB	Jefferson City	MO
Premier Bank	Jefferson City	MO
B&L Bank	Lexington	MO
First Bank, CBC	Maryville	MO
Bank of Minden	Mindenmines	MO
Bank of Cairo and Moberly	Moberly	MO
St. Clair County State Bank	Osceola	MO
Platte Valley Bank of Missouri	Platte City	MO
Farmers State Bank of Northern Missouri	Savannah	MO
Central Bank of Missouri	Sedalia	MO
Great Southern Bank, FSB	Springfield	MO
Equality Savings & Loan Association, F.A	St. Louis	MO
Ramsey Bank, F.S.B	Cando	ND
Gate City Federal Savings Bank	Fargo	ND
State Bank of Alcester	Alcester	SD
First Madison Bank	Madison	SD

Federal Home Loan Bank of Dallas—District 9

First National Bank of Izard County	Calico Rock	AR
Bank of Elkins	Elkins	AR
First Federal Bank of Arkansas, F.A	Harrison	AR
Simmons First Bank	Jonesboro	AR
Central Bank and Trust	Little Rock	AR
First Commercial Bank	Little Rock	AR
Citizens Bank	Marion	AR
Mercantile Bank of Arkansas	North Little Rock	AR
First Bank of Arkansas	Russellville	AR
Warren Bank and Trust Company	Warren	AR
Security First National Bank	Alexandria	LA
Mississippi River Bank	Belle Chasse	LA
Citizens Savings Bank	Bogalusa	LA
Homeland Federal Savings Bank	Columbia	LA
Vermilion Bank and Trust Company	Kaplan	LA
Peoples State Bank	Many	LA
First National Bank in St. Mary Parish	Morgan City	LA
City Bank and Trust Company	Natchitoches	LA
Bradford National Life Insurance Company	New Orleans	LA
First Bank and Trust	New Orleans	LA
First Federal Savings and Loan Association	Opelousas	LA
ANECA Federal Credit Union	Shreveport	LA
Springhill Bank & Trust	Springhill	LA
Federal Savings Bank of Evangeline Parish	Ville Platte	LA
Bank of Anguilla	Anguilla	MS
Guaranty Bank & Trust Company	Belzoni	MS
Carthage Bank	Carthage	MS
First National Bank of Clarksdale	Clarksdale	MS
Union Planters Bank	Clarksdale	MS
Bank of Forest	Forest	MS
Hancock Bank	Gulfport	MS
Union Planters Bank of Central Mississippi	Jackson	MS
Merchants and Farmers Bank	Kosciusko	MS
Citizens State Bank	Magee	MS
First National Bank of Picayune	Picayune	MS
Peoples Bank	Ripley	MS
Wilkinson County Savings Bank	Woodville	MS
First National Bank in Alamogordo	Alamogordo	NM
New Mexico Educators F.C.U	Albuquerque	NM
Ranchers Banks	Belen	NM
First Bank, F.S.B	Clovis	NM
White Sands Federal Credit Union	Las Cruces	NM
First State Bank of Taos	Taos	NM
University Federal Credit Union	Austin	TX
Norwest Bank Texas, Bandera	Bandera	TX
First International Bank	Bedford	TX
Citizens National Bank at Brownwood	Brownwood	TX
First Federal Savings Bank	Bryan	TX
Columbus State Bank	Columbus	TX
Reunion Bank	Dallas	TX
Share Plus Federal Credit Union	Dallas	TX

Texas Community Bank, N.A	Dallas	TX
First FSB of North Texas	Denton	TX
First National Bank of Ennis	Ennis	TX
Bank of Commerce	Fort Worth	TX
Millers Mutual Fire Insurance Company	Fort Worth	TX
Graham Savings and Loan, F.A	Graham	TX
Bank United	Houston	TX
PT&T Federal Credit Union	Houston	TX
Pinemont Bank	Houston	TX
West University Bank, N.A	Houston	TX
Jacksonville Savings and Loan Association	Jacksonville	TX
Keller State Bank	Keller	TX
American State Bank	Lubbock	TX
Marble Falls National Bank	Marble Falls	TX
First Bank and Trust of Memphis	Memphis	TX
Liberty National Bank	Paris	TX
Security State Bank	Pearsall	TX
Hale County State Bank	Plainview	TX
Plano Bank and Trust	Plano	TX
Farmers National Bank of Rule	Rule	TX
CaminoReal Bank, N.A	San Antonio	TX
Edgewood Federal Credit Union	San Antonio	TX
First National Bank of San Benito	San Benito	TX
Snyder Savings and Loan Association	Snyder	TX
Mainland Bank	Texas City	TX
First Bank of Texas	Tomball	TX
The First National Bank of Van Alstyne	Van Alstyne	TX
Herring National Bank	Vernon	TX
Community Bank	Wellington	TX

Federal Home Loan Bank of Topeka—District 10

First National Bank of Akron	Akron	CO
Tri State Bank	Denver	CO
MegaBank of Arapahoe	Englewood	CO
First Security Bank	Fort Lupton	CO
Alpine Bank and Trust	Glenwood Springs	CO
First State Bank	Idaho Springs	CO
Independent Bank	Kersey	CO
First Western National Bank	La Jara	CO
First National Bank of Las Animas	Las Animas	CO
FirstBank of Arapahoe County, N.A.	Littleton	CO
Mancos Valley Bank	Mancos	CO
Pueblo Bank and Trust Company	Pueblo	CO
Salida Building and Loan Association	Salida	CO
BestBank	Thornton	CO
Citizens Bank	Westminster	CO
Bank of Colorado—Front Range	Windsor	CO
Community National Bank	Chanute	KS
Fidelity State Bank and Trust Company	Dodge City	KS
First State Bank	Edna	KS
Armed Forces Bank, N.A	Fort Leavenworth	KS
Citizens National Bank of Greenleaf	Greenleaf	KS
First National Bank of Holcomb	Holcomb	KS
Kansas State Bank	Holton	KS
Humboldt National Bank	Humboldt	KS
Heartland Bank, N.A	Jewell	KS
First National Bank and Trust Company	Junction City	KS
First State Bank of Kansas City	Kansas City	KS
Premier Bank	Lenexa	KS
Metcalf Bank	Overland Park	KS
Team Bank N.A	Paola	KS
City National Bank of Pittsburg	Pittsburg	KS
Citizens State Bank and Trust Company	Seneca	KS
Community National Bank	Seneca	KS
Mid America Credit Union	Wichita	KS
Five Points Bank	Grand Island	NE
Gretna State Bank	Gretna	NE
City National Bank and Trust Company	Hastings	NE
First State Bank	Hickman	NE
First National Bank & Trust Co. of Minden	Minden	NE
First United Bank	Neligh	NE
Western Nebraska National Bank	North Platte	NE
Douglas County Bank and Trust Company	Omaha	NE
FCE Credit Union	Omaha	NE
Packers Nebraska Bank and Trust Company	Omaha	NE

Plattsmouth State Bank	Plattsmouth	NE
Valley Bank and Trust Company	Scottsbluff	NE
Jones National Bank and Trust Company	Seward	NE
Security Bank	Sidney	NE
Stromsburg Bank	Stromsburg	NE
First National Bank of Wahoo	Wahoo	NE
First National Bank	Ada	OK
Alva State Bank & Trust Company	Alva	OK
Community National Bank	Alva	OK
American National Bank	Ardmore	OK
First National Bank of Bethany	Bethany	OK
SpiritBank, N.A	Bristow	OK
Federal Bankcentre	Broken Arrow	OK
Farmers and Merchants Bank	Crescent	OK
Great Plains National	Elk City	OK
Eastman National Bank of Newkirk	Newkirk	OK
Charter National Bank	Oklahoma City	OK
Metro Bank, N.A	Oklahoma City	OK
Oklahoma Employees Credit Union	Oklahoma City	OK
First National Bank of Okmulgee	Okmulgee	OK
First State Bank	Picher	OK
Farmers and Merchants Bank of Piedmont	Piedmont	OK
Poteau State Bank	Poteau	OK
McClain County National Bank	Purcell	OK
Exchange Bank	Skiatook	OK
Tinker Federal Credit Union	Tinker Air Force Base	OK
Oklahoma Central Credit Union	Tulsa	OK
Welch State Bank	Welch	OK

Federal Home Loan Bank of San Francisco—District 11

Norwest Bank Arizona, N.A	Phoenix	AZ
State Savings Bank, F.S.B	Scottsdale	AZ
North County Bank	Escondido	CA
Humboldt Bank	Eureka	CA
Six Rivers National Bank	Eureka	CA
High Desert National Bank	Hesperia	CA
Cathay Bank	Los Angeles	CA
General Bank	Los Angeles	CA
F&A Federal Credit Union	Monterey Park	CA
Stanford Federal Credit Union	Palo Alto	CA
CBC Federal Credit Union	Port Hueneme	CA
Peninsula Bank of San Diego	San Diego	CA
Gateway Bank, a F.S.B.	San Francisco	CA
First Bank of San Luis Obispo	San Luis Obispo	CA
Saratoga National Bank	Saratoga	CA
China Trust Bank of California	Torrance	CA
Visalia Community Bank	Visalia	CA

Federal Home Loan Bank of Seattle—District 12

Alaska USA Federal Credit Union	Anchorage	AK
West Oahu Community F.C.U	Barbers Point	HI
City Bank	Honolulu	HI
First Hawaiian Creditcorp, Inc	Honolulu	HI
Oahu Educational Employees Credit Union	Honolulu	HI
Citizens State Bank	Hamilton	MT
BankWest, N.A	Kalispell	MT
Valley Bank of Kalispell	Kalispell	MT
First National Bank in Libby	Libby	MT
First Technology Federal Credit Union	Beaverton	OR
Bank of the Cascades	Bend	OR
U-Lane-O Credit Union	Eugene	OR
Siuslaw Valley Bank	Florence	OR
Southern Oregon Federal Credit Union	Grants Pass	OR
Portland Area Employees Credit Union	Portland	OR
South Umpqua State Bank	Roseburg	OR
Clackamas County Bank	Sandy	OR
St. Helens Community F.C.U	St. Helens	OR
Bank of Utah	Ogden	UT
Goldenwest Credit Union	Ogden	UT
Guardian State Bank	Salt Lake City	UT
Bank of Bellingham	Bellingham	WA
Industrial Credit Union of Whatcom County	Bellingham	WA
Whatcom State Bank	Bellingham	WA
Cashmere Valley Bank	Cashmere	WA

Mt. Rainier National Bank	Enumclaw	WA
Grant National Bank	Ephrata	WA
Everett Mutual Bank	Everett	WA
NorthWest Telco Credit Union	Everett	WA
Rainier Pacific, a Community Credit Union	Fife	WA
Empire Life Insurance Company	Seattle	WA
NW Federal Credit Union	Seattle	WA
Seattle Telco Federal CU	Seattle	WA
First Heritage Bank	Snohomish	WA
Horizon Credit Union	Spokane	WA
Harborstone Credit Union	Tacoma	WA
Westside Community Bank	Tacoma	WA
Bank of Vancouver	Vancouver	WA
American National Bank	Cheyenne	WY
Bank of Laramie	Laramie	WY
First Federal Savings Bank	Sheridan	WY

II. Public Comments

To encourage the submission of public comments on the community support performance of FHLBank members, on or before October 31, 1997, each FHLBank will notify its Advisory Council and nonprofit housing developers, community groups, and other interested parties in its district of the members selected for community support review in the 1996–97 seventh quarter review cycle. 12 CFR 936.2(b)(2)(ii). In reviewing a member for community support compliance, the Finance Board will consider any public comments it has received concerning the member. *Id.* § 936.2(d). To ensure consideration by the Finance Board, comments concerning the community support performance of members selected for the 1996–97 seventh quarter review cycle must be delivered to the Finance Board on or before the December 1, 1997 deadline for submission of Community Support Statements.

By the Federal Housing Finance Board.

William W. Ginsberg,

Managing Director.

[FR Doc. 97–26894 Filed 10–15–97; 8:45 am]

BILLING CODE 6725–01–P

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 29, 1997.

A. Federal Reserve Bank of San Francisco (Pat Marshall, Manager of Analytical Support, Consumer Regulation Group) 101 Market Street, San Francisco, California 94105-1579:

1. Ronald B. Douglass, Medina, Washington; to acquire voting shares of Washington Commercial Bancorp, Redmond, Washington, and thereby indirectly acquire Redmond National Bank, Redmond, Washington.

Board of Governors of the Federal Reserve System, October 9, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–27308 Filed 10–15–97; 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 7, 1997.

A. Federal Reserve Bank of Kansas City (D. Michael Manies, Assistant Vice President) 925 Grand Avenue, Kansas City, Missouri 64198-0001:

1. Citizens Bancshares Company, Chillicothe, Missouri; to merge with Trenton Trust Bancshares, Inc., Trenton, Missouri, and thereby indirectly acquire Trenton Trust Company, Trenton, Missouri.

Board of Governors of the Federal Reserve System, October 9, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–27309 Filed 10–15–97; 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 29, 1997.

A. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. U.S. Bancorp, Minneapolis, Minnesota; to engage *de novo* through its subsidiary, U.S. Bancorp Investments, Inc., Minneapolis, Minnesota, in underwriting and dealing in commercial paper, municipal revenue bonds, mortgage-backed securities, and consumer-receivable-related securities. *See, Citicorp, J.P. Morgan & Co., Inc., and Bankers Trust New York Corp.*, 73 Fed. Res. Bull. 473 (1987); extending credit and servicing loans, pursuant to § 225.28(b)(1) of the Board's Regulation Y; arranging commercial real estate equity financing, asset management servicing and collection activities, and acquiring debt in default, pursuant to §§ 225.28(b)(2)(ii), (vi), and (vii) of the Board's Regulation Y; leasing personal or real property, pursuant to § 225.28(b)(3) of the Board's Regulation Y; financial and investment advisory activities, pursuant to § 225.28(b)(6) of the Board's Regulation Y; agency transactional services for customer investments, pursuant to § 225.28(b)(7) of the Board's Regulation Y; investment transactions as principal, pursuant to § 225.28(b)(8) of the Board's Regulation Y; management consulting and counseling activities, pursuant to §§ 225.28(b)(9)(i)(A)(1) and (2) of the Board's Regulation Y; and insurance agency activities, pursuant to § 225.28(b)(11)(vii) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, October 9, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–27307 Filed 10–15–97; 8:45 am]

BILLING CODE 6210–01–F

FEDERAL RESERVE SYSTEM

Consumer Advisory Council; Notice of Meeting of Consumer Advisory Council

The Consumer Advisory Council will meet on Thursday, October 30. The meeting, which will be open to public observation, will take place at the Federal Reserve Board's offices in Washington, DC, in Terrace Room E of the Martin Building. The meeting will begin at 9:00 a.m. and is expected to continue until 4:00 p.m., with a lunch break from 12:30 p.m. until 2:00 p.m. The Martin Building is located on C Street, Northwest, between 20th and 21st Streets in Washington, DC.

The Council's function is to advise the Board on the exercise of the Board's responsibilities under the Consumer Credit Protection Act and on other matters on which the Board seeks its advice. Time permitting, the Council will discuss the following topics:

Special Rules Under Regulation E (Electronic Fund Transfers): The Depository and Delivery Systems Committee will lead a discussion about whether special rules are needed under Regulation E for basic banking accounts established by financial institutions to provide electronic delivery of federal benefits to individuals who currently do not maintain deposit accounts; and if there is a perceived need, what characteristics should qualify an account for special treatment.

Home Ownership Equity Protection Act (HOEPA): The Consumer Credit Committee will lead a discussion of potential recommendations for modifying the HOEPA provisions of the Truth in Lending Act. HOEPA is designed to protect borrowers entering into high-cost home-secured loans. The Council discussion will focus on changes to achieve the act's purpose more effectively, such as by imposing further restrictions to discourage abusive creditor or broker practices, providing more effective enforcement tools to ensure compliance and protect the consumer, and reducing the complexity of the fees test used to determine which loans are covered.

Streamlining Truth in Lending Act and the Real Estate Settlement Procedures Act (TILA/RESPA): To assist in the process now under way for reforming requirements under the TILA/RESPA laws, the Consumer Credit Committee will lead a discussion about the information that consumers need and should receive about costs when seeking a mortgage loan. The discussion will include an assessment of the usefulness of disclosing the cost of credit as an APR (annual percentage rate) and will consider alternative cost disclosures. It will also address timing: when should the information be provided to be of most benefit to consumers.

CRA Implementation—Small Business, Farm, and Community Development Lending: The Bank Regulations Committee will lead a discussion regarding the ongoing implementation of the revised Community Reinvestment Act regulations. In particular, attention will focus on the CRA data for 1996 (which were made public recently) regarding small business, farm, and community development lending by large commercial banks and thrift institutions. The Committee also will discuss examination data for small and large banks and interagency responses to questions of interpretation that have arisen under the revised CRA rules.

Open Session—Emerging Issues: Council members will report on emerging issues or trends that may have potential impact on the Board's role in providing consumer protection, or on other matters of interest.

Governor's Report: Reserve Board Member Laurence H. Meyer will report on economic conditions, recent Board initiatives, and issues of concern, with an opportunity for questions from Council members.

Committee Reports: Committees will report on their Committee work and discussions.

Other matters previously considered by the Council or initiated by Council members also may be discussed.

Persons wishing to submit views to the Council regarding any of the above topics may do so by sending written statements to Deanna Aday-Keller, Secretary, Consumer Advisory Council, Division of Consumer and Community Affairs, Board of Governors of the Federal Reserve System, Washington, DC 20551. Information about this meeting may be obtained from Ms. Aday-Keller, 202–452-6470. Telecommunications Device for the Deaf (TDD) users may contact Diane Jenkins, 202–452–3544.

Board of Governors of the Federal Reserve System, October 9, 1997.

William W. Wiles,

Secretary of the Board.

[FR Doc. 97–27341 Filed 10–15–97; 8:45 am]

BILLING CODE 6210–01–P

FEDERAL TRADE COMMISSION

[File No. 962–3072]

Ashland, Inc.; Analysis To Aid Public Comment

AGENCY: Federal Trade Commission.

ACTION: Proposed consent agreement.

SUMMARY: The consent agreement in this matter settles alleged violations of federal law prohibiting unfair or deceptive acts or practices or unfair methods of competition. The attached Analysis to Aid Public Comment describes both the allegations in the draft complaint that accompanies the consent agreement and the terms of the consent order—embodied in the consent agreement—that would settle these allegations.

DATES: Comments must be received on or before December 15, 1997.

ADDRESSES: Comments should be directed to: FTC/Office of the Secretary, Room 159, 6th St. and Pa. Ave., NW., Washington, DC 20580.

FOR FURTHER INFORMATION CONTACT: Elaine D. Kolish, Federal Trade Commission, S–4302, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–3042. Robert Frisby, Federal Trade Commission, S–4302, 6th St. and Pennsylvania Ave., NW., Washington, DC 20580. (202) 326–2098.

SUPPLEMENTARY INFORMATION: Pursuant to section 6(f) of the Federal Trade Commission Act, 38 Stat. 721, 15 U.S.C. 46, and section 2.34 of the Commission's Rules of Practice (16 CFR 2.34), notice is hereby given that the above-captioned consent agreement containing a consent order to cease and desist, having been filed with and accepted, subject to final approval, by the Commission, has been placed on the public record for a period of sixty (60) days. The following Analysis to Aid Public Comment describes the terms of the consent agreement, and the allegations in the accompanying complaint. An electronic copy of the full text of the consent agreement package can be obtained from the Commission Actions section of the FTC Home Page (for October 8, 1997), on the World Wide Web, at ''http://www.ftc.gov/os/actions97.htm.'' A paper copy can be obtained from the FTC Public Reference Room, Room H–130, Sixth Street and Pennsylvania Ave., NW., Washington, DC 20580 either in person or by calling (202) 326–3627. Public comment is invited. Such comments or views will be considered by the Commission and will be available for inspection and copying at its principal office in accordance with section 4.9(b)(6)(ii) of the Commission's Rules of Practice (16 CFR 4.9(b)(6)(ii).

Analysis of Proposed Consent Order To Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement to a proposed consent order from Ashland, Inc. (''Ashland''). The agreement would settle a proposed complaint by the Federal Trade Commission that Ashland engaged in unfair or deceptive acts or practices in violation of section 5(a) of the Federal Trade Commission Act.

The proposed consent order has been placed on the public record for sixty (60) days for reception of comments by interested persons. Comments received during this period will become part of the public record. After sixty (60) days, the Commission will again review the agreement and the comments received and will decide whether it should withdraw from the agreement or make final the agreement's proposed order.

This matter concerns advertising practices related to the sale of Valvoline TM8 Engine Treatment (''TM8''). The proposed complaint charges that, through the use of statements contained in its advertisements and promotional materials, Ashland made the following unsubstantiated representations: (1) TM8 bonds Teflon to engine parts; (2) compared to motor oil alone, TM8: reduces engine wear; reduces camshaft bearing wear by up to 75%; reduces main bearing wear by up to 75%; under high temperature conditions experienced by engines, provides twice as much wear protection; extends the duration of engine life; and improves fuel economy; and (3) One treatment of TM8 lasts for 50,000 miles. Lastly, the proposed complaint alleges that Ashland falsely represented that tests prove that, compared to motor oil alone, TM8: reduces camshaft bearing wear by up to 75%; reduces main bearing wear by up to 75%; under high temperature conditions experienced by engines, provides twice as much wear protection; and improves fuel economy.

The proposed consent order contains provisions designed to prevent Ashland from engaging in similar acts and practices in the future. Part I of the proposed order prohibits Ashland from making any representation about the performance or attributes of any engine treatment unless, at the time it makes the representation, Ashland possesses and relies upon competent and reliable evidence, which when appropriate must be scientific evidence, that substantiates the representation. Part I also prohibits Ashland from misrepresenting the results of tests or studies.

The proposed order also contains standards provisions regarding record-keeping, notification of changes in corporate status, distribution of the order, termination of the order, and the filing of a compliance report.

The purpose of this analysis is to facilitate public comment on the proposed order, and it is not intended to constitute an official interpretation of the agreement and the proposed order or to modify their terms in any way.

Donald S. Clark,

Secretary.

[FR Doc. 97–27358 Filed 10–15–97; 8:45 am]

BILLING CODE 6750–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Medical Devices; Product Development Protocol; Public Workshop

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA), in cooperation with the Health Industry Manufacturers Association (HIMA), is announcing a public workshop to discuss use of the Product Development Protocol (PDP) as an alternate means for medical device approval. This public workshop is being held so that FDA may gather information to assist in developing an efficient, practical PDP process.

DATES: The public workshop will be held on Wednesday, October 22, 1997, 8:30 a.m. to 5 p.m.

ADDRESSES: The public workshop will be held at the Renaissance Hotel, 999 9th St. NW., Washington, DC 20001. Attendees requiring overnight accommodations may contact the hotel at 202–898–9000 and reference the FDA/HIMA meeting to ensure conference rates. To register for the public workshop, contact HIMA, Meetings Department, 1200 G St. NW., Washington, DC 20005, 202–434–7237.

FOR FURTHER INFORMATION CONTACT: Lillian L. Yin, Center for Devices and Radiological Health (HFZ–470), 9200

Corporate Blvd., Rockville, MD 20850, 301– 594–5072, FAX 301–480–4224.

SUPPLEMENTARY INFORMATION: FDA, in cooperation with HIMA, is holding a public workshop to discuss the implementation of a different process for the premarket approval of class III devices by means of a PDP. Section 515(f) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360e (f)) (the act) provides for a product development protocol as an alternate means of premarket approval of class III medical devices. Although the PDP has existed as a means of approval of a medical device since the Medical Device Amendments of 1976 (Pub. L. 94–295) to the act, the PDP has never been completely implemented. As part of it's reengineering initiative, the Center for Devices and Radiological Health (CDRH) of FDA established the PDP Reengineering Team, comprised of FDA staff, in consultation with industry representatives, to develop an efficient, practical PDP process.

The intent of the PDP process is to substitute the conventional device approval model, the sequential process of clinical investigation followed by a premarket approval application, with an early interaction between the sponsor and FDA to produce a focused product development plan that merges the two steps. A PDP team has developed guidelines for creating this focused development protocol that will be described at the public workshop. Workshop participants will have ample opportunity to ask questions as the new PDP process is described and case studies on particular examples of class III devices are presented. Background information, a detailed flow chart, and a descriptive narrative regarding the proposed PDP process can be found at the FDA/CDRH Web site at the address below.

Additional information is available on the FDA Web page (www.fda.gov/cdrh/pdp/pdp.html) or the HIMA Web page (www.himanet.com).

Dated: September 30, 1997.

Joseph A. Levitt,

Deputy Director for Regulations Policy, Center for Devices and Radiological Health.

[FR Doc. 97–27433 Filed 10–15–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Proposed Collection: Comment Request

In compliance with the requirement for opportunity for public comment on proposed data collection projects (section 3506(c)(2)(A) of Title 44, United States Code, as amended by the Paperwork Reduction Act of 1995, Pub. L. 104–13), the Health Resources and Services Administration (HRSA) will publish periodic summaries of proposed projects being developed for submission to OMB under the Paperwork Reduction Act of 1995. To request more information on the proposed project or to obtain a copy of the data collection plans and draft instruments, call the HRSA Reports Clearance Officer on (301) 443–1129.

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 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.

Proposed Projects

1. Project To Assess Bi/Multilingual Services Offered at Selected Community and Migrant Health Centers—NEW

Recognizing the importance of language-appropriate services to full and effective health care provision, the Office of Minority and Women's Health in the Bureau of Primary Health Care [BPHC], Health Resources and Services Administration [HRSA], proposes to conduct a voluntary telephone survey to assess the composition and provision of bi/multilingual services at a sample of 40 Community and Migrant Health Centers [C/MHCs] selected from those C/MHCs indentified as likely to be serving high percentages of people who speak languages other than English. This effort was developed so that information could be gathered to assist the field, funding agency staff, and policymakers in better understanding what methods are being used to provide services to these populations, what works, what does not, and barriers and facilitators to effective health service provision for speakers of languages other than English.

The information gathered will provide HRSA with an information base upon which to build in making future program decisions regarding C/MHC resource and staffing needs in order to reduce or eliminate the barriers to health care often faced by non-or limited-English-speaking populations. The end result of the program will be to assist the funding agency to help C/MHCs and by extension, other providers of health care for non-or limited-English speaking populations to provide appropriate services. An estimate of the hour burden for the 40 C/MHC Directors selected for the survey is shown below.

Form	Number of respondents	Responses per respondent	Hours per response	Total hour burden
Bi/Multilingual Services Survey	40 C/MHC Directors	1	2	80

Send comments to Patricia Royston, HRSA Reports Clearance Officer, Room 14–36, Parklawn Building, 5600 Fishers Lane, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: October 9, 1997.

Jane Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–27429 Filed 10–15–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Advisory Council; Notice of Meeting

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

made of the following National Advisory body scheduled to meet during the month of November 1997:

Name: National Advisory Council on Nurse Education and Practice.

Date and Time: November 20, 1997, 8:30 a.m. to 5:00 p.m.; November 21, 1997, 8:30 a.m. to 3:00 p.m.

Place: Chesapeake Room, Silver Spring Holiday Inn, 8777 Georgia Avenue, Silver Spring, Maryland 20910.

The meeting is open to the public.

Agenda: Updates on and discussion of Agency, Bureau and division activities, and the legislative and budget status of programs; overview and review of clinical nurse specialist workforce trends, implication and options for the future; review of diversity workgroup with recommendations for a national agenda.

Anyone wishing to obtain a roster of members, minutes of meetings, or other relevant information should write or contact Ms. Elaine G. Cohen, Executive Secretary, National Advisory Council on Nurse Education and Practice, Parklawn Building, Room 9–35, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone (301) 443–5786.

Agenda Items are subject to change as priorities dictate.

Dated: October 9, 1997.

Jane M. Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–27430 Filed 10–15–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Announcement of Technical Assistance Workshops for Programs Administered by the Division of Disadvantaged Assistance, Bureau of Health Professions

SUMMARY: The Health Resources and Services Administration (HRSA) announces that technical assistance workshops will be held for new and renewal applicants for the fiscal year (FY) 1998 competitive grant cycles for the Health Careers Opportunity Program.

FOR FURTHER INFORMATION CONTACT: Division of Disadvantaged Assistance, Bureau of Health Professions, Health Resources and Services Administration, Parklawn Building, Room 8A–09, 5600 Fishers Lane, Rockville, Maryland 20857, (301) 443–4493 or

(301) 443–2100.

SUPPLEMENTARY INFORMATION: The Division of Disadvantaged Assistance will be conducting application preparation technical assistance workshops for new and renewal applicants for the FY 1998 competitive grant cycles for the Health Careers Opportunity Program. The workshops are scheduled as follows:

DoubleTree Hotel, Rockville, MD, (301) 468–1100, October 9–10, 1997; Harvey Hotel, Atlanta, GA, (770) 955–1700, October 16–17, 1997; Embassy Suites, Houston, TX, (713) 995–0123, October 20–21, 1997; and Embassy Suites Airport, Los Angeles, CA, (310) 215–1000, October 23–24, 1997.

The program will commence at 8:30 a.m. each day. Attendees must make their own hotel reservations. Please reference the ''Health Careers Opportunity Program Technical Assistance Workshops.'' Expenses incurred by the attendees will not be supported by the Federal Government. Participation in the technical assistance workshops does not assure approval and funding of applications submitted for competitive review.

Dated: October 9, 1997.

Jane M. Harrison,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. 97–27428 Filed 10–15–97; 8:45 am]

BILLING CODE 4160–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of AIDS Research; Notice of Meeting of the Office of AIDS Research Advisory Council

Pursuant to the Federal Advisory Committee Act, as amended, notice is hereby given of the Fifth meeting of the Office of AIDS Research Advisory Council (OARAC) on Friday, October 17, 1997. The meeting will be held at the National Institutes of Health (NIH), 9000 Rockville Pike, Building 31, C–Wing, Sixth Floor, Conference Room 10.

The Office of AIDS Research (OAR) is responsible for planning, coordination, and evaluation of the NIH AIDS research program. The OARAC was established to advise the Director, OAR, regarding these activities.

The Council meeting will be open to the public on October 17 from 9:00 a.m. until 4:00 p.m. The agenda includes: FY 1998 budgets for NIH AIDS research; updates on various OAR sponsored workshops and conferences; reports on activities of Advisory Council Working Groups and the NIH Vaccine Research Committee; and a presentation by the Director, Center for Scientific Review (CSR), who will discuss recent changes and future plans at the CSR.

In accordance with the provisions set forth in section 552b(c)(9)(B), Title 5 United States Code and section 10(d) of the Federal Advisory Committee Act, Public Law 92–463, as amended, the meeting will be closed to the public from 4:00 p.m. until adjournment for discussions of which the premature disclosure is likely to significantly frustrate implementation of NIH's research initiatives by impeding the timely announcement of those initiatives.

Copies of the meeting agenda and the roster of council members will be furnished upon request by Ms. Linda Jackson, Program Coordinator, Office of AIDS Research, National Institutes of Health, Building 31, Room 4B54, 9000 Rockville Pike, Bethesda, Maryland 20892, Telephone (301) 402–3357, FAX (301) 402–3360. Individuals who plan to attend the open session and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact Ms. Jackson.

This notice is published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Dated: October 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27451 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meeting

Pursuant of Section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting that is being held to review grant applications:

Health Promotion and Disease Prevention Initial Review Group

Study Section/Contact Person	November 1997 Meeting	Time	Location
Epidemiology & Disease Control-2, Dr. Paul Strudler, 301–435–1716 ...	Nov. 17–19 ...	8:30 a.m	Embassy Suites Hotel, Chevy Chase Pavilion, Washington, DC.

The meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27445 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: NIAMS SEP Training Review (Teleconference).

Date: December 12, 1997.

Time: 10:00 a.m.–11:30 a.m.

Place: Grants Review Branch, Natcher Building, Room 5AS25U, Bethesda, Maryland 20815.

Contact Person: Aftab A. Ansari, Ph.D., Scientific Review Administrator, Natcher Building, 45 Center Drive, RM 5AS25U, Bethesda, Maryland 20892–6500, Telephone: 301–594–4952.

Purpose/Agenda: To evaluate and review research grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27439 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following National Institute of Child Health and Human Development Special Emphasis Panel (SEP) meeting:

Name of SEP: Prader-Willi Syndrome: Genetics and Behavior.

Date: October 20, 1997.

Time: 3:30 p.m.–adjournment.

Place: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Contact Person: Edgar E. Hanna, Ph.D., Scientific Review Administrator, NICHD, 6100 Executive Boulevard, 6100 Building—Room 5E01, Rockville, Maryland 20852, Telephone: 301–496–1485.

Purpose/Agenda: To evaluate and review research grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

This notice is being published less than 15 days prior to the meeting due to the urgent need to meet timing limitations imposed by the review and funding cycle.

(Catalog of Federal Domestic Assistance Program Nos. [93.864, Population Research and No. 93.865, Research for Mothers and Children], National Institutes of Health, HHS)

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27440 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Mental Health; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings of the National Institute of Mental Health Special Emphasis Panel:

Agenda Purpose: To review and evaluate grant applications.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 4, 1997.

Time: 6 p.m.

Place: One Washington Circle, One Washington Circle, N.W., Washington, DC 20037.

Contact Person: Jean G. Noronha, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 24, 1997.

Time: 1 p.m.

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Phyllis D. Artis, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 24, 1997.

Time: 12 p.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 25, 1997.

Time: 2:30 p.m.

Place: Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Jean G. Noronha, Parklawn, Room 9C–26, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–6470.

Committee Name: National Institute of Mental Health Special Emphasis Panel.

Date: November 25, 1997.

Time: 1:30 p.m.

Place: Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857.

Contact Person: Richard Johnson, Parklawn, Room 9C–18, 5600 Fishers Lane, Rockville, MD 20857, Telephone: 301, 443–1367.

The meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applications and/or proposals and the discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers 93.242, 93.281, 93.282)

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27441 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Nursing Research; Amended Notice of Closed Meetings

Notice is hereby given of a change in the National Institute of Nursing Research Initial Review Group meeting, which was published in the **Federal Register** on September 17, 1997 (62 FR 48880). The meeting will now start on October 30, 1997 at 8:30 a.m., instead of the previously advertised October 29.

(Catalog of Federal Domestic Assistance Program No. 93.361, Nursing Research, National Institutes of Health)

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27442 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Aging; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings:

Name of Committee: National Institute on Aging Initial Review Group, Clinical Aging Review Group.

Date of Meeting: October 14, 1997.

Time of Meeting: 8:00 a.m. to adjournment.

Place of Meeting: Bethesda Marriott Hotel, 5151 Pooks Hill Road, Bethesda, Maryland 20814.

Purpose/Agenda: To review grant applications.

Contact Person: Dr. William Kachadorian, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Economics and Demography.

Date of Meeting: October 17, 1997.

Time of Meeting: 8:30 a.m. to adjournment.

Place of Meeting: Radisson Barcelo Hotel Washington, 2121 P Street, NW., Washington, DC 20037.

Purpose/Agenda: To review small grants.

Contact Person: Dr. Mary Ann Guadagno, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Wealth, Savings, & Financial Security Among Older Households (Teleconference).

Date of Meeting: October 29, 1997.

Time of Meeting: 8:30 a.m. to adjournment.

Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Purpose/Agenda: To evaluate and review a program project grant application.

Contact Person: Dr. Mary Ann Guadagno, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Fundamental Aspects of Mobility in Old Adults (Teleconference).

Date of Meeting: October 31, 1997.

Time of Meeting: 9:30 a.m. to adjournment.

Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Purpose/Agenda: To review a program project grant.

Contact Person: Dr. William Kachadorian, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

This notice is being published less than 15 days prior to the above meetings due to the urgent need to meet timing limitations imposed by the review and funding cycle.

Name of SEP: National Institute on Aging Special Emphasis Panel, Institutional Training Grants for the Geriatric Program of NIA (Teleconference).

Date of Meeting: November 7, 1997.

Time of Meeting: 1:00 to 4:00 p.m.

Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Purpose/Agenda: To review five grant applications on two institutional training grants, two K-type awards and a conference grant for the Geriatric Program of NIA.

Contact Person: Dr. Arthur D. Schaerdel, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Institutional Training Grants for the Neuroscience and Neuropsychology of Aging Program (Teleconference).

Date of Meeting: November 17, 1997.

Time of Meeting: 12:00 noon to 4:00 p.m.

Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Purpose/Agenda: To review 10 grant applications on institutional training and small grants for Neuroscience and Neuropsychology of Aging Program.

Contact Person: Dr. Arthur D. Schaerdel, Scientific Review Administrators, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Institutional Training Grants for the Biology of Aging, Program, (Teleconference).

Date of Meeting: November 21, 1997.

Time of Meeting: 1:00 to 4:00 p.m.

Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Purpose/Agenda: To review five grant applications on institutional training and small grants for the Biology of Aging Program.

Contact Person: Dr. Arthur D. Schaerdel, Scientific Review Administration, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Immunobiology of Aging Program Project Application (Teleconference).

Date of Meeting: December 2, 1997.

Time of Meeting: 1:00 p.m. to adjournment.

Place of Meeting: National Institute on Aging, Gateway Building, Room 2C212, 7201 Wisconsin Avenue, Bethesda, MD 20814.

Purpose/Agenda: To review a revised program project grant application.

Contact Person: Dr. Paul Lenz, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

Name of SEP: National Institute on Aging Special Emphasis Panel, Genetic Modification of Striated Muscles During Aging.

Date of Meeting: December 3, 1997.

Time of Meeting: 1:00 p.m. to adjournment.

Place of Meeting: University of Michigan, Ann Arbor, Michigan.

Purpose/Agenda: To review one program project grant.

Contact Person: Dr. James Harwood, Scientific Review Administrator, Gateway Building, Room 2C212, National Institutes of Health, Bethesda, Maryland 20892–9205, (301) 496–9666.

These meetings will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. Applicants and/or proposals and the

discussions could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications and/or proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program No. 93.866, Aging Research, National Institutes of Health)

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27443 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General Medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following advisory committee meeting of the National Institute of Medical Sciences Special Emphasis Panel

Committee Name: MBRS Subcommittee.

Date: November 13–14, 1997.

Time: 8:30 a.m.–5:00 p.m.

Place: Natcher Conference Center, Conference Room C, 45 Cener Drive, Bethesda, MD 20892–6200.

Contact Person: Bruce K. Wetzel, Ph.D., Scientific Review Administrator, NIGMS, Office of Scientific Review, 45 Center Drive, Room 2AS–19, Bethesda, MD 20892–6200.

Purpose: To review and evaluate program project applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6). Title 5 U.S.C. The discussions of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. 93.821, Biophysics and Physiological Sciences; 93.859, Pharmacological Sciences; 93.862, Genetics Research; 93.863, Cellular and Molecular Basis of Disease Research; 93.880, Minority Access Research Careers [MARC]; and 93.375, Minority Biomedical Research Support [MBRS].)

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27444 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Arthritis and Musculoskeletal and Skin Diseases; 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 Arthritis and Musculoskeletal and Skin Diseases Special Emphasis Panel (SEP) meeting:

Name of SEP: NIAMS SEP Osteoarthritis Review.

Date: December 9–10, 1997.

Time: December 9–8:00 a.m.–5:00 p.m.; December 10—8:00 a.m.–adjournment.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Bethesda, Maryland 20815.

Contact Person: Tommy L. Broadwater, Ph.D., Scientific Review Administrator, Natcher Building, 45 Center Drive, Rm 5AS25U, Bethesda, Maryland 20892–6500, Telephone: 301–594–4952.

Purpose/Agenda: To evaluate and review research grant applications.

This meeting will be closed in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. The discussion of these applications could reveal confidential trade secrets or commercial property such as patentable material and personal information concerning individuals associated with the applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Nos. [93.846, Project Grants in Arthritis, Musculoskeletal and Skin Diseases Research], National Institutes of Health, HHS)

Dated: October 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27447 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; 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 Diabetes and Digestive and Kidney Diseases Special Emphasis Panel meeting:

Name of SEP: ZDK1–GRB5–J1 P.

Date: December 2–4, 1997.

Time: 7:30 PM.

Place: Empire Radisson Hotel, 44 West 63rd Street, New York, New York 10023.

Contact Person: Francisco O. Calvo, Ph.D., Chief Special Emphasis Panel, Review Branch, DEA, NIDDK, Natcher Building, Room 6as-37E, National Institutes of Health, Bethesda, Maryland 20892–6600, Phone: (301) 594–8897.

Purpose/Agenda: To review and evaluate grant applications.

This meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5 U.S.C. Applications and/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 on personal privacy.

(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 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27449 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; 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 on Drug Abuse (NIDA) Special Emphasis Panel Meeting.

Purpose/Agenda: To review and evaluate grant applications.

Name of Committee: NIDA Special Emphasis Panel (Molecular, Cellular and Chemical Neurobiology).

Date: October 24, 1997.

Time: 11:00 a.m.

Place: Marriott Hotel of New Orleans, 555 Cannal Street, New Orleans, LA 70130.

Contact Person: Gamil Debbas, Ph.D., Scientific Review Administrator, Office of Extramural Program Review, National Institute on Drug Abuse, 5600 Fishers Lane, Room 10–22, Telephone (301) 443–2620.

The meeting will be closed in accordance with provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The 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, disclosure of

which would constitute a clearly unwarranted invasion of personal privacy.

(Catalog of Federal Domestic Assistance Program Numbers: 93.277, Drug Abuse Research Scientist Development and Research Scientist Awards; 93.278, Drug Abuse National Research Service Awards for Research Training; 93.279, Drug Abuse Research Programs)

Dated: October 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27450 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of Extramural Research; Notice of Meeting

Pursuant of section 10(d) of the Federal Advisory Committee Act, as amended by (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Peer Review Oversight Group (PROG) on November 3–4, 1997, in the Rockledge II Centre, 6701 Rockledge Drive, Bethesda, Maryland 20817. The meeting will be held from 9:00 a.m. to 5:00 p.m. on November 3 and from 1:00 to 4:30 p.m. on November 4, and is open to the public with the exception of from 3:00 to 5:00 p.m. on November 3. This portion of the meeting will be closed in accordance with the provisions set forth in secs. 552b(c)(4) and 552b(c)(6), Title 5, U.S.C. The Group will be discussing applications or proposals that could reveal confidential 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.

Topics for discussion in the open meeting include the Report of the NIH Working Group on New Investigators, the review of clinical research applications, the integration of review, and the NIH rebuttal process.

The meeting agenda and roster of committee members are available on the World Wide Web via the NIH Home Page (http://www.nih.gov.grants/) or from Dr. Peggy McCardle, Executive Secretary, PROG, Office of Extramural Research, Office of the Bureau, National Institutes of Health, Building 1, Room 150, Bethesda, Maryland 20892, (301) 402–2246. Individuals who plan to attend the meeting and need special assistance, such as sign language interpretation or other special accommodations, should contact Dr. McCardle by October 24, 1997.

Dated: October 9, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27446 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Meeting of the Division of Research Grants Advisory Committee

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Division of Research Grants Advisory Committee, November 17–18, 1997, Building 31C, Conference Room 10, National Institutes of Health, Bethesda, Maryland 20892.

The entire meeting will be open to the public from 8:30 on November 17 to adjournment on November 18. The meeting will include, among other topics, a discussion of some recent experiences and experiments in streamlining the peer review system. Attendance by the public will be limited to space available.

The Office of Committee Management, Center for Scientific Review, Rockledge 2 Building, Suite 3016, National Institutes of Health, Bethesda, Maryland 20892–7778, telephone (301) 435–1124, will furnish a summary of the meeting and a roster of the committee members.

Dr. Samuel Joseloff, Executive Secretary of the Committee, Rockledge 2 Building, Suite 3176, National Institutes of Health, Bethesda, Maryland 20892–7762, phone (301) 435–0691, will provide substantive program information upon request.

Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should contact the Executive Secretary at least two weeks in advance of the meeting.

Dated: October 10, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27448 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–41]

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 15, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Vance Morris, Director, Single Family Home Mortgage Insurance Division, telephone number (202) 708–2700 (this is not a toll free number) for copies of the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35).

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: Survey of Title I Borrowers.

OMB Control Number: 2502–.

Description of the need for the information and proposed use: The Department has received numerous customer complaints about misrepresentations by Title I lenders and substandard work by contractors. The survey is intended to identify

significant program abuses, develop a comprehensive database of borrower concerns, and allow follow-up for complaint resolution.

Agency forms, if applicable: None.

Members of affected public: Borrowers approved for Title I Home Improvement loans.

Status of the proposed information collection: Not applicable.

Estimate of public burden: The Department estimates the number of responses at 10,000 annually. The aggregate reporting burden on respondents is calculated at 833 hours.

Authority: Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 9, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–27346 Filed 10–15–97; 8:45 am]

BILLING CODE 4210–27–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–40]

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 15, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Oliver Walker, Housing, Department of Housing & Urban Development, 451 7th Street, SW, Room 9116, Washington, DC 20410.

FOR FURTHER INFORMATION CONTACT: Ken Crandall, telephone number (202) 708–6396 (this is not a toll-free number) for copies for the proposed forms and other available documents.

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended).

The Notice is soliciting comments from members of the public 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: Subterranean Termite Soil Treatment Builder's Guarantee New Construction Subterranean Termite Soil Treatment Record.

OMB Control Number: 2502–xxxx.

Description of the need for the information and proposed use: This proposed information collection is authorizes the Secretary of the Department of Housing and Urban Development to insure qualified financial institutions against losses for mortgage defaults. Regulations at 24 CFR 200.145 discuss procedures and application processing for FHA mortgage insurance, including regulatory and compliance issues covering property eligibility. HUD adopted two forms from the National Pest Control Association, Forms NPCH–99a and NPCH–99b. The two forms provide new home purchasers with the builder's guarantee concerning termite control treatment and the work performed by a licensed pest control company.

Form numbers: Forms adapted from National Pest Control Association, Forms NPCH–99a and HPCH–99b.

Members of affected public: Individual builders and licensed inspectors nationwide.

An estimation of the total numbers of hours needed to prepare the information collection is 8,964, the number of respondents is 54,000, frequency of response is on occasion, and the hours of response is 166.

Status of the proposed information collection: new collection.

Authority: Section 236 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: October 9, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Commissioner.

[FR Doc. 97–27347 Filed 10–15–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4213–N–03]

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 17, 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 the 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: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 8, 1997.

David S. Christy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Historically Black Colleges and Universities Program.

Office: Community Planning and Development.

OMB Approval Number: 2506–0122.

Description of the Need for the Information and its Proposed Use: The purpose of this information collection is to provide grants to Historically Black Colleges and Universities to help them expand their role and effectiveness in addressing community development needs. This can include neighborhood revitalization and housing and economic development in their localities. This program is authorized under Section 107(b)(3) of the Housing and Community Development Act of 1974.

Form Number: HUD–441.1, HUD–661.1, HUD–40076HBCU, and SF–269A.

Respondents: Not-For-Profit Institutions.

Frequency of Submission: Recordkeeping, On Occasion and Quarterly.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden Hours
Application	104		1		40		4,160
Quarterly Reports	107		4		10		4,280
Recordkeeping	107		4		5		2,140

Total Estimate Burden Hours: 10,580.

Status: Reinstatement, with changes.

Contact: Delores Pruden, HUD, (202) 708–1590 x2496; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

[FR Doc. 97–27345 Filed 10–15–97; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4263–N–42]

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 17, 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: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: October 8, 1997.

David S. Cristy,

Director, Information Resources, Management Policy and Management Division.

Notice of Submission of Proposed Information Collection to OMB

Title of Proposal: Collection and Analysis of Data on the Housing Conditions of Migrant and Seasonal Farmworkers.

Office: Policy Development and Research.

OMB Approval Number: None.

Description of the Need for the Information and its Proposed Use: The Housing Assistance Council will collect data on the housing conditions of migrant and seasonal farmworkers in the East Coast migrant stream in order to document the types of units occupied, the quality of the housing, the cost of the farmworker's housing, and to rate the overcrowding conditions. This data will help HUD to better target its resources to areas to support the improvement of the farmworkers housing and health conditions.

Form Number: None.

Respondents: Individuals or Housholds.

Frequency of Submission: Annually.

Reporting Burden:

	Number of respondents	×	Frequency of response	×	Hours per response	=	Burden Hours
Survey	3,000		1		.25		750

Total Estimated Burden Hours: 750.
Status: New.
Contact: Ndeye Jackson, HUD, (202) 708–5537 x105; Joseph F. Lackey, Jr., OMB, (202) 395–7316.

Dated: October 8, 1997.

[FR Doc. 97–27348 Filed 10–15–97; 8:45 am]
BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–910–07–1020–00]

New Mexico Resource Advisory Council Meeting

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of council meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act and the Federal Advisory Committee Act of 1972 (FACA), 5 U.S.C. Appendix 1, The Department of the Interior, Bureau of Land Management (BLM), announces a meeting of the New Mexico Resource Advisory Council (RAC). The meeting will be held on November 20 and 21, 1997 at the Amberley Suites Hotel, 7620 Pan America Freeway, Albuquerque, NM 87109.

This is a transitional meeting for newly appointed RAC members. The agenda for the RAC meeting will include agreement on the meeting agenda, any RAC comments on the draft summary minutes of the last RAC meeting of June 25–26, 1997 in Mescalero, NM., briefing on the status of the NEPA process for the RAC Standards for Rangeland Health and Guidelines for Livestock Grazing, review and discussion of the June 26, 1997 New Mexico RAC Off Highway Vehicle recommendations, a BLM Weeds Program presentation and discussions about topics for future RAC meetings.

The meeting will begin on November 20, 1997 at 9 a.m. The meeting is open to the public. The time for the public to address the RAC is on the Thursday, November 20, 1997, from 3 p.m. to 5 p.m. The RAC may reduce or extend the end time of 5 p.m. depending on the number of people wishing to address the RAC. The length of time available for each person to address the RAC will be established at the start of the public comment period and will depend on how many people there are that wish to address the RAC. At the completion of the public comments the RAC may continue discussion on its Agenda items. The meeting on November 21, 1997, will be from 8 a.m. to 4 p.m. The end time of 4 p.m. for the meeting may be changed depending on the work remaining for the RAC.

FOR FURTHER INFORMATION CONTACT: Bob Armstrong, New Mexico State Office, Planning and Policy Team, Bureau of Land Management, 1474 Rodeo Road, PO Box 27115, Santa Fe, New Mexico 87502–0115, telephone (505) 438–7436.

SUPPLEMENTARY INFORMATION: The purpose of the Resource Advisory Council is to advise the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with the management of public lands. The Council's responsibilities include providing advice on long-range planning, establishing resource management priorities and assisting the BLM to identify State and regional standards for rangeland health and guidelines for grazing management.

Dated: October 9, 1997.

Gilbert J. Lucero,

Associate State Director.

[FR Doc. 97–27352 Filed 10–15–97; 8:45 am]
BILLING CODE 4310–FB–M

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent To Extend Existing Concession Contracts and Permits

SUMMARY: Pursuant to the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20 *et seq.*), notice is hereby given that the National Park Service intends to extend the following concession contracts and permits. These extensions are necessary to allow the continuation of public services during the completion of the planning for the parks. The current concessioners have performed their obligations to the satisfaction of the Secretary and retain their rights of preference under this administrative action of extending the existing contracts and permits.

The following concession contracts and permits will be extended for a period of one year through December 31, 1998: Jackson Hole Ski Corporation, LP–GRTE–024–90; Rendezvous Ski Tours, LP–GRTE025–90; Triangle X Ranch, CC–GRTE004—78; Triangle X Ranch, GRTE051–91; The National Outdoor Leadership School, LP–GRTE047–90; Spring Creek Ranch, LP–GRTE032–90; Greater Yellowstone Expeditions, LP–GRTE044–91; Samaritan Health System, CP–GLCA021–94; Silver Peaks Enterprises, Inc., CP–ROMO004–94.

The following concession contracts and permits will be extended for a period of two years through December 31, 1999: Wilderness River Adventures, Inc., CC–GLCA001–93; Edward Desrosier DBA Sun Tours, CP–GLAC010–94; Horseshoe Bend Marina, CP–BICA003–94; Rim House, CP–BLCA001–94; Lucon Corporation, CP–BICA007–94.

The following concession contracts and permits will be extended for a period of three years through December 31, 2000: Verkamps, Inc., CC–GRCA005–88; Grand Canyon Trail Rides, Inc., CC–GRCA004–88.

SUPPLEMENTARY INFORMATION: These concession contracts and permits will expire on or before December 31, 1997, unless extended. The National Park Service will not renew these contracts and permits for an extended period until planning can be conducted to determine the future direction for concession services at these parks. The necessary planning processes are expected to begin shortly and will affect the future of these concessions. The planning processes are expected to take one, two, or three years to complete. Until the planning processes are completed, it will not be in the best interest of the National Park Service to enter into long term concession contracts and permits. For these reasons, it is the intention of the National Park Service to extend the current contracts and permits for a period of one, two, or three years beginning on or before January 1, 1998.

Information about this notice can be sought from: Chief, Concessions Management, Intermountain Region, Attention: Judy Jennings, National Park Service, 12795 West Alameda Parkway, P.O. Box 25287, Denver, Colorado 80225–0287, e-mail rmso^{x}concessions@nps.gov, or call: (303) 969–2661.

Dated: October 2, 1997.

John E. Crowley,

Acting Director, Intermountain Region.

[FR Doc. 97–27407 Filed 10–15–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Record of Decision; Final General Management Plan/Environmental Impact Statement; Nez Perce National Historical Park, Idaho, Montana, Oregon, Washington, and Big Hole National Battlefield, Montana

ACTION: Notice of approval of Record of Decision.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, and the regulations promulgated by the Council on Environmental Quality (40 CFR 1505.2), the Department of the Interior, National Park Service, has prepared a Record of Decision on the Final General Management Plan/Environmental Impact Statement for Nez Perce National Historical Park in Idaho, Montana, Oregon, and Washington, and Big Hole National Battlefield in Montana.

DATE: The Record of Decision was recommended by the Superintendent of Nez Perce National Historical Park, concurred by the Deputy Regional Director, Pacific West Region, and approved by the Regional Director, Pacific West Region, on September 23, 1997.

ADDRESS: Inquiries regarding the Record of Decision or the Environmental Impact Statement should be submitted to the Superintendent, Nez Perce National Historical Park, P.O. Box 93, Spaulding, ID 83551; telephone: (208) 843–2261.

SUPPLEMENTARY INFORMATION: The text of the Record of Decision follow.

The Department of the Interior, National Park Service, has prepared this Record of Decision on the Final Environmental Impact Statement (EIS) for the General Management Plan for Nez Perce National Historical Park, Idaho, Montana, Oregon, and Washington and Big Hole National Battlefield, Montana. This Record of Decision is a statement of the decision made, the background of the project, other alternatives considered, public involvement in the decision making process, the basis for the decision, the environmentally preferable alternative, and measures to minimize environmental harm.

The Decision (Selected Action)

The National Park Service will implement the actions common to all sites and all alternatives along with the proposed actions and final boundaries for individual sites within the park. Some actions remain consistent with those presented in the Draft Environmental Impact. Others were modified in the Final Environmental Impact Statement to respond to public comments and concerns. Implementing actions are synonymous with Alternative 1 for 6 sites, Alternative 2 for 25 sites, and Alternative 3 for 7 sites.

Many overall actions would be designed to unify the various individual park sites. Nez Perce life ways would be respected. Plans would be developed to manage resources and vegetation, eliminate exotic and noxious plants, and reintroduce native species. The park would continue to work with local governments on issues that could affect park resources. Nez Perce people would be encouraged to participate in decisions about park planning, management, and operation. The current overall general park management approach would be retained with the appropriate additions and changes of selected, specific management techniques. Incremental steps would be taken to improve visitor services and operations. More cooperative agreements and other partnership mechanisms would be developed as needed to protect resources, and improve interpretation. Some facilities would be rehabilitated or expanded, modest developments would be added at some sites to meet requirements, and some historic structures would be adaptively used.

Background of the Project

The need to prepare the General Management Plan/Environmental Impact Statement resulted from the addition of 14 sites to the park in 1992 and because several important new issues needed resolution and revised direction and renewed focus was necessary.

Other Alternatives Considered

At each site, two other alternatives to the selected action were considered. The alternative that became the selected action varied from site to site. At each site, Alternative 1 was the No Action alternative. Under this alternative the accomplishment of many of the park's goals and objectives would continue to hinge on partnership through various types of formal and informal agreements, and viewsheds and cultural resources would continue to be protected through cooperative agreements, memorandums of understanding, scenic easements, or purchase on a willing-seller basis. While some individual sites are already adequately protected, under the No Action Alternative adverse impacts to cultural resources would potentially occur at other sites because this alternative provides the least additional protection of resources compared to the other alternatives. At most sites, few or no impacts to natural resources would occur. Interpretive information for visitors would be improved at most sites. The visitor experience would be enhanced because the interconnection of the various park sites would be made clear.

Under Alternative 2, the general management direction of the park would be retained unchanged. But, appropriate management techniques, based on individual circumstances would be applied. Incremental steps would be taken to fulfill requirements and standards for land and resource protection, visitor services, and operations. More cooperative agreements and other partnership mechanisms would be developed as needed to protect and interpret resources. Studies would be conducted to amplify and correct the interpretive story and to identify and protect natural and cultural resources. The existing facilities would be rehabilitated or expanded, and modest developments would be added at some sites to meet operational and visitor use requirements. Some new visitor facilities would be built and others rehabilitated, and several overlooks and pullouts would be constructed or relocated. Some historic structures would be adaptively used. These actions would be accomplished in partnership with other agencies and organizations.

Under Alternative 3, more facility development and a greater capital investment to develop new visitor facilities and the operational costs associated with added personnel for certain locations would occur. At a few sites visitation would increase more, and in a few cases interpretation would be improved through the addition of more park personnel or their presence for more months each year. There would be more capital improvement expenditures for the construction of new interpretive facilities, the enhancement of existing interpretive facilities, and the rehabilitation of several historic buildings.

Basis for Decision

After careful evaluation of public comments throughout the planning

process, including comments on the Draft and Final GMP/EIS, the selected action best accomplishes the legislated purpose of the park and battlefield. This includes facilitating the protection and interpretation of sites in Idaho, Oregon, Washington, and Montana that have exceptional value in commemorating a portion of the history of the United States and that balances the statutory mission of the National Park Service to provide long-term protection of the units' resources and significance while allowing for appropriate levels of visitor use and appropriate means of visitor enjoyment. The selected action also best accomplishes identified management goals and desired future conditions, with the fewest environmental impacts.

Environmentally Preferable Alternative

The alternative which causes the least damage to the cultural and biological environment, and that best protects, preserves, and enhances resources is Alternative 2.

Measures To Minimize Environmental Harm

All practicable measures to avoid or minimize environmental impacts that could result from implementation of the selected action have been identified and incorporated into the selected action. Implementation of the selected action would avoid any adverse impacts on wetlands and any endangered or threatened species or that would result in the destruction or adverse modification of critical habitat of such species. Protection of viewsheds and cultural resources not currently owned by the National Park Service would be done through cooperative agreements, memorandums of understanding, scenic easements, or purchase on a willing-seller basis.

Public Involvement

Public comment has been requested, considered, and incorporated throughout this planning process in numerous ways. The National Park Service held 21 public scoping meetings in Idaho, Washington, Oregon, and Montana in January and February 1995. A newsletter was mailed to approximately 1,600 addresses announcing these meetings and that presented the purpose, significance, and interpretive themes for the park. A second newsletter presenting the desired future for the park was distributed. A 50-page Alternatives Newsbook was distributed in April 1996. Informal meetings on the alternatives were also held. In July 1996, postcards indicating which alternative was selected for the proposed action park-wide and for each individual site were distributed. Workshops were held in 16 communities near park sites, on the draft EIS. Consultation was also completed with the U.S. Fish and Wildlife Service, the U.S. Army Corps of Engineers, the U.S. Forest Service, the Advisory Council on Historic Preservation, the Oregon, Montana, Idaho and Washington State Historic Preservation Offices, Native American tribes, state and local governments and organizations.

Dated: October 2, 1997.

Rory D. Westberg,

Superintendent, Columbia Cascades Support Office, Pacific West Region.

[FR Doc. 97–27408 Filed 10–15–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Acadia National Park, Bar Harbor, Maine; Acadia National Park Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770, 5 U.S.C. App. 1, Sec. 10), that the Acadia National Park Advisory Commission will hold a meeting on Monday, October 27, 1997.

The Commission was established pursuant to Pub. L. 99–420, sec. 103. The purpose of the commission is to consult with the Secretary of the Interior, or his designee, on matters relating to the management and development of the park, including but not limited to the acquisition of lands and interests in lands (including conservation easements on islands) and termination of rights of use and occupancy.

The meeting will convene in the Chart Room, Youth Center Bldg., U.S. Navy Base, Winter Harbor, Maine, at 1 p.m. to consider the following agenda:

1. Review and approval of minutes from the meeting held July 28, 1997.
2. Tour of Schoodic Peninsula.
3. Land Conservation Committee report.
4. U.S. Naval Security Group Activity current mission and future projections.
5. Old business.
6. Superintendent's report.
7. Public comments.
8. Proposed agenda and date of next Commission meeting.

The meeting is open to the public. Interested persons may make oral/written presentations to the Commission or file written statements. Such requests should be made to the Superintendent at least seven days prior to the meeting.

Further information concerning this meeting may be obtained from the Superintendent, Acadia National Park, P.O. Box 177, Bar Harbor, Maine 04609, tel: (207) 288–3338.

Dated: October 3, 1997.

Paul F. Haertel,

Superintendent, Acadia National Park.

[FR Doc. 97–27406 Filed 10–15–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Manzanar National Historic Site Advisory Commission; Meeting

Notice is hereby given in accordance with the Federal Advisory Committee Act that a meeting of the Manzanar National Historic Site Advisory Commission will be held at 1 p.m. on Saturday, October 25, 1997, at the Inyo County Administrative Center, Board of Supervisors' Chambers, 224 N. Edwards Street (U.S. Highway 395), Independence, California, to hear presentations on issues related to the planning, development, and management of Manzanar National Historic Site.

The Advisory Commission was established by Pub. L. 102–248, to meet and consult with the Secretary of the Interior or his designee, with respect to the development, management, and interpretation of the site, including the preparation of a general management plan for the Manzanar National Historic Site. Members of the Commission are as follows:

Ms. Sue Kunitomi Embrey, Chairperson
Mr. William Michael, Vice Chairperson
Mr. Keith Bright
Ms. Martha Davis
Mr. Ronald Izumita
Mr. Gann Matsuda
Mr. Vernon Miller
Mr. Mas Okui
Mr. Glenn Singley
Mr. Richard Stewart

The main agenda items at this meeting of the Commission will include the following:

(1) Status report on the development of Manzanar National Historic Site by Superintendent Ross R. Hopkins.

(2) General discussion of miscellaneous matters pertaining to future Commission activities and Manzanar National Historic Site development issues.

(3) Public comment period.

This meeting is open to the public. It will be recorded for documentation and transcribed for dissemination. Minutes of the meeting will be available to the

public after approval of the full Commission. A transcript will be available after November 30, 1997. For a copy of the minutes, contact the Superintendent, Manzanar National Historic Site, P.O. Box 426, Independence, California 93526.

Dated: September 25, 1997.

Ross R. Hopkins,

Superintendent, Manzanar National Historic Site.

[FR Doc. 97–27409 Filed 10–15–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

National Park Service

Mississippi River Coordinating Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Notice of Meeting.

SUMMARY: This notice announces an upcoming meeting of the Mississippi River Coordinating Commission. Notice of this meeting is required under the Federal Advisory Committee Act (Pub. L. 92–463).

MEETING DATE, TIME, AND ADDRESS: Wednesday, November 5, 1997; 6:30 p.m. to 9:00 p.m.; Council Chambers, Metropolitan Council, 230 East Fifth Street, St. Paul, Minnesota.

An agenda for the meeting will be available by October 17, 1997. Contact the Superintendent of the Mississippi National River and Recreation Area (MNRRA) at the address listed below. Public statements about matters related to the MNRRA will be accepted at this time.

FOR FURTHER INFORMATION CONTACT: Superintendent JoAnn Kyral, Mississippi National River and Recreation Area, 175 East Fifth Street, Suite 418, St. Paul, Minnesota 55101 (612–290–4160).

SUPPLEMENTARY INFORMATION: The Mississippi River Coordinating Commission was established by Public Law 100–696, dated November 18, 1988.

Dated: October 2, 1997.

Alan M. Hutchings,

Acting Regional Director, Midwest Region.

[FR Doc. 97–27410 Filed 10–15–97; 8:45 am]

BILLING CODE 4310–70–P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

Request for Determination of Valid Existing Rights Within the Monongahela National Forest

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Notice of request for determination of valid existing rights and invitation for interested persons to participate.

SUMMARY: The Office of Surface Mining Reclamation and Enforcement (OSM) has been ordered by the United States District Court for the Northern District of West Virginia to determine whether Walter D. Helmick has valid existing rights (VER) to surface mine coal on Federal lands within the Monongahela National Forest in Pocahontas County, West Virginia. Mr. Helmick is successor in interest to Ernest J. Van Gilder, who previously submitted a VER request in connection with the same property. By this notice, OSM is inviting interested persons to participate in the proceeding and to submit relevant factual material on the matter. OSM intends to develop a complete administrative record and will render a final agency decision on whether Mr. Helmick has VER.

DATES: OSM will accept written materials on this request for a VER determination until 5 p.m. local time on October 31, 1997.

ADDRESSES: Hand deliver or mail written materials to: Peter R. Michael, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, room 218, Three Parkway Center, Pittsburgh, PA 15200.

Documents contained in the Administrative Record are available for public review at the locations listed below during normal business hours, Monday through Friday, excluding holidays.

Office of Surface Mining Reclamation and Enforcement Appalachian Regional Coordinating Center, Room 218, Three Parkway Center, Pittsburgh, PA 15200, Telephone: (412) 937–2867.

Office of Surface Mining Reclamation and Enforcement Charleston Field Office, 1027 Virginia Street E, Charleston, WV 25301, Telephone: (304) 347–7158.

FOR FURTHER INFORMATION CONTACT: Peter R. Michael, Office of Surface Mining Reclamation and Enforcement, Appalachian Regional Coordinating Center, Room 218, Three Parkway Center, Pittsburgh, PA 15200, Telephone: (412) 937–2867.

SUPPLEMENTARY INFORMATION: Section 522(e) of the Surface Mining Control and Reclamation Act of 1977 prohibits surface coal mining operations on certain lands unless a person has VER to conduct such operations or unless the operation was in existence on August 3, 1977. Section 522(e)(2) applies the prohibition to Federal lands within the boundaries of any national forest unless the Secretary of the Interior finds that there are no significant recreational, timber, economic, or other values that may be incompatible with surface coal mining operations and the surface operations and impacts are incident to an underground coal mine.

Under section 523 of the Act and 30 CFR 740.11, the approved State program (including the State definition of VER) applies to all Federal lands within States with approved regulatory programs. However, under 30 CFR 745.13, the Secretary has exclusive authority to determine VER for surface coal mining and reclamation operations on Federal lands within the boundaries of the areas specified in paragraphs (e)(1) and (e)(2) of section 522 of the Act. OSM reaffirmed these basic principles in the preamble to the suspension notice concerning VER published on November 20, 1986 (51 FR 41954).

The term VER is defined in Subsection 2.130 of the West Virginia Surface Mining Reclamation Regulations. Subsection 2.130 provides that VER exists, except for haul roads, in each case in which a person demonstrates that the limitation provided for in Section 22–3–22(d) of the West Virginia Surface Coal Mining and Reclamation Act would result in the unconstitutional taking of that person's rights.

In 1994, Walter D. Helmick re-acquired from Ernest J. Van Gilder certain mineral rights beneath Federal lands within the Monongahela National Forest in the Little Levels District of Pocahontas County, West Virginia. Mr. Van Gilder had purchased the mineral rights from Mr. Helmick in 1990 and later requested a VER determination from OSM for his planned surface mining operation on the property in question. Mr. Helmick's current VER request incorporates as part of the administrative record all supporting documents and public comments received by OSM in response to the request of Mr. Van Gilder and previous interested parties.

Mr. Helmick alleges that he owns mineral rights on two adjacent tracts of

land, the surface of which is owned by the United States of America and managed by the United States Forest Service. Tract 574 contains 1,045.3 acres and is situated seven miles west of Hillsboro, West Virginia on the waters of Hills Creek and the waters of Robins Run, a tributary of Spring Creek. The second tract, known as the Killingsworth Tract, contains 179 acres and is situated on the headwaters of Spruce Run, a tributary of the Greenbrier River. Both properties are located on Briery Knob. They each were mined during the 1940's by surface mining methods. A face-up area for an underground coal mine under permit by the West Virginia Department of Energy is located on Tract 574.

In order to establish that the requester has VER for surface coal mining on the properties in question, OSM must first determine that the requester has demonstrated all necessary rights to surface mine the coal. On November 17, 1989, the U.S. Department of Agriculture (USDA) Forest Service advised OSM of the USDA Office of General Counsel's opinion that ''* * * the owners did not reserve the right to remove the coal by surface mining when these lands were acquired by the United States.'' This opinion was reaffirmed on February 6, 1991, subsequent to Mr. Van Gilder's acquisition of the coal and his VER determination request. On April 23, 1991, OSM informed Mr. Van Gilder that the agency could not consider his request to be administratively complete in light of ''* * * the unresolved difference of opinion concerning the nature of the property rights you possess.''

In December, 1995, Mr. Helmick filed an action in the United States District Court for the Northern District of West Virginia, claiming that his mineral interests had been taken without just compensation when the Forest Service determined that Mr. Van Gilder's interest in the tract did not include the right to conduct surface mining. *Helmick* v. *United States,* No. 95–0115 (N.D. W.Va.) After the Government filed a motion to dismiss for failure to state a claim on February 15, 1996, Mr. Helmick amended his complaint by adding the Department of the Interior as a party, by eliminating his claim of a taking under the Tucker Act, and by substituting three new counts seeking to review ''agency action'' under the APA. On September 8, 1997, the court in *Helmick* ordered the Secretary of the Interior to render a final VER determination by December 6, 1997.

In order to comply with the Court's order, and because of the time that has passed since OSM's last administrative action in this matter, OSM believes it is appropriate to reopen the administrative record to allow all interested persons to provide any additional factual information as to whether the requester has the property right to mine by the proposed method, and as to whether the requester has VER under the applicable standards. If OSM determines that Walter D. Helmick has VER, he may apply to the West Virginia Department of Energy for a permit authorizing the surface and auger mining of coal on the two tracts in question. If it is determined that Mr. Helmick does not have VER, no surface or auger mining will be permitted.

Dated: October 9, 1997.

Allen D. Klein,

Regional Director, Appalachian Regional Coordinating Center.

[FR Doc. 97–27349 Filed 10–15–97; 8:45 am]

BILLING CODE 4310–05–M

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–758 (Final)]

Collated Roofing Nails From Korea

AGENCY: United States International Trade Commission, Commerce.

ACTION: Termination of investigation.

SUMMARY: On October 1, 1997, the Department of Commerce published notice in the **Federal Register** of a negative final determination of sales at less than fair value in connection with the subject investigation (62 FR 51420). Accordingly, pursuant to section 207.40(a) of the Commission's Rules of Practice and Procedure (19 CFR 207.40(a)), the antidumping investigation concerning collated roofing nails from Korea (investigation No. 731–TA–758 (Final)) is terminated.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Fred Ruggles (202–205–3187), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

AUTHORITY: This investigation is being terminated under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 201.10 of the Commission's rules (19 CFR § 201.10).

By order of the Commission.

Issued: October 9, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–27490 Filed 10–15–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 332–385]

General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Trading Partners of Eastern Europe, the European Free Trade Area, and Turkey

AGENCY: United States International Trade Commission.

ACTION: Institution of investigation and scheduling of public hearing.

EFFECTIVE DATE: October 6, 1997.

SUMMARY: Following receipt on September 19, 1997, of a request from the Office of the United States Trade Representative (USTR), the Commission instituted investigation No. 332–385, General Agreement on Trade in Services: Examination of the Schedules of Commitments Submitted by Trading Partners of Eastern Europe, the European Free Trade Area, and Turkey, under section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)).

FOR FURTHER INFORMATION: Information on service industries may be obtained from Mr. Richard Brown, Office of Industries (202–205–3438) and Mr. Scott Ki, Office of Industries (202–205–2160); economic aspects, from Mr. William Donnelly, Office of Economics (202–205–3223); and legal aspects, from Mr. William Gearhart, Office of the General Counsel (202–205–3091). The media should contact Ms. Margaret O'Laughlin, Office of External Relations (202–205–1819). Hearing impaired individuals are advised that information on this matter can be obtained by contacting the TDD terminal on (202–205–1810).

BACKGROUND: As requested by the USTR in a letter dated September 19, 1997, the Commission, pursuant to section 332(g) of the Tariff Act of 1930, has instituted an investigation and will prepare a report that (1) examines the content of schedules of commitments under the General Agreement on Trade in Services (GATS) for the countries specified

below, explaining the commitments in non-technical language; and (2) seeks to identify the potential benefits and limitations of foreign commitments. The Commission will examine sector-specific commitments scheduled by Bulgaria, the Czech Republic, Hungary, Iceland, Liechtenstein, Norway, Poland, Romania, the Slovak Republic, Slovenia, Switzerland, and Turkey, with respect to the following industries:

- Distribution services (defined as wholesaling, retailing, and franchising services);
- Education services;
- Communication services (defined as enhanced telecommunication, courier, and audiovisual services);
- Health care services;
- Professional services (defined as accounting, advertising, and legal services);
- Architectural, engineering, and construction (AEC) services;
- Land-based transport services (defined as rail and trucking services); and
- Travel and tourism services.

In addition, the Commission will examine horizontal commitments relevant to the specified industries, such as those regarding investment and temporary entry and stay of foreign workers. As requested by the USTR, the Commission plans to deliver its report to the USTR by September 18, 1998.

The investigation follows Commission investigation No. 332–374, General Agreement on Trade in Services: Examination of the Schedule of Commitments Submitted by Asia Pacific Trading Partners, requested by the USTR on November 13, 1996; investigation No. 332–367, General Agreement on Trade in Services: Examination of South American Trading Partners' Schedules of Commitments, requested by the USTR on April 9, 1996; and Commission investigation No. 332–358, General Agreement on Trade in Services: Examination of Major Trading Partners' Schedules of Commitments, requested by the USTR on December 28, 1994. In those reports, the Commission examined the commitments scheduled by selected trading partners with respect to the industries delineated above. The results of investigation No. 332–374 were published in August 1997 in USITC Publication 3053. The results of investigation No. 332–367 were published in December 1996 in USITC Publication 3007. The results of investigation No. 332–358 were published in December 1995 in USITC Publication 2940. These publications are available on the ITC Internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

PUBLIC HEARING: A public hearing in connection with the investigation will be held at the U.S. International Trade Commission Building, 500 E Street SW, Washington, DC, beginning at 9:30 a.m. on April 8, 1998. All persons shall have the right to appear, by counsel or in person, to present information and to be heard. Requests to appear at the public hearing should be filed with the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436, no later than 5:15 p.m., March 25, 1998. Any prehearing briefs (original and 14 copies) should be filed not later than 5:15 p.m., March 25, 1998. The deadline for filing post-hearing briefs or statements is 5:15 p.m., April 22, 1998. In the event that, as of the close of business on March 25, 1998, no witnesses are scheduled to appear at the hearing, the hearing will be canceled. Any person interested in attending the hearing as an observer or non-participant may call the Secretary to the Commission (202–205–1816) after March 25, 1998, to determine whether the hearing will be held.

WRITTEN SUBMISSIONS: In lieu of or in addition to participating in the hearing, interested parties are invited to submit written statements concerning the matters to be addressed by the Commission in its report on this investigation. Commercial or financial information that a submitter desires the Commission to treat as confidential must be submitted on separate sheets of paper, each clearly marked ''Confidential Business Information'' at the top. All submissions requesting confidential treatment must conform with the requirements of section § 201.6 of the Commission's Rules of Practice and Procedure (19 C.F.R. 201.6). All written submissions, except for confidential business information, will be made available in the Office of the Secretary of the Commission for inspection by interested parties. To be assured of consideration by the Commission, written statements relating to the Commission's report should be submitted to the Commission at the earliest practical date and should be received no later than the close of business on April 22, 1998. All submissions should be addressed to the Secretary, United States International Trade Commission, 500 E Street SW, Washington, DC 20436.

Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000.

Issued: October 7, 1997.

By order of the Commission.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–27489 Filed 10–15–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 731–TA–761 and 762 (Final)]

Static Random Access Memory Semiconductors From the Republic of Korea and Taiwan

AGENCY: United States International Trade Commission; Commerce.

ACTION: Scheduling of the final phase of antidumping investigations.

SUMMARY: The Commission hereby gives notice of the scheduling of the final phase of antidumping investigations No. 731–TA–761 and 762 (Final) under section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act) to determine whether an industry in the United States is materially injured or threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of less-than-fair-value imports from the Republic of Korea (Korea) and Taiwan of static random access memory semiconductors (SRAMs). [1]

For further information concerning the conduct of this phase of the investigations, hearing procedures, and rules of general application, consult the Commission's Rules of Practice and Procedure, part 201, subparts A through E (19 CFR part 201), and part 207,

[1] The products covered by these investigations are synchronous, asynchronous, and specialty SRAMs from Korea and Taiwan, whether assembled or unassembled. Assembled SRAMs include all package types. Unassembled SRAMs include processed wafers or die, uncut die, and cut die. Processed wafers produced in Korea or Taiwan, but packaged, or assembled into memory modules, in a third country, are included in the scope; processed wafers produced in a third country and assembled or packaged in Korea or Taiwan are not included in the scope.

The scope of these investigations includes modules containing SRAMs. Such modules include single in-line processing modules (SIPs), single in-line memory modules (SIMMs), dual in-line memory modules (DIMMs), memory cards, or other collections of SRAMs, whether unmounted or mounted on a circuit board.

The SRAMs within the scope of these investigations are classified in statistical reporting numbers 8542.13.8037 through 8542.13.8049, 8473.30.1000 through 8473.30.9000, and 8542.13.8005 of the Harmonized Tariff Schedule of the United States (HTSUS). Although the HTSUS statistical reporting numbers are provided for convenience and customs purposes, the written description of the scope of these investigations is dispositive.

subparts A and C (19 CFR part 207), as amended by 62 FR 39438, July 23, 1997.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Diane J. Mazur (202–205–3184), Office of Investigations, U.S. International Trade Commission, 500 E Street SW, Washington, DC 20436. Hearing-impaired persons can obtain information on this matter by contacting the Commission's TDD terminal on 202–205–1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–205–2000. General information concerning the Commission may also be obtained by accessing its internet server (http://www.usitc.gov or ftp://ftp.usitc.gov).

SUPPLEMENTARY INFORMATION:

Background

The final phase of these investigations is being scheduled as a result of affirmative preliminary determinations by the Department of Commerce that imports of SRAMs from Korea and Taiwan are being sold in the United States at less than fair value within the meaning of section 733 of the Act (19 U.S.C. § 1673b). The investigations were requested in a petition filed on February 25, 1997, by Micron Technology, Inc., Boise, ID.

Participation in the Investigations and Public Service List

Persons, including industrial users of the subject merchandise and, if the merchandise is sold at the retail level, representative consumer organizations, wishing to participate in the final phase of these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided in section 201.11 of the Commission's rules, no later than 21 days prior to the hearing date specified in this notice. A party that filed a notice of appearance during the preliminary phase of the investigations need not file an additional notice of appearance during this final phase. The Secretary will maintain a public service list containing the names and addresses of all persons, or their representatives, who are parties to the investigations.

Limited Disclosure of Business Proprietary Information (BPI) Under an Administrative Protective Order (APO) and BPI Service List

Pursuant to section 207.7(a) of the Commission's rules, the Secretary will make BPI gathered in the final phase of these investigations available to authorized applicants under the APO issued in the investigations, provided that the application is made no later than 21 days prior to the hearing date specified in this notice. Authorized applicants must represent interested parties, as defined by 19 U.S.C. 1677(9), who are parties to the investigations. A party granted access to BPI in the preliminary phase of the investigations need not reapply for such access. A separate service list will be maintained by the Secretary for those parties authorized to receive BPI under the APO.

Staff Report

The prehearing staff report in the final phase of these investigations will be placed in the nonpublic record on February 3, 1998, and a public version will be issued thereafter, pursuant to section 207.22 of the Commission's rules.

Hearing

The Commission will hold a hearing in connection with the final phase of these investigations beginning at 9:30 a.m. on February 18, 1998, at the U.S. International Trade Commission Building. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission on or before February 10, 1998. A nonparty who has testimony that may aid the Commission's deliberations may request permission to present a short statement at the hearing. All parties and nonparties desiring to appear at the hearing and make oral presentations should attend a prehearing conference to be held at 9:30 a.m. on February 12, 1998, at the U.S. International Trade Commission Building. Oral testimony and written materials to be submitted at the public hearing are governed by sections 201.6(b)(2), 201.13(f), and 207.24 of the Commission's rules. Parties must submit any request to present a portion of their hearing testimony *in camera* no later than 7 days prior to the date of the hearing .

Written Submissions

Each party who is an interested party shall submit a prehearing brief to the Commission. Prehearing briefs must conform with the provisions of section 207.23 of the Commission's rules; the deadline for filing is February 10, 1998. Parties may also file written testimony in connection with their presentation at the hearing, as provided in section 207.24 of the Commission's rules, and posthearing briefs, which must conform with the provisions of section 207.25 of the Commission's rules.

The deadline for filing posthearing briefs is February 26, 1998; witness testimony must be filed no later than three days before the hearing. In addition, any person who has not entered an appearance as a party to the investigation may submit a written statement of information pertinent to the subject of the investigations on or before February 26, 1998. On March 19, 1998, the Commission will make available to parties all information on which they have not had an opportunity to comment. Parties may submit final comments on this information on or before March 23, 1998, but such final comments must not contain new factual information and must otherwise comply with section 207.30 of the Commission's rules. All written submissions must conform with the provisions of section 201.8 of the Commission's rules; any submissions that contain BPI must also conform with the requirements of sections 201.6, 207.3, and 207.7 of the Commission's rules.

In accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by either the public or BPI service list), and a certificate of service must be timely filed. The Secretary will not accept a document for filing without a certificate of service.

Authority: These investigations are being conducted under authority of title VII of the Tariff Act of 1930; this notice is published pursuant to section 207.21 of the Commission's rules.

By order of the Commission.

Issued: October 9, 1997.

Donna R. Koehnke,

Secretary.

[FR Doc. 97–27493 Filed 10–15–97; 8:45 am]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[Investigation No. 731–TA–750 (Final)]

Vector Supercomputers From Japan

Determination

On the basis of the record [1] developed in the subject investigation, the United States International Trade Commission determines,[2] pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)) (the Act), that an industry in the United States is threatened with material injury by reason of imports from Japan of vector supercomputers,

[1] The record is defined in sec. 207.2(f) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(f)).

[2] Commissioner Crawford not participating.

provided for in heading 8471 of the Harmonized Tariff Schedule of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).[3]

Background

The Commission instituted this investigation effective July 29, 1996, following receipt of a petition filed with the Commission and the Department of Commerce by Cray Research, Inc., Eagan, MN. The final phase of the investigation was scheduled by the Commission following notification of a preliminary determination by the Department of Commerce that imports of vector supercomputers from Japan were being sold at LTFV within the meaning of section 733(b) of the Act (19 U.S.C. 1673b(b)). Notice of the scheduling of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of May 7, 1997 (62 FR 24973). The hearing was held in Washington, DC, on August 27, 1997, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on October 3, 1997. The views of the Commission are contained in USITC Publication 3062 (October 1997), entitled ''Vector Supercomputers from Japan: Investigation No. 731–TA–750 (Final).''

By order of the Commission.

Issued: October 6, 1997

Donna R. Koehnke,

Secretary.

[FR Doc. 97–27491 Filed 10–15–97; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq., in United States v. Cleaveland Industrial Center, et al.

In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation and Liability Act (''CERCLA''), as amended, 42 U.S.C. 122(i), and Department policy, 28 CFR 50.7, 38 FR 19029, notice is hereby given that a proposed consent decree in *United States* v. *Cleaveland Industrial Center, et al.* Civil Action No. 94–5500 (WGB), was lodged in the United States District Court for the District of New Jersey on October 1, 1997. The proposed consent decree, if entered, will resolve the liability of Cleaveland Industrial Center, a New Jersey partnership, and Eversden L. Clark, Jr. (collectively, ''Defendants''), under Section 107(a) of CERCLA, 42 U.S.C. 9607(a), in connection with alleged releases of hazardous substances at the Fabritex Mills Superfund Site, an 18-acre parcel located at 20 Park Road, Long Valley, Washington Township, Morris County, New Jersey. Under the settlement reflected in the proposed consent decree, Defendants will pay response costs of $285,000 to the United States.

The Department of Justice will receive, for a period of thirty (30) days from the date of publication of this notice, written comments relating to the proposed Consent Decree. Comments should be addressed to Lois J. Schiffer, Assistant Attorney General of the Environment and Natural Resources Division, United States Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Cleaveland Industrial Center, et al.*, Department of Justice No. 90–11–3–1386.

The proposed Consent Decree may be examined at the office of the United States Attorney for the District of New Jersey, Federal Building, Suite 700, Newark, New Jersey 07102; at Region I office of the United States Environmental Protection Agency, 290 Broadway, New York, New York 10007; and at the Consent Decree Library, 1120 G Street, NW., 4th Floor, Washington, DC 20005, 202–624–0892. A copy of the proposed consent decree may be obtained in person or by mail from the Consent Decree Library, at the above address. In requesting a copy, please enclose a check in the amount of $4.00 (25 cents per page reproduction costs) payable to Consent Decree Library.

Joel M. Gross,

Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 97–27329 Filed 10–15–97; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF LABOR

Pension and Welfare Benefits Administration

Public Hearing on 401(k) Plan Fees

AGENCY: Pension and Welfare Benefits Administration, Department Of Labor.

ACTION: Notice of public hearing.

SUMMARY: The purpose of this Notice is to inform interested persons that the Department will be holding a public hearing on November 12, 1997 to obtain information relating to investment management, administration and other fees charged to 401(k) plans and participants. The Notice invites interested persons to testify at the hearing and/or make a written submission of their views and/or data relating to 401(k) plan fees. The information obtained from the hearing and written comments will assist the Department in assessing the availability of information regarding plan fees and expenses charged to individual 401(k) plan accounts to plan fiduciaries and participants, the extent to which plan fiduciaries and participants consider such information, and what action, if any, is necessary to address the identified problems.

DATES: The public hearing regarding fees charged to 401(k) plans is scheduled for Wednesday, November 12, 1997, and, if necessary, for Thursday, November 13, 1997. The hearing will begin at 10 a.m. on both days. Requests to testify at the hearing and written comments should be received by the Department no later than November 3, 1997. Oral presentations will be limited to 15 minutes, but an extended statement may be submitted for the record. Individuals with disabilities, who need special accommodations, should contact Debra Golding by November 3, 1997, at the address indicated in this Notice.

ADDRESSES: Requests to testify at the hearing and written comments should be submitted to: Debra Golding, Pension and Welfare Benefits Administration, Room N–5669, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. All submissions will be open to public inspection at the Public Documents Room, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5638, 200 Constitution Avenue, NW., Washington, DC 20210. The hearing will be held in Room S–4215 A–C, 200 Constitution Avenue, NW., Washington, DC 20210.

FOR FURTHER INFORMATION CONTACT: Debra Golding, Office of Regulations

[3] The Commission further determines, pursuant to 19 U.S.C. 673d(b)(4)(B), that it would not have found material injury but for the suspension of liquidation of entries of the merchandise under investigation.

and Interpretations, Pension and Welfare Benefits Administration, U.S. Department of Labor, Room N–5669, 200 Constitution Avenue, NW., Washington, DC 20210, (202) 219–8671. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: In recent years there has been a tremendous growth in the number of defined contribution plans, especially section 401(k) plans. A number of questions have been raised in the media and elsewhere with respect to the fees and expenses currently being charged to 401(k) plans and their participants. In 1996, the Advisory Council on Employee Welfare and Pension Benefit Plans included a Working Group on Guidance in Selecting and Monitoring Service Providers which considered, among other areas, the selection and monitoring of investment service providers to small 401(k) plans. Recently, questions have been raised as to whether 401(k) plans are being overcharged for certain services; whether fees charged to plans are hidden; whether plan sponsors are doing enough to protect plan participants from excessive fees; and whether participants understand what fees and expenses are being charged to their accounts. In an effort to consider these questions, the Department is conducting a public hearing and inviting public comment on current practices relating to fees and expenses charged to 401(k) plans. Among other comments, the Department is interested in obtaining information in the following areas:

1. In selecting and monitoring service providers, are employers/plan sponsors being furnished with sufficient information to evaluate whether the fees and expenses associated with plan investments, investment options, and administrative services are reasonable? If not, what additional information should be provided to or requested by plan sponsors and is it readily available? What steps are plan sponsors taking to ensure that the fees and expenses charged to the individual accounts of the participants are reasonable?

2. Are plan participants being furnished with sufficient information about the fees and expenses associated with the investment options offered under their plan to make informed investment decisions? What additional information should be provided to or requested by participants and is it readily available?

3. Is the information regarding services, fees and expenses that is disclosed to participants regarding their accounts provided in a manner understandable to most participants? Is the disclosure automatic or upon request? If automatic, how often is the disclosure provided and to whom is it provided (plan sponsor and/or participants)?

4. How are the services and the respective fees included in a bundled fee arrangement disclosed? How are the fees and expenses with respect to each of the covered services in a bundled arrangement determined?

5. What actions, if any, should the Department take to improve consideration and disclosure of fees and expenses charged to 401(k) plans? If action is necessary, what information should be required to be disclosed? Would a uniform format for such disclosure be helpful to participants?

Notice of Public Hearing

Notice is hereby given that a public hearing regarding fees charged to 401(k) plans is scheduled for Wednesday, November 12, 1997 and, if necessary, Thursday, November 13, 1997. The hearing will begin at 10 a.m.

Signed at Washington, DC, this 9th day of October, 1997.

Olena Berg,

Assistant Secretary, Pension and Welfare Benefits Administration.

[FR Doc. 97–27431 Filed 10–15–97; 8:45 am]

BILLING CODE 4510–29–P

LEGAL SERVICES CORPORATION

Availability of Proposed Strategic Plan

AGENCY: Legal Services Corporation.

ACTION: Solicitation of public comment on proposed Strategic Plan for fiscal years 1998 through 2003.

SUMMARY: The Legal Services Corporation (''LSC'' or ''Corporation'') has developed a proposed Strategic Plan to guide its programmatic activities for fiscal years 1998 through 2003. Public comment on the proposal is solicited prior to consideration of the proposed Strategic Plan by LSC's Board of Directors of LSC.

ADDRESS: Requests for a copy of the proposed Strategic Plan and comments thereon should be submitted to the Office of the General Counsel, Legal Services Corporation, 750 First St. NE., 11th Floor, Washington, DC 20002–4250. Comments may also be submitted in writing via E-mail at echolsr@smtp.lsc.gov. The proposed Strategic Plan is also posted on LSC's Home Page at http://www.lsc.gov.

DATES: Comments should be received on or before November 12, 1997.

FOR FURTHER INFORMATION CONTACT: Robert Echols at (202) 336–7269.

SUPPLEMENTARY INFORMATION: The Government Performance and Results Act (''GPRA,'' or ''the Results Act,'' 5 U.S.C. 306) places uniform requirements on federal agencies for strategic planning. Although the LSC is not a federal agency, and thus not subject to GPRA, it has elected to follow a planning process based upon the one set forth in GPRA, to bring its budget processes into conformity with those of federal agencies and to promote sound management and effective realization of LSC's mission. The proposed Strategic Plan represents a first step in that process.

As provided by GPRA, LSC's proposed Strategic Plan for FY 1998 through FY 2003 sets forth: a statement of LSC's mission; LSC's general goals for the period; how LSC plans to achieve those goals; key external factors which could significantly affect LSC's achievement of its goals; how LSC's general goals and objectives will be translated into more specific, objectively expressed performance goals for each year in an Annual Performance Plan, and how LSC's performance will be evaluated. A separate section sets forth similar information for LSC's Office of Inspector General.

LSC's Board of Directors intends to adopt a final Strategic Plan for the Corporation prior to December 31, 1997.

Dated: October 10, 1997.

Victor M. Fortuno,

Secretary of the Corporation.

[FR Doc. 97–27454 Filed 10–15–97; 8:45 am]

BILLING CODE 7050–01–M

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Correction; Sunshine Act Meeting

''Federal Register'' Citation of Previous Announcement: FR, Vol. 62, No. 174–47520, Filed 9/9/97.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: Closed meeting: October 28, 1997 9:00 a.m.–4:45 p.m.; Open meeting: October 29, 1997, 10:30 a.m.–3:30 p.m.

CHANGES IN MEETING:

Open meeting: October 28, 1997, 9:00 a.m–4:45 p.m.

Closed meeting to discuss staff support: October 29, 1997, 9:00–10–a.m.

Open meeting: October 29, 1997, 10:00 a.m.–3:30 p.m.

TOPICS TO BE DISCUSSED: (1) NCLIS studies and programs, (2) Library Services and Technology Act, (3) International arena, (4) NCLIS meeting reports; (5) millennial programs, and (6) other matters.

CONTACT PERSON FOR MORE INFORMATION: Barbara L. Whiteleather, NCLIS Special Assistant (202) 606–9200.

Dated: October 9, 1997.

Jane Williams,

Acting Executive Director.

[FR Doc. 97–27609 Filed 10–14–97; 2:24 pm]

BILLING CODE 7527–01–M

MEDICARE PAYMENT ADVISORY COMMISSION

Notice of Meetings

Notice is hereby given of the meetings of the Medicare Payment Advisory Commission on Wednesday and Thursday, October 23 and 24, 1997, at the Embassy Row Hilton, 2015 Massachusetts Avenue, NW, Washington, DC, 202/265–1600.

The Commission meeting will convene at 8:30 a.m. on October 23, 1997, and adjourn at approximately 5:00 p.m. On Friday, October 24, 1997, the meeting will convene at 9:00 a.m. and adjourn at approximately 3:00 p.m. The meetings will be held in the Ambassador Room each day.

All meetings are open to the public.

Donald A. Young,

Co-Executive Director.

[FR Doc. 97–27535 Filed 10–15–97; 8:45 am]

BILLING CODE 6820–BW–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

October 10, 1997.

TIME AND DATE: 11:00 a.m. Friday, October 10, 1997.

PLACE: Room 6005, 6th Floor, 1730 K Street, NW., Washington, DC.

STATUS: Closed [Pursuant to 5 U.S.C. 552b(c)(10)].

MATTERS TO BE CONSIDERED: It was determined by a unanimous vote of the Commissioners that the Commission consider and act upon the motion for leave to participate in oral argument filed on behalf of David Gomo on October 9, 1997, in the following matter in closed session: 1. *Rock of Ages Corp.* v. *Secretary of Labor,* Docket Nos. YORK 94–76, etc.

No earlier announcement of the scheduling of this meeting was possible.

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 653–5629/(202) 708–9300 for TDD Relay/1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 97–27608 Filed 10–14–97; 12:42 pm]

BILLING CODE 6735–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–152]

NASA Advisory Council (NAC), Aeronautics and Space Transportation Technology Advisory Committee (ASTTAC); Information Technology Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a NAC, Aeronautics and Space Transportation Technology Advisory Committee, Information Technology Subcommittee meeting.

DATES: November 24, 1997, 8 a.m. to 5 p.m.; and November 25, 1997, 8 a.m. to 12 p.m.

ADDRESSES: National Aeronautics and Space Administration, Ames Research Center, Building N258, Room 221, Moffett Field, CA 94035–1000.

FOR FURTHER INFORMATION CONTACT: Dr. Thomas A. Edwards, National Aeronautics and Space Administration, Ames Research Center, M/S 258–5, Moffett Field, CA 94035–1000, 650/604–4465.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is as follows:

—NASA Ames Research Center Overview
—NASA Center of Excellence—Information Technology Overview
—Information Technology Research Program Review

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants.

Dated: October 3, 1997.

Alan M. Ladwig,

Associate Administrator for Policy and Plans.

[FR Doc. 97–27303 Filed 10–15–97; 8:45 am]

BILLING CODE 6820–EP–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 97–151]

NASA Advisory Council, Minority Business Resource Advisory Committee Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council, Minority Business Resource Advisory Committee.

DATES: November 6, 1997, 9:00 a.m. to 4:00 p.m., and November 7, 1997, 9:00 a.m. to 1:00 p.m.

ADDRESSES: NASA Headquarters, 300 E Street SW, Room 9H40, Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT: Mr. Ralph C. Thomas III, Office of Small and Disadvantaged Business Utilization, National Aeronautics and Space Administration, Room 9K70, 300 E Street SW, Washington, DC 20546, (202) 358–2088.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the seating capacity of the room. The agenda for the meeting is a follows:

—Call to Order
—Reading of Minutes
—Small Disadvantaged Business Implementation Plan
—Report on NAC Meeting
—Public Comment
—Subpanel Reports
—New Business
—Adjourn

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

October 7, 1997.

Alan M. Ladwig,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 97–27302 Filed 10–15–97; 8:45 am]

BILLING CODE 7510–01–M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (97–150)]

NASA Advisory Council (NAC), Space Science Advisory Committee (SScAC), Solar System Exploration Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92–463, as amended, the National Aeronautics and Space Administration announces a meeting of the NASA Advisory Council, Space Science Advisory Committee, Solar System Exploration Subcommittee.

DATES: Wednesday, November 19, 1997, 8:30 a.m. to 5:00 p.m.; and Thursday, November 20, 1997, 8:30–5:00 p.m.

ADDRESSES: National Aeronautics and Space Administration, Program Review Center, Room 9H44, 300 E Street, SW, Washington, DC 205446.

FOR FURTHER INFORMATION CONTACT: Carl Pilcher, Code S, National Aeronautics and Space Administration, Washington, DC 20546, (202) 358–2470.

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting is as follows:

—Revisit issues from April

—OSS update

—Breckenridge review and strategic plans status

—Process for outer planet mission sequence decisions

—Launch year sensitivities

—Mars program issues

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. Visitors will be requested to sign a visitor's register.

Dated: October 7, 1997.

Alan M. Ladwig,

Associate Administrator for Policy and Plans, National Aeronautics and Space Administration.

[FR Doc. 97–27301 Filed 10–15–97; 8:45 am]

BILLING CODE 7510–01–M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

[Docket No. 97–087–1]

Notice of Request for Extension of Approval of an Information Collection

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Extension of approval of an information collection; comment request.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Animal and Plant Health Inspection Service's intention to request approval for additional hours associated with a currently approved information collection in support of the National Animal Health Monitoring System's Beef '97 and Equine '98 national studies.

DATES: Comments on this notice must be received by December 15, 1997 to be assured of consideration.

ADDRESSES: Send comments regarding the accuracy of burden estimate, ways to minimize the burden (such as through the use of automated collection techniques or other forms of information technology), or any other aspect of this collection of information to: Docket No. 97–087–1, Regulatory Analysis and Development, PPD, APHIS, suite 3C03, 4700 River Road Unit 118, Riverdale, MD 20737–1238. Please send an original and three copies, and state that your comments refer to Docket 97–087–1. Comments received may be inspected at USDA, room 1141, South Building, 14th Street and Independence Avenue SW., Washington, DC, between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays. Persons wishing to inspect comments are requested to call ahead on (202) 690–2817 to facilitate entry into the comment reading room.

FOR FURTHER INFORMATION: For information regarding the National Animal Health Monitoring System, contact Ms. Marj Swanson, Program Specialist, Centers for Epidemiology and Animal Health, VS, APHIS, 555 S. Howes, Suite 100, Fort Collins, CO 80521; (970) 490–7978. For copies of more detailed information on the information collection, contact Ms. Cheryl Jenkins, APHIS'' Information Collection Coordinator, at (301) 734–5360.

SUPPLEMENTARY INFORMATION:

Title: National Animal Health Monitoring System (Beef 1997 and Equine 1998).

OMB Number: 0579–0079.

Expiration Date of Approval: September 30, 1999.

Type of Request: Addendum to increase hours of a currently approved information collection.

Abstract: The primary objective of the National Animal Health Monitoring System (NAHMS) program of the Animal and Plant Health Inspection Service (APHIS) is to deliver statistically-valid and scientifically-sound animal health information to consumers, animal health officials, private practitioners, animal industry groups, policy makers, public health officials, media, educational institutions, and others.

Information for the NAHMS Equine '98 study will be derived from data voluntarily collected on a national basis from people involved in the equine (horses, ponies, donkeys, and mules) industry. The information collected will be used to estimate risk factors for regional and national prevalence of specific pathogens; support the industry goal of providing optimal health care for equids by determining current practices in health management; provide baseline estimates of equine health conditions; provide information on mortality and morbidity as it relates to body system categories such as respiratory disease, colic, and lameness; and determine the cost of the disease.

Information for the NAHMS Beef '97 study will be derived from data voluntarily collected on a national basis from producers in the beef cow/calf industry. The information collected is used to identify baseline trends in health management practices and disease, determine risks for new and emerging animal health issues, and assess the economic importance of beef cow/calf health and disease.

After pretesting the Beef '97 forms, it was determined that the actual amount of time needed to complete one of the forms was greater than expected and that five new forms were needed to collect additional data on breeding, herd management, and biosecurity practices. Eleven new forms were identified through the needs assessment phase for Equine '98. These forms will be used to collect biological samples and data on management practices, biosecurity, general health, and cost of disease. The figures below represent the recalculated burden.

We are asking the Office of Management and Budget (OMB) to approve the use of this information collection activity.

The purpose of this notice is to solicit comments from the public (as well as affected agencies) concerning our

information collection. We need this outside input to help us:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of our estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, through use, as appropriate, of automated, electronic, mechanical, and other collection technologies, e.g., permitting electronic submission of responses.

Estimate of burden: The public reporting burden for this collection of information is estimated to average .5422 hours per response.

Respondents: Animal agricultural producers, veterinary practitioners, and animal related industries.

Estimated number of respondents: 10,843.

Estimated number of responses per respondent: 3.2295.

Estimated annual number of responses: 35,018.

Estimated total annual burden on respondents: 18,987 hours. (Due to rounding, the total annual burden hours may not equal the product of the annual number of responses multiplied by the average reporting burden per response.)

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

Done in Washington, DC, this 9th day of October 1997.

Craig A. Reed,

Acting Administrator, Animal and Plant Health Inspection Service.

[FR Doc. 97–27425 Filed 10–15–97; 8:45 am]

BILLING CODE 3410–34–P

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

Proposal To Collect Information on Transactions of U.S. Parent Companies With Their Foreign Affiliates

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 comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13(44 U.S.C. 3506(c)(2)(A).

DATES: Written comments must be submitted on or before December 15, 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 instruments and instructions should be directed to: R. David Belli, U.S. Department of Commerce, Bureau of Economic Analysis, BE–50(OC), Washington, DC. 20230 (Telephone 202–606–9800).

SUPPLEMENTARY INFORMATION:

I. Abstract

Form BE–577, Direct Transactions of U.S. Reporter with Foreign Affiliate, obtains quarterly sample data on transactions and positions between U.S. business enterprises and their foreign affiliates. The data are needed for compiling the U.S. balance of payments accounts, the international investment position of the United States, and the national income and product accounts. The data are also needed to measure the amount of U.S. direct investment abroad, monitor changes in such investment, assess its impact on the U.S. and foreign economies, and, based on this assessment, make informed policy decisions regarding U.S. direct investment abroad.

The form will incorporate a single minor revision. It will now request corrections, if any, that might be necessary in the foreign affiliate's three-digit industry classification that appears on the form. In the past, respondents were required to file Form BE–507, Industry Classification Questionnaire, to report changes in industry classification. As a result of this revision proposed to Form BE–577, Form BE–507 is being discontinued.

II. Method of Collection

Form BE–577 is a quarterly report that is sent to U.S. parent companies to file for their foreign affiliates. Reports must be filed within 30 days after the end of each quarter (45 days after final quarter of the foreign affiliate's fiscal year) for every foreign business enterprise that is owned 10 percent or more by a U.S. person and that has total assets, sales, or net income (or loss) of over $20 million. Potential respondents are the U.S. parent companies of foreign business enterprises that reported in the last benchmark survey of U.S. direct investment abroad, along with the U.S. parent companies of those affiliates that subsequently entered the direct investment universe. The data collected are sample data covering transactions and positions between U.S. business enterprises and their foreign affiliates. Universe estimates are developed from the reported sample data.

III. Data

OMB Number: 0608–0004.

Form Number: BE–577.

Type of Review: Renewal with revision.

Affected Public: Businesses or other for-profit.

Estimated Number of Responses: 12,800 per quarter; 51,200 annually.

Estimated Time Per Response: 1.25 hours.

Estimated Total Annual Burden: 64,000 hours.

Estimated Total Annual Cost: $1,920,000 (based on an estimated reporting burden of 64,000 hours and an estimated hourly cost of $30).

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 has 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 9, 1997.

Linda Engelmeier,

Departmental Forms Clearance Officer, Office of Management and Organization.

[FR Doc. 97–27477 Filed 10–15–97; 8:45 am]

BILLING CODE 3510–06–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

(Docket 74–97)

Proposed Foreign-Trade Zone; Dublin, Virginia Area; Application and Public Hearing

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the New River Valley Economic Development Alliance, Inc. (a Virginia not-for-profit corporation), to establish a general-purpose foreign-trade zone in the Dublin (Pulaski County), Virginia area. Designation of the New River Valley Airport as a Customs user fee airport has been requested under a separate application to the U.S. Customs Service. The FTZ application was submitted pursuant to the provisions of 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 October 8, 1997. The applicant is authorized to make the proposal under Sections 62.1–159 to 62.1–162 of the Code of Virginia.

The proposed zone site (50 acres) is located at the New River Valley Airport on Virginia Route 100, north of Dublin, Virginia. Facilities (20,000 sq. ft.) are available for FTZ warehousing activity. The site also includes the airport's jet fuel systems. It is owned by the New River Valley Airport Commission.

The application contains evidence of the need for foreign-trade zone services in the New River Valley, Virginia area. Several firms have indicated an interest in using zone procedures within the proposed project for warehousing/distribution activity. Specific manufacturing approvals are not being sought at this time. Requests would be made to the Board on a case-by-case basis.

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.

As part of the investigation, the Commerce examiner will hold a public hearing on November 13, 1997, 9:00 a.m., New River Community College, Route 100 North, College Drive, Edwards Hall, Room 117, Section C, Dublin, Virginia 24084.

Public comment on the application is invited from interested parties. Submissions (original and 3 copies) shall be addressed to the Board's Executive Secretary at the address below. The closing period for their receipt is December 15, 1997. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to December 30, 1997).

A copy of the application and accompanying exhibits will be available during this time for public inspection at the following locations:

New River Community College, Route 100 North, College Drive, Edwards Hall, Room 221, Dublin, VA 24084

Office of the Executive Secretary, Foreign-Trade Zones Board, Room 3716, U.S. Department of Commerce, 14th & Pennsylvania Avenue, NW, Washington, DC 20230

Dated: October 9, 1997.

John J. Da Ponte, Jr.,

Executive Secretary.

[FR Doc. 97–27470 Filed 10–15–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–834–802, A–835–802, A–844–802]

Agreement Suspending the Antidumping Investigation on Uranium From Kazakstan, Kyrgyzstan and Uzbekistan

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

ACTION: Notice of price determination on Uranium from Kazakstan, Kyrgyzstan and Uzbekistan.

SUMMARY: Pursuant to Section IV.C.1. of the antidumping suspension agreement on uranium from Kazakstan, Kyrgyzstan, and Uzbekistan, the Department of Commerce (the Department) calculated a price for uranium of $12.35/pound for the relevant period, as appropriate. On the basis of this price, the export quota for uranium pursuant to Section IV.B. of the Kazakstani agreement, as amended on March 27, 1995, is 500,000 pounds for the period October 1, 1997, through March 31, 1998. This price will also be used, as appropriate, according to Section 2.A. of the Uzbek agreement, as amended. The quota for the next relevant period for Uzbekistan, October 13, 1997–October 12, 1998, will be announced separately due to the fact that this quota will now be based on a production-tied quota, in accordance with Section 3.A. of that agreement.

EFFECTIVE DATE: October 1, 1997.

FOR FURTHER INFORMATION CONTACT: Karla Whalen or Cindy Sonmez, Office of Antidumping Countervailing Duty Enforcement—Group III, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Ave., NW, Washington, DC 20230; telephone: (202) 482–0408 or (202) 482–0961, respectively.

Price Calculation

Background

Section IV.C.1. of the antidumping suspension agreements on uranium from Kazakstan, Kyrgyzstan, and Uzbekistan specifies that the Department will issue its determined market price on October 1, 1997, and use it to determine the quota applicable to imports from Kazakstan during the period October 1, 1997, to March 31, 1998, and Uzbekistan during the period of October 13, 1997 to October 12, 1998. Consistent with the February 22, 1993, letter of interpretation, the Department provided interested parties with the preliminary price determination on September 17, 1997.

Calculation Summary

Section IV.C.1. of these agreements specifies how the components of the market price are reached. In order to determine the spot market price, the Department utilized the monthly average of the Uranium Price Information System Spot Price Indicator (UPIS SPI) and the weekly average of the Uranium Exchange Spot Price (Ux Spot). In order to determine the long-term market price, the Department utilized the weighted-average long-term price as determined by the Department on the basis of information provided by market participants and a simple average of the UPIS U.S. Base Price for the months in which there were new contracts reported.

The Department's letters to market participants provided a contract summary sheet and directions requesting the submitter to report his/her best estimate of the future price of merchandise to be delivered in accordance with the contract delivery schedules (in U.S. dollars per pound U_3O_8 equivalent). Using the information reported in the proprietary summary sheets, the Department calculated the present value of the prices reported for any future deliveries assuming an annual inflation rate of 2.46 percent, which was derived from a rolling average of the annual GDP Implicit Price Deflator index from the past four years. The Department then calculated weight-averaged annual prices according to the specified nominal delivery volumes for each year to arrive at the long-term contract price. The Department then calculated a simple average of the UPIS U.S. Base Price and the long-term

contract price as determined by the Department.

Weighting

The Department used the average spot and long-term volumes of U.S. utility and domestic supplier purchases, as reported by the Energy Information Administration (EIA), to weight the spot and long-term components of the observed price. In this instance, we have used purchase data from the period 1993–1996. During this period, the spot market accounted for 79.31 percent of total purchases, and the long-term market for 20.69 percent.

As in previous determinations, the Department used the Energy Information Administration's (EIA) *Uranium Industry Annual* to determine the available average spot-and long-term volumes of U.S. utility purchases. We have updated the data to reflect the period 1993 through 1996. The EIA has withheld certain business proprietary contract data from the public versions of the *Uranium Industry Annual 1993, Uranium Industry Annual 1994, Uranium Industry Annual 1995* and the *Uranium Industry Annual 1996.* The EIA, however, provided all business proprietary data to the Department and the Department has used it to update its weighting calculation.

Calculation Announcement

The Department determined, using the methodology and information described above, that the observed market price is $12.35. This reflects an average spot market price of $11.51, weighted at 79.31 percent, and an average long-term contract price of $15.54, weighted at 20.69 percent. The increase in the observed market price from our preliminary determination reflects the addition of one contract, as discussed below, and revised calculation methodology. Since this price is between $12.00/pound and $13.99/pound as defined in Appendix A of the suspension agreement with Kazakstan, as amended, Kazakstan receives a quota of 1,000,000 pounds for the period October 1, 1997, to September 30, 1998. This price will also be used, as appropriate, according to Section 2.A. of the Uzbek agreement.

Comments

Consistent with the February 22, 1993, letter of interpretation, the Department provided interested parties the preliminary price determination for this period on September 17, 1997. One interested party submitted comments.

Comment 1: The Ad Hoc Committee of Domestic Uranium Producers (the Miners) requested that the Department include Uzbekistan in the price calculation.

Department's Position: The Department agrees with the Miners and on September 29, 1997, placed the price calculation on the Uzbek record and served counsel. (*See* Memo to the File from Cindy Sonmez, September 29, 1997.)

Comment 2: The Miners indicated that the Department failed to include an additional U.S. Base Price Indicator month in its calculations of long-term price.

Department's Position: The Department agrees with the Miners and has included the relevant month under the ''UPIS Indicators'' section. Further, in accordance with our practice, the Department simple-averaged the relevant months, and this change has been reflected on the ''Simple Average of UPIS and Contract Price.''

Comment 3: The Miners requested the Department to collect more information on the reported prices of certain contracts to ascertain that the contract prices do not reflect unusual sale circumstances.

Department's Position: The Department reviewed these contracts and removed one contract from its long-term price calculations as it was a duplicate. The Department also confirmed with the submitting party that the reported contract prices used in our price calculations are accurate.

Comment 4: Petitioners request that the Department weight-average the price on multi-year contracts according to yearly delivery volumes.

Department's Position: The Department agrees with petitioners and has adjusted our long-term contract price methodology accordingly. In order to arrive at the contract price, the Department derived weighted-average price factors for each year of the contract period and added each individual factor. The Department calculated the weighted-average price factor by multiplying the deflated price for each contract year by the nominal volume of the contract year over the total nominal volume of the contract.

Dated: October 6, 1997.

Joseph A. Spetrini,

Deputy Assistant Secretary for Antidumping Countervailing Duty—Group III.

[FR Doc. 97–27472 Filed 10–15–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–549–502]

Certain Welded Carbon Steel Pipes and Tubes From Thailand: Final Results of Antidumping Duty Administrative Review

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

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

SUMMARY: In response to requests by Thai Union Steel Co., Ltd. (''Thai Union''), Saha Thai Steel Pipe Company, Ltd. (''Saha Thai''), and its affiliated exporter S.A.F. Pipe Export Co., Ltd., (''SAF'') (collectively ''Saha Thai''), and two importers, Ferro Union Inc. (''Ferro Union''), and ASOMA Corp. (''ASOMA''), the Department of Commerce (''the Department'') is conducting an administrative review of the antidumping duty order on certain welded carbon steel pipes and tubes from Thailand. This review covers the following manufacturers/exporters of the subject merchandise to the United States: Saha Thai and Thai Union. The period of review (''POR'') is March 1, 1995 through February 29, 1996. We received comments on the preliminary results and rebuttal comments from the petitioners and respondents.

Based on our analysis of comments received, we have applied total adverse facts available to both Saha Thai and Thai Union. Therefore, with respect to both respondents, the final results do not differ from the preliminary results. The final weighted-average dumping margins are listed below in the section entitled ''Final Results of Review.''

EFFECTIVE DATE: October 16, 1997.

FOR FURTHER INFORMATION CONTACT: John Totaro or Dorothy Woster, AD/CVD Enforcement Group III, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1398 or (202) 482–3362, respectively.

Applicable Statute

Unless otherwise indicated, all citations to the statute are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (hereinafter, ''the Act'') by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations

are to the current regulations, as codified at 19 CFR part 353 (April 1997). Although the Department's new regulations codified at 19 CFR part 351 (62 FR 27296, May 19, 1997) (''Final Regulations'') do not govern this administrative review, citations to those regulations are provided, where appropriate, as a statement of current departmental practice.

SUPPLEMENTARY INFORMATION:

Background

On March 11, 1986, the Department published in the **Federal Register** an antidumping duty order on welded carbon steel pipes and tubes from Thailand (51 FR 8341). On March 4, 1996, the Department published a notice of opportunity to request an administrative review of this order covering the period March 1, 1995 through February 29, 1996 (61 FR 8238). Timely requests for an administrative review of the antidumping order with respect to sales by Saha Thai/SAF and Thai Union during the POR were filed by Thai Union, and jointly by Saha Thai, SAF, Ferro Union, and ASOMA. The Department published a notice of initiation of this antidumping duty administrative review on April 25, 1996 (61 FR 18378).

On May 14, 1996, Saha Thai, SAF, Ferro Union, and ASOMA sought to withdraw their request for review and requested that the Department terminate the review with respect to sales by Saha Thai/SAF during the POR. The domestic interested parties, Allied Tube & Conduit Corporation, Laclede Steel Company, Sawhill Tubular Division of Armco, Inc., and Wheatland Tube Company, (''petitioners''), objected to partial termination of the review on the grounds that, on March 29, 1996, they had submitted to the Department a timely request for review of sales by these companies and served Saha Thai with a copy of this request. Although there is no official record of petitioners' request, because the reason for the filing error is unclear and given the remedial nature of the antidumping law and the fact that Saha Thai received notice of petitioners' request, the Department elected to continue the ongoing review of these sales. *See Memorandum to Robert S. LaRussa from Stephen J. Powell,* July 11, 1996.

On May 24, 1996, the petitioners requested that the Department verify the responses of both Saha Thai and Thai Union.

The Department determined that it was not practicable to complete this review within statutory time limits, and, pursuant to section 751(a)(3)(A) of the Act, extended the time limit for the preliminary results of the review on November 1, 1996. On April 10, 1997, the Department published in the **Federal Register** (62 FR 17590) the preliminary results of its administrative review of this antidumping order covering the period March 1, 1995 through February 29, 1996. On August 8, 1997, pursuant to section 751(a)(3)(A) of the Act, the Department extended the time limit for the final results of the review.

On August 21, 1997, the Department requested Saha Thai to submit onto the record of this segment of the proceeding certain information concerning its ownership and management structure and the ownership interests of its directors that Saha Thai had placed on the record of the subsequent segment (the March 1, 1996–February 28, 1997 POR). Saha Thai complied with this request in a timely manner. Saha Thai submission August 25, 1997.[1] Both Saha Thai and petitioners filed comments on Saha Thai's submission.[2]

The Department has now completed this review in accordance with section 751(a) of the Act.

Scope of the Review

The products covered by this administrative review are certain circular welded carbon steel pipes and tubes from Thailand. The subject merchandise has an outside diameter of 0.375 inches or more, but not exceeding 16 inches. These products, which are commonly referred to in the industry as ''standard pipe'' or ''structural tubing,'' are hereinafter designated as ''pipe and tube.'' The merchandise is classifiable under the Harmonized Tariff Schedule (HTS) item numbers 7306.30.1000, 7306.30.5025, 7306.30.5032, 7306.30.5040, 7306.30.5055, 7306.30.5085 and 7306.30.5090. Although the HTS subheadings are provided for convenience and Customs purposes, our written description of the scope of the order is dispositive. This review covers sales of these products by Saha Thai/SAF and Thai Union during the period March 1, 1995 through February 29, 1996.

[1] On two occasions, Saha Thai resubmitted portions of this filing as public documents after partially withdrawing its claims of business proprietary treatment. *See* Saha Thai submission September 8, 1997 and Saha Thai submission October 2, 1997.

[2] Both sets of comments were submitted on September 8, 1997. Saha Thai resubmitted the business proprietary version of its comments as a public document. *See* Saha Thai submission October 1, 1997.

Verification

As provided in section 782(i) of the Tariff Act, we verified information provided by the respondents, Saha Thai and Thai Union, by using standard verification procedures, including on-site inspection of the manufacturers' facilities, examination of relevant purchase and financial records, and analysis of original documentation used by Saha Thai and Thai Union to prepare responses to requests for information from the Department. Our verification results are outlined in the verification reports. *See* Memoranda to the file from Theresa L. Caherty, John B. Totaro and Dorothy A. Woster, April 4, 1997 (''Cost Verification Reports'').

Facts Available

Saha Thai

We preliminarily determined that the use of total adverse facts available was appropriate with respect to Saha Thai's submitted data in accordance with section 776(a)(2)(C) and section 776(b) of the Act because we found that Saha Thai had significantly impeded the review by failing to comply with our requests for complete information on affiliates. In response to the Department's requests that Saha Thai identify all affiliated companies involved in the production or sale of the subject merchandise, the record demonstrates that Saha Thai failed to disclose its affiliation with Thai Tube Co., Ltd. (''Thai Tube''), a producer of subject merchandise, and three customers, two of which are resellers of subject merchandise. Saha Thai also failed to provide complete information concerning ownership and management of the Siam Steel Group. *See Memorandum to Robert S. LaRussa from Joseph A. Spetrini,* March 31, 1997 on file in the Central Records Unit, Room B099 of the main Commerce Building.

Section 771(33) of the Act defines ''affiliated persons'' for purposes of our antidumping analysis. Section 771(33)(A) of the Act defines ''affiliates'' as ''[m]embers of a family including brothers and sisters (whether by whole or half blood), spouse, ancestors, and lineal descendants.'' Under the Act, members of a family are viewed as a unit, e.g., an affiliated person. Further, the term ''including'' in this definition indicates that the list of family relations is illustrative, not finite.

Section 771(33)(F) defines affiliates as ''[t]wo or more persons directly or indirectly controlling, controlled by, or under common control with, any person.'' The statutory definition of affiliated persons in section 771(33) of the Act states that ''control'' exists

where one person ''is legally or operationally in a position to exercise restraint or direction'' over another person. The Statement of Administrative Action accompanying the Uruguay Round Agreements Act (''SAA''), H.R. Doc. 316, Vol.1, 103d Cong. (1994), indicates that stock ownership is not the single evidentiary factor for determining whether a person is in a position of control, and that control may also be established through corporate or family groupings. SAA at 838. Thus, the statute and the SAA expressly envision affiliation based on family stockholdings, consistent with our prior practice. *See, e.g., Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42833, 42853 (August 19, 1996) (common stockholdings of particular families found to control one or more corporate entities). Moreover, as stated in the final regulations, the Department intends to scrutinize closely issues of affiliation by family groupings. Final Regulations, 62 FR at 27380. The Department has analyzed the information on affiliation on the record in this administrative review, and determined that Saha Thai and certain home market customers, service providers, and producers of the subject merchandise to be affiliated under section 771(33)(F) by virtue of common control by several families involved in the ownership and management of Saha Thai.

Members of six families hold varying percentages of Saha Thai's shares and hold all of the seats on Saha Thai's board of directors. Several of Saha Thai's directors also hold positions as officers and managers in the company: Limsiam Ampapankit, Chairman of the Board; Somchai Karuchit, Managing Director; Somchai Lamatipanont, Deputy Managing Director; and Kim Hua Sae Heng, Financial Director. Saha Thai September 8, 1997 submission. Saha Thai's affiliations are established through the common control and financial holdings of these families.

We find that Saha Thai is affiliated with Thai Tube and Thai Hong Steel Pipe Import Export Co., Ltd, (''Thai Hong''), producers of the subject merchandise, under section 771(33)(F) of the Act by virtue of common control by the Lamatipanont family. Somchai Lamatipanont is the Deputy Managing Director of Saha Thai; under the circumstances in this case, we find this places him in a position of legal and operational control of Saha Thai. The Lamatipanont family is in a position of legal and operational control in Thai Tube and Thai Hong by virtue of the Lamatipanont family's substantial ownership interests in both companies and the positions of family members as officers and directors. Therefore, the Lamatipanont family is legally and operationally in a position of control over Thai Tube, Thai Hong, and Saha Thai. Therefore, these companies are affiliated under section 771(33)(F) of the Act.

We also find that Saha Thai is affiliated with three of its home market customers by virtue of common control by three families in positions of control within Saha Thai. These customers are referred to in this notice as Company A, Company B, and Company C for business proprietary reasons. Two of these customers (Companies A and B) are resellers of Saha Thai pipe. In the circumstances of this case, we find that three Saha Thai officers, Kim Hua Sae Heng—Financial Director, Somchai Lamatipanont—Deputy Managing Director, and Limsiam Ampapankit—Chairman of the Board, are in positions of legal and operational control of Saha Thai due to their positions in the Saha Thai management hierarchy. Saha Thai September 8, 1997 QR. In addition, these officers' families each hold substantial ownership interests in Saha Thai. The officers' families are also in positions of legal and operational control in Company A, Company B, and Company C, respectively, by virtue of the family members' ownership interests in these companies. Saha Thai August 25, 1997 QR. Therefore, Saha Thai and Company A are under common control of the Sae Heng/Ratanasirivilai family, Saha Thai and Company B are under common control of the Lamatipanont family, and Saha Thai and Company C are under common control of the Ampapankit family. Thus, Saha Thai is affiliated with each of these customers within the meaning of section 771(33)(F) of the Act.

Finally, we find that the Karuchit/Kunanantakul family also is in a position of legal and operational control of the Siam Steel Group companies by virtue of the Karuchit/Kunanantakul family members' positions as directors and the family's ownership interests in these companies. For example, Somchai Karuchit is the Managing Director of Saha Thai, which places him in a position of legal and operational control of Saha Thai. Also, Mr. Karuchit is the Chairman of another Siam Steel Group company, Siam Steel International, Saha Thai's largest shareholder. The record evidence demonstrates that the Karuchit/Kunanantakul family controls the Siam Steel Group companies, therefore we consider the Siam Steel Group to be a corporate or family grouping as envisioned by the regulations and the SAA, which establishes an affiliation among all Siam Steel Group companies under section 771(33)(F) of the Act. On this basis, we find that Saha Thai is affiliated under section 771(33)(F) of the Act with the Siam Steel Group, which include Company D, a Saha Thai customer, and Company E, a pipe producer, by virtue of common control by the Karuchit/Kunanantakul family.

Despite our requests to do so, Saha Thai failed to identify these affiliated producers and customers in its questionnaire responses. Rather, the Department discovered information establishing these affiliations late in the administrative proceeding. In fact, as recently as weeks before these final results we received additional information from Saha Thai at the Department's request which further confirmed our preliminary findings of affiliation. Moreover, although Saha Thai identified members of the Siam Steel Group as potential affiliates, Saha Thai did not provide complete information concerning the management and ownership of the member companies when requested to do so. In light of these circumstances, our preliminary results in which we assigned a dumping margin to Saha Thai based on total adverse facts available remain unchanged.

Thai Union

We preliminarily determined that the use of total adverse facts available was appropriate with respect to Thai Union's submitted data in accordance with section 776(a)(2)(D) and section 776(b) of the Act because we found that Thai Union provided cost of production (COP) data that could not be verified and because Thai Union failed to reconcile its reported costs with its normal books and records. We have not changed the preliminary results based on comments received (see Comment 5 below); therefore, for these final results, we have assigned a dumping margin to Thai Union based upon total adverse facts available.

Analysis of Comments Received

The petitioners, Saha Thai, and Thai Union submitted case briefs on May 12, 1997, and rebuttal briefs on May 19, 1997. A public hearing was held on June 6, 1997. The comments submitted by petitioners and respondents that relate to the calculation of margins are not addressed in this notice because the final margins for this administrative review are based on total adverse facts available.

Comment 1

Saha Thai argues that the Department based its preliminary results upon a misapprehension of the pertinent facts with respect to parties deemed affiliated with Saha Thai. Saha Thai claims that the Department's statement in the preliminary results that Mr. Somchai Lamatipanont is Chairman of Saha Thai and that members of the Chairman's family manage Thai Tube, is factually incorrect. Saha Thai states that Mr. Somchai Karuchit, and not Mr. Somchai Lamatipanont, is Chairman of Saha Thai. Saha Thai also notes that Mr. Lamatipanont, and not Mr. Karuchit, has a brother who is the managing director of Thai Tube. Furthermore, Saha Thai argues that Mr. Lamatipanont is a director of Saha Thai. Saha Thai claims that it identified the family relations of Mr. Somchai Lamatipanont having a shareholding interest in Saha Thai and Thai Tube in its response to the Department's second post-verification questionnaire dated March 27, 1997. Saha Thai further states that neither Mr. Karuchit nor his cousins, Mr. Wanchai Kunanantakul and Mr. Anantachai Kunanantakul, have direct or indirect interest in Thai Tube, and no family members are involved in the management of Thai Tube. Finally, Saha Thai notes that ownership of Saha Thai is dispersed such that no family or director controls Saha Thai by virtue of controlling the board. Saha Thai contends that because of its fractionated interests represented by multiple directorships and shareholdings, Saha Thai's directors can only control Saha Thai when acting ''together,'' not as individuals.

Saha Thai disagrees with the Department's finding that the familial relationship between Mr. Somchai Lamatipanont and his brother Mr. Surasak Lamatipanont, Thai Tube's managing director, creates an affiliation between Saha Thai and Thai Tube. Moreover, Saha Thai argues that Congress, when enacting the changes to section 771(33) under the Uruguay Round Amendments Act, did not include a provision which holds that an affiliate of an affiliate is an affiliate.

Saha Thai argues that, at the time it completed the Department's questionnaires, it had no direct knowledge of the operations of Thai Tube or Thai Tube's relationship to Thai Hong. Saha Thai also reiterates that it has no details regarding the terms of Thai Hong's bankruptcy in January 1992, and does not know why the 1991 *Iron and Steel Works of the World* lists Thai Hong as being located at the same address as Thai Tube, except to suggest that some of Thai Hong's personnel may have been transferred to Thai Tube. Saha Thai notes that in public filings made with the Thai Ministry of Commerce dated March 1997, Thai Hong was located at a different address than the alleged address of Thai Tube. Finally, Saha Thai holds that while there is some overlap in the directors of Thai Hong and Thai Tube, the ownership is quite different.

Saha Thai also argues that even if Saha Thai and Thai Tube are considered affiliated, there is substantial evidence on the record to demonstrate that collapsing them is inappropriate. Saha Thai argues that the Department considered only the extent to which the two companies have common family members in its decision to collapse Saha Thai with Thai Tube (see Memorandum from Joseph Spetrini to Assistant Secretary Robert LaRussa, March 31, 1997). Saha Thai notes that the Preamble to the Final Regulations states at 27345, ''[C]ollapsing requires a finding of more than affiliation.'' Moreover, Saha Thai notes that the Court of International Trade (CIT) has required the Department to undertake a serious analysis of the potential for price manipulation before collapsing two parties. Saha Thai further recognizes that the Department's general practice, as approved by the CIT in *Nihon Cement Co.* v. *United States,* 17 CIT 400 (1993), is not to collapse related parties. Saha Thai argues that the preliminary results in this case contains no substantive analysis of the potential for price manipulation which the Department must undertake before deviating from its general practice of calculating individual rates.

Saha Thai concludes that the application of adverse facts available to Saha Thai is inappropriate. Saha Thai argues that the Department may resort to the facts available only when a respondent has not complied with a request for information. Saha Thai contends that when the Department neglects to request information that it later finds necessary for its determination, it should not resort to best information available, but should issue a supplemental request for information.

In its supplemental comments, Saha Thai argued that Saha Thai is managed by its Managing Director, Mr. Somchai Karuchit, and that other individuals involved in Saha Thai are given titles and positions to accommodate the legal corporate requirements that different individuals hold each of various corporate office positions. Saha Thai continues that both day-to-day operating decisions and major management decisions are generally made by Mr. Karuchit, and that while major management decisions are subject to approval by the board, neither the deputy managing director nor any other officer or director has any special role in obtaining or ensuring such approval.

Saha Thai also asserted in its supplemental comments that because Mr. Surasak Lamatipanont and Mr. Somchai Lamatipanont are not lineal descendants, Saha Thai and Thai Tube are not affiliated by virtue of their familial ties.

Petitioners counter that the Department correctly based the preliminary results on the facts available and should do so for the final results as well. Petitioners hold that the facts available decision was based on three omissions by Saha Thai in reporting its affiliated parties: first, Saha Thai failed to report as affiliated parties the customers that are owned or controlled by members of the Saha Thai board of directors who are also shareholders in Saha Thai (Companies A, B and C) (see Comment 2, below); second, Saha Thai failed to disclose that one of the members of the Siam Steel Group, to which Saha Thai is affiliated (Company E), is a producer of subject merchandise (see Comment 4, below); and third, family members of a Saha Thai director who is also the largest individual shareholder of Saha Thai manage and control Thai Tube, a Thai producer of subject merchandise. Petitioners argue that in addition to not reporting information about its relationship to Thai Tube, Saha Thai committed an error of omission by responding to the Department's questions about Thai Hong without mentioning Thai Hong's successor, Thai Tube. Petitioners also note that Saha Thai failed to disclose that it purchased pipe from other Thai resellers or producers for sale (see Comment 3, below). Petitioners argue that the Department provided Saha Thai with numerous opportunities to list all of its affiliated parties, which Saha Thai failed to do. Petitioners state that these omissions indicate Saha Thai's intent to obfuscate its relationships with affiliated companies.

Petitioners argue that the Department's incorrect identification of Somchai Lamatipanont as the Chairman of Saha Thai was not the ''linchpin'' of the preliminary results, and it does not oblige the Department to change its preliminary results. Because Somchai Lamatipanont is (1) an officer and director of Saha Thai, and (2) the ''scion'' of the Lamatipanont family ownership group, one of only six families participating in the control of

Saha Thai, petitioners argue that he is ''one of the most important members of the small group of directors and shareholders who control Saha Thai'' and ''both 'legally and operationally in a position to exercise direction or restraint' over Saha Thai, whether directly or indirectly, in concert with other directors and shareholders from the small group of control families in this closely held company.''

Petitioners argue that Saha Thai is affiliated with Thai Tube within the meaning of section 771(33) (F) and (G) of the Act. Petitioners argue that operation of Saha Thai requires the concerted action of at least several to all of the six families that control Saha Thai's stock. Petitioners then infer that each of the six families, separately and together, control Saha Thai. The families' representatives on the board are each legally or operationally in a position to exercise restraint or direction over Saha Thai, either directly or indirectly. Therefore, the Lamatipanont family, led by Mr. Somchai Lamatipanont, is part of the control group of Saha Thai. In addition, petitioners argue that Saha Thai clearly controls Thai Tube and its predecessor, Thai Hong. Petitioners note that information on the record indicates that two members of the Lamatipanont family are the only directors of Thai Tube, and that one member of the family is the managing director of Thai Tube. Thus, petitioners reason that Lamatipanont family members who are affiliated under section 771(33)(A) are legally and operationally in a position to exercise direction or restraint over both Saha Thai and Thai Tube, and that this establishes affiliation under section 771(33)(F)—affiliation by common control of the Lamatipanont family. In addition, petitioners argue that the Department does not have complete information about the extent of management or ownership of Thai Tube by other Lamatipanont family members or by the other families who control Saha Thai, if any.

Petitioners argue that Saha Thai errs in inferring that because the Lamatipanont family does not control 50% or more of the voting shares or the board of directors of Saha Thai, the family cannot exercise control over Saha Thai. This inference, petitioners argue, is not supported by the statute. Petitioners cite the SAA at 838, which states that control can exist ''even in the absence of an equity relationship,'' and the statute which defines control as one person ''legally or operationally in a position to exercise restraint or direction'' over another person. Petitioners reason that this phrase in the statute does not mean that the person exercising control must be able to compel the actions of another person or entity in every instance, but that the ''controlling'' person or entity must be able to influence the actions of the entity controlled by virtue of the controlling entity's or person's position. Petitioners conclude that, in the case of Saha Thai, where no one director, shareholder or family of shareholders can dictate the course of Saha Thai, each of the directors, ''control families'' and shareholders, including Somchai Lamatipanont, can exercise control as defined in the statute.

Therefore, petitioners argue, Saha Thai should have placed information concerning its relationship with Thai Tube on the record in response to the Department's questionnaire requests for information on entities affiliated through stock ownership and by means other than stock ownership. Petitioners argue that evidence on the record shows that Saha Thai made a tactical decision not to report the full extent of its affiliations, including its affiliation with Thai Tube. Petitioners state that Saha Thai's failure to provide requested data on affiliation should lead to the application of facts available. If there was ambiguity as to the information requested by the Department, petitioners argue that Saha Thai should have resolved this ambiguity through consultation with the Department as directed by the questionnaire itself.

Petitioners then argue that the Department was unable to perform a collapsing analysis of Saha Thai and Thai Tube because Saha Thai failed to provide the requested information about affiliates. Because the Department could not determine whether sales from Thai Tube were necessary for its calculation of normal value or export price, there is no assurance that the Department has reviewed all of the U.S. and home market sales that should be attributed to Saha Thai. Petitioners state that because the Department was unable to collect, place on the record, and verify the information necessary to perform a collapsing analysis, Saha Thai's contention that evidence on the record indicates that collapsing is inappropriate is inaccurate.

In summary, petitioners argue that the Department cannot calculate normal value or export price because Saha Thai's reported information on affiliates is incomplete. In addition, petitioners argue that Saha Thai purposefully failed to discuss Thai Tube when the Department requested information after verification about Saha Thai's affiliation with Thai Hong. Petitioners argue that Saha Thai did not act in good faith by failing to identify Thai Tube as the successor to Thai Hong. Petitioners argue that Saha Thai failed to provide requested information on its affiliations by the deadlines set by the Department, thus impeding the proceeding, and that Saha Thai's incomplete responses meet all of the statutory factors for resorting to facts available. In addition, petitioners assert that an adverse inference is warranted because of Saha Thai's failure to act to the best of its ability to provide information on affiliates. Finally, petitioners argue that the Department should apply a single dumping margin to Saha Thai, Thai Tube, and Saha Thai's affiliated producer of PVC-coated water pipe (Company E) (see comment 4, below).

Department's Position

As discussed above in the *Facts Available* section, the definition of affiliated persons in the Act includes two (or more) companies under common control of a third entity (section 771(33)(F)). The Act states that ''control'' exists where one person ''is legally or operationally in a position to exercise restraint or direction'' over another person, section 771(33). The SAA indicates that stock ownership is not the single evidentiary factor for determining whether a person is in a position of control, and that control may also be established through corporate or family groupings. SAA at 838. We, therefore, disagree with Saha Thai's assertion that no family can be found to ''control'' Saha Thai under section 771(33), and that Saha Thai cannot be found to be affiliated with another company by virtue of common ownership interests of a single family. We find that based on the particular facts of this case, there is sufficient evidence on the record to find Saha Thai, Thai Hong, and Thai Tube to be affiliated under section 771(33)(F) by virtue of common control by the Lamatipanont family.

In the preliminary results, our determination that Saha Thai and Thai Tube are under common control of the Lamatipanont family was based in part on an erroneous identification of Mr. Somchai Lamatipanont as Saha Thai's Chairman. However, while Mr. Somchai Lamatipanont is not Saha Thai's Chairman, information submitted on the record by Saha Thai after the preliminary results demonstrates that Somchai Lamatipanont is the Deputy Managing Director of Saha Thai. Saha Thai Supp. QR, September 8, 1997. Saha Thai argued in its case brief that Somchai Karuchit is the Managing Director of Saha Thai, while Somchai Lamatipanont is a member of Saha

Thai's board of directors. Saha Thai Case Brief, May 12, 1997, at 17. Saha Thai failed to note Mr. Lamatipanont's position as Deputy Managing Director, thereby mischaracterizing his role as merely a member of the board.

In its supplemental comments, Saha Thai asserted that Somchai Lamatipanont's title as Deputy Managing Director does not vest in him any managerial control over the day-to-day operations of the company. Saha Thai claims that this title was designated merely to fulfill legal requirements that different individuals hold each of the various corporate office positions. Saha Thai further claims that all day-to-day operating decisions and major management decisions (including those concerning financial issues) are made by Mr. Karuchit, the Managing Director, and therefore, Mr. Lamatipanont is not in a position of legal or operational control in Saha Thai. Saha Thai submission September 5, 1997 (revised public version submitted October 1, 1997).

While Saha Thai may be legally bound to assign a different individual to each of Saha Thai's corporate office positions, Saha Thai has offered no evidence to support its assertion that all such positions, with the exception of Managing Director, are devoid of any responsibility over either day-to-day operating decisions or major management decisions. As the officer second to the Managing Director, a Deputy Managing Director is normally in a position of control. Saha Thai's unsubstantiated, eleventh hour claims are insufficient to establish that a Deputy Managing Director has no legal or operational authority.

Moreover, based on the facts on the record, the Department maintains its finding in the preliminary results that the Lamatipanont family controls Thai Tube. Information submitted following the preliminary results confirms our preliminary finding: Surasak and Surangrat Lamatipanont are Thai Tube's only directors; Surasak Lamatipanont is Thai Tube's Managing Director; and the Lamatipanont family members have owned 48% of Thai Tube's common stock since 1992. August 25, 1997 QR, Exhibit 3; Saha Thai Case Brief, May 12, 1997, at 17. The Department therefore finds that Saha Thai and Thai Tube are affiliated by means of common control by the Lamatipanont family. (For a more detailed analysis of this issue, see the public version of the *Memorandum to the File,* October 7, 1997.)

We also disagree with Saha Thai's assertion in its supplemental comments that because Mr. Surasak Lamatipanont and Mr. Somchai Lamatipanont are not lineal descendants, Saha Thai and Thai Tube are not affiliated by virtue of their familial ties. Saha Thai submission September 5, 1997 at fn. 3 (revised public version submitted October 1, 1997). As discussed above, the plain language of section 771(33)(A) does not exclude uncles and nephews from the category of familial relations covered by this subsection. We therefore find Somchai Lamatipanont, Surasak Lamatipanont, and the other Lamatipanont family members involved in Saha Thai and Thai Tube to be members of a family group, affiliated under section 771(33)(A) of the Act.

We also conclude that the evidence on the record supports a finding of affiliation between Saha Thai and Thai Hong, another Thai pipe producer owned or controlled by members of the Lamatipanont family. After verification of Saha Thai, the Department obtained public information indicating Lamatipanont family management of Thai Hong, a respondent in an earlier segment of this proceeding (March 1, 1987—February 29, 1988 POR). We pursued the potential for affiliation between Saha Thai and Thai Hong raised by this public information by issuing a questionnaire inquiring about the nature of the relationship between Saha Thai and Thai Hong. Saha Thai's response explained that Surasak, Samarn, and Surang Lamatipanont controlled Thai Hong, but that the company had entered into bankruptcy. Saha Thai asserted that ''[t]o the best of Saha Thai's knowledge, Thai Hong never resumed operations after going bankrupt.'' Saha Thai response, March 12, 1997. On March 21, 1997, petitioners submitted public information stating that Thai Tube is the successor to Thai Hong.

Petitioners argue that, because Thai Tube is the successor to Thai Hong, Saha Thai was obligated to supply information on Thai Tube in response to the Department's questionnaire on Thai Hong. As described above, the Department finds that, based on the information on the record, Saha Thai and Thai Tube are ''affiliated persons'' as defined by section 771(33)(F) of the Act. However, contrary to petitioners' argument, we find that the record does not contain conclusive evidence that Thai Tube is the successor organization to Thai Hong. Petitioners submitted public information indicating that Thai Tube operates from the same address as Thai Hong, that Thai Tube's brand device is ''THS,'' and that Thai Tube ''was formerly known as Thai Hong Steel Pipe Co., Ltd.'' (March 21, 1997 submission, exhibit 1 and 2). Saha Thai submitted a certified statement from the Thai Ministry of Commerce—indicating its final decision on Thai Hong's bankruptcy in 1992—which provides a different address for Thai Hong's head office than that listed in any of the petitioners' sources. (March 12, 1997 submission).

Moreover, the Department has obtained public information indicating that both Thai Hong and Thai Tube were operating producers of steel pipe and tube during the POR. *See Memorandum to the File,* September 29, 1997. The information includes the audited 1995 balance sheet and income statement for Thai Hong, indicating the fact that Thai Hong is a manufacturer, exporter, and importer of steel pipe, and that as of April 1996, 98.75% of its shares were owned by individuals with the surname Lamatipanont. Because the POR covers most of 1995 (March 1, 1995 through February 29, 1996), and because the public financial information indicates that Thai Hong maintained inventories, received export compensation, paid out employee social welfare, and by all indications conducted business during 1995, the Department concludes that Thai Hong was operating as a manufacturer, importer, and exporter of the subject merchandise during the POR.

The same source that contained information on Thai Hong also lists Thai Tube Co., Ltd. as a manufacturer of steel pipe, states that Surangrat Lamatipanont is a Director of the company, and identifies three individuals with the surname Lamatipanont as holding 48% of Thai Tube's shares. The reliability of this information is corroborated by information obtained from the Thai Ministry of Commerce and submitted to the Department by Saha Thai. Saha Thai submission, August 25, 1997. Because public information on the record of this review indicates that, during the POR, Thai Hong was an active producer of the subject merchandise with a substantial ownership interest held by members of the Lamatipanont family, the Department finds that Saha Thai and Thai Hong are affiliated under section 771(33)(F) of the Act by means of common control by the Lamatipanont family. The Department therefore concludes that Saha Thai failed in its obligation to report complete information on affiliated parties, in particular, Thai Hong, a producer of the subject merchandise.

These findings of affiliation support the Department's determination to resort to adverse facts available in this review. Information establishing Somchai Lamatipanont's position as the Deputy Managing Director of Saha Thai was submitted on the record at the

Department's request several weeks before the deadline for these final results. This information is yet another indication supporting the ability of the Lamatipanont family to control Saha Thai. This information, as well as facts confirming the Lamatipanont family's ownership and control of both Thai Tube and Thai Hong, confirms the appropriateness of our preliminary results determination that Saha Thai impeded this review by failing to fully disclose its affiliated parties in a timely manner. Saha Thai's failure to identify Thai Tube and Thai Hong as affiliated parties in response to the Department's questionnaires inhibited our inquiries into its relationships with these companies. Saha Thai should have identified these producers as affiliates or potential affiliates, as it did with the Siam Steel Group. If it was uncertain as to the Department's interpretation of the ''affiliated persons'' definition, Saha Thai should have contacted the Department and requested clarification. Saha Thai never made such a request. As long recognized by the CIT, the burden is on the respondent, not the Department, to create a complete and accurate record. *See Pistachio Group of Association Food Industries* v. *United States,* 641 F.Supp. 31, 39–40 (CIT 1987). Saha Thai failed to do so. Like the best information available rule under the pre-URAA statute, section 776(a) of the Act serves the same purpose of encouraging respondents to provide timely, complete, and accurate responses to the Department's questionnaires. *See* SAA at 868–91. Therefore, in light of the circumstances surrounding the revelation of Saha Thai's affiliations, resorting to total adverse facts available is entirely consistent with the purposes of section 776 (a) and (b) of the Act. *See e.g., Olympic Adhesives, Inc.* v. *United States,* 899 F.2d. 1565 (Fed. Cir. 1990) (Commerce ''cannot be left to merely the largesse of the parties at their discretion to supply [Commerce] with information'').

Under Department practice, the affiliation between Saha Thai, Thai Tube, and Thai Hong, producers of subject merchandise, would invoke an inquiry to determine whether they should be treated as a single entity for purposes of calculating a dumping margin. *See* section 351.401(f) of the Final Regulations, 62 FR at 27410; *Certain Fresh Cut Flowers From Colombia; Final Results of Antidumping Duty Administrative Reviews,* 61 FR 42833, 42853 (August 19, 1996). Indeed, in the preliminary results, we made an adverse inference that Saha Thai and Thai Tube should be treated as a single entity for purposes of our antidumping analysis, and noted that we would continue to explore the affiliation issue for these final results. As a result of this examination, as described above, we obtained information both from Saha Thai and from public sources that establishes the affiliation between Saha Thai and Thai Tube and between Saha Thai and Thai Hong. However, because the information establishing the existence of these affiliations was placed on the record so late in the proceeding, we were unable to collect additional information or to analyze the propriety of collapsing these producers. We therefore disagree with Saha Thai's contention that substantial evidence on the record demonstrates that collapsing Saha Thai and Thai Tube is inappropriate. The record is incomplete and the Department is unable to perform the collapsing inquiry because Saha Thai impeded the investigation by failing to disclose relevant information concerning its affiliation with Thai Tube and Thai Hong in a timely manner. Therefore, for the final results the Department makes the adverse inference that it is appropriate to collapse Saha Thai, Thai Tube, and Thai Hong.

Comment 2

Saha Thai argues that neither the two resellers (Company A and Company B) nor the third home market customer (Company C) identified by the Department in the preliminary results as potential affiliates are affiliated with Saha Thai under section 771(33) of the Act. Saha Thai argues in its case brief that managerial and shareholding control of Saha Thai is divided among six, unrelated families, and that no individual family is in a position to control Saha Thai. Saha Thai also states in its rebuttal brief that no company or individual has the power to appoint a majority of directors in Saha Thai, and that the chairman of Saha Thai has no interest in the resellers Companies A and B or in Company C.

Saha Thai states that Company A is ''owned or controlled'' by one of these six families who own Saha Thai, the Ratanasirivilai family, which holds seats on Saha Thai's board and owns less than 50% of Saha Thai's shares. Saha Thai argues, however, that Company A is not affiliated with Saha Thai because the Ratanasirivilai family does not exercise control over Saha Thai. The other reseller, Company B, according to Saha Thai, is ''owned or controlled'' by Mr. Somchai Lamatipanont, a member of a different family with interests in Saha Thai who is a director and shareholder of Saha Thai. Saha Thai argues it is not affiliated with Company B because Mr. Lamatipanont is not in a position, individually or with other family members, to control Saha Thai. Finally, Saha Thai argues in its rebuttal brief that the home market customer identified in the Department's preliminary results as potentially affiliated, Company C, is not affiliated with Saha Thai for similar reasons.

According to Saha Thai, because no single Saha Thai director is legally or operationally in a position to exercise restraint or direction over Saha Thai, the fact that a Saha Thai director occupies that control position with respect to another corporation does not give rise to affiliation between Saha Thai and that other corporation. Saha Thai argues that common control as envisioned by section 771(33) (E) and (F) exists in circumstances ''in which the controlling party or control group in its entirety jointly exercises control over *both* corporations (or where a subset of the control group is in a position to and in fact does exercise control over *both* corporations.'' Saha Thai Case Brief at 34 (May 12, 1997). Saha Thai argues that it and Companies A and B are not under the common control of any of Saha Thai's directors or their families, and that Saha Thai is not affiliated with these companies under any subsection of section 771(33).

Petitioners argue that the directors and shareholders who control Saha Thai appear to control Companies A and B, the two resellers identified by the Department at verification and found to be potentially affiliated with Saha Thai in the preliminary results. They argue that the information the Department obtained at verification supports a determination that these customers are affiliated to Saha Thai, but because it was received so late in the proceeding, the issue could not be completely explored. Given the available information, petitioners argue that the Department was correct in determining for the preliminary results that Companies A and B are affiliated with Saha Thai. Specifically, petitioners argue that two companies may be affiliated within the meaning of section 771(33) (F) or (G) through a family grouping that participates in the control of both companies. Petitioners state that Saha Thai admitted Company A is owned or controlled by the Ratanasirivilai family, and that Company B is owned or controlled by Somchai Lamatipanont, a director and officer of Saha Thai, and therefore the control exercised over these resellers constitutes control under the statute. Petitioners contend that both the Ratanasirivilai family and the

Lamatipanont family are ''legally or operationally in a position to exercise restraint or direction'' over Saha Thai, and therefore also control Saha Thai under the statutory definition of control. Petitioners argue that these families participate in the small control group of persons who control Saha Thai, and possess the ability to influence the actions of the company through their directors and voting shares. Petitioners state that this degree of control is sufficient to satisfy the requirements of the statute.

Department's Position

With respect to Company A, Company B, and Company C, Saha Thai's home market customers (Companies A and B are also resellers) of subject merchandise, the Department finds that, based on the record evidence, there is a sufficient basis to conclude that Saha Thai and these companies are affiliated on the basis of common control under section 771(33)(F) of the Act. Saha Thai argued in its case and rebuttal briefs that common control can be found only where the ''control group is in a position to and in fact does exercise control over both corporations.'' We disagree. Evidence of actual control is not a prerequisite to finding ''control'' within the meaning of section 771(33) of the Act, which defines control in terms of the *ability* to control. As we stated in the Preamble in the proposed regulations and reiterated in the Final Regulations, the Department need not find evidence of actual control to satisfy the statutory definition of ''control.'' Proposed Rule, 61 FR at 7310; Final Regulations, 62 FR at 29297–98. Further, Saha Thai's argument is premised on the assumption that total or sole control is necessary for a finding of affiliation. Again, we disagree. Nothing in the statute or legislative history suggests that such a narrow interpretation is intended. To the contrary, the statutory definition of control encompasses both legal and operational control. Multiple persons or groups may be in control, individually and jointly, of a single entity, i.e., each has the ability to direct or restrain the company's activities. The facts in this case demonstrate that families that individually and jointly control Saha Thai also control Companies A, B and C.

First, Company B and Saha Thai are affiliated under section 771(33)(F) of the Act by virtue of common control by the Lamatipanont family. Saha Thai concedes that the record establishes that the Lamatipanont family has substantial ownership interest in Company B, sufficient to establish control. In addition, Mr. Somchai Lamatipanont is a member of the board of directors, is the Deputy Managing Director of Saha Thai, and the Lamatipanont family owns an equity interest in Saha Thai. Based on these facts, the Lamatipanont family is in a position to control Saha Thai. Therefore, we find that Saha Thai and Company B are under common control of the Lamatipanont family and Saha Thai was obligated to identify this customer as an affiliate in response to our questionnaires.

Similarly, the evidence on the record supports a finding that Company C and Saha Thai are affiliated under section 771(33)(F) of the Act by virtue of common control by the Ampapankit family. September 8, 1997 QR, Exh. 1. Saha Thai conceded that the record establishes that the Ampapankit family has substantial ownership interest in Company C, sufficient to establish control. The Ampapankit family also has an ownership interest in Saha Thai and Mr. Ampapankit is Chairman of the Board of Saha Thai, and is a director and shareholder of Saha Thai. *Id*. Mr. Ampapankit is, in fact, one of the three Saha Thai officers who, together with one of the other officials can bind Saha Thai with his signature. Saha Thai October 2, 1997 QR, Exh. 3 (Saha Thai Commercial Registration). Viewing the facts as a whole, the Ampapankit family is ''legally or operationally in a position to exercise restraint or direction'' over both Saha Thai and Company C. Therefore, we find that Saha Thai and Company C are affiliated and that Saha Thai was obligated to identify this customer as an affiliate in response to our questionnaires.

We also find that Saha Thai and Company A are under common control by the Sae Heng/Ratanasirivilai family. Saha Thai conceded that the record establishes that the Sae Heng/Ratanasirivilai family has substantial ownership interest in Company A, sufficient to establish control. The Ratanasirivilai family is also in a position to exercise restraint or direction over Saha Thai within the meaning of section 771(33) on the basis of the family's ownership interest, possession of two seats on Saha Thai's board of directors, and the fact that Mr. Sae Heng is Saha Thai's Financial Director. Saha Thai's September 8, 1997 QR at Exhibit 2. As is true of Mr. Ampapankit, Mr. Sae Heng is one of the three Saha Thai officers who, together with one of the other officials can bind Saha Thai with his signature. Saha Thai October 2, 1997, Exh. 3 (Saha Thai Commercial Registration).

Saha Thai also contends that the Ratanasirivilai family is not in a position of control over Saha Thai because the family as a whole holds less than a 50% ownership interest in Saha Thai. We disagree. The Sae Heng/Ratanasirivilai family owns substantial interests in both Saha Thai and Company A. These ownership interests, coupled with the additional facts described above, support a finding that the Sae Heng/Ratanasirivilai family controls Saha Thai as well as Company A. *See e.g. Certain Cut-to-Length Carbon Steel Plate from Brazil: Final Results of Antidumping Administrative Review*, 62 FR 18486, 18490 (April 15, 1997). Therefore, we conclude that Saha Thai and Company A are affiliated under section 771(33)(F) by virtue of common control by the Ratanasirivilai family.

Because we find Saha Thai affiliated with Company A, Company B, and Company C under section 771(33)(F) of the Act, our preliminary determination that Saha Thai significantly impeded this review by failing to identify these customers as affiliated parties remains unchanged. As we stated in the preliminary results, sales to these customers represent a significant portion of Saha Thai's home market sales. However, because Saha Thai failed to provide the information that identified these potential affiliations until late in the proceeding, we were unable to fully explore the nature of the affiliation between Saha Thai and these customers.

Our initial analysis of Saha Thai's sales to Company A and Company B, resellers of the subject merchandise, indicates that these sales were not made at arm's length. (Saha Thai objected to the Department's standard arm's length test in this review. *See* Comment 4 below and the ''Department's Position.'') As total sales to the affiliated resellers exceeded 5% of Saha Thai's total home market sales during the POR, under our standard practice, we would have requested downstream sales data for these sales. The Department would then have been able to calculate normal value for these sales based on downstream prices pursuant to section 773(a)(5) of the Act. Therefore, we continue to find that Saha Thai was obligated to report these customers as affiliated resellers, and that its failure to do so prevented the Department from requesting and analyzing necessary downstream sales data. Given Saha Thai's failure to identify Company A, Company B and Company C as affiliates, we continue to find that Saha Thai failed to act to the best of its ability to comply with our requests for information on affiliates. (For a more detailed analysis of this issue, see the public version of the

Memorandum to the File, October 7, 1997.)

Comment 3

Saha Thai disputes petitioners' assertion that Saha Thai is affiliated with a home market customer and steel pipe producer, referred to in this public notice as Company E. Saha Thai also disputes petitioners' claim that the pipe manufactured by Company E is included in the scope of this review. Specifically, Saha Thai notes that the record does not show that Company E manufactures pipe with a surface coating, but rather pipe lined with PVC. Moreover, Saha Thai argues, the HTS subcategory 7306.30.5028, which includes pipe that is internally coated or lined with a non-electrically insulating material, is not included in the scope of the review. Saha Thai states that there is no evidence on the record that demonstrates that Company E produces unlined black or galvanized pipe as suggested by petitioners.

Saha Thai also argues that it is not affiliated with a home market customer that is a member of the Siam Steel Group (referred to in this public notice as Company D). Saha Thai argues that Company D also is not subject to common control with Saha Thai. Further, Saha Thai disputes petitioners' suggestion that it inconsistently applied the affiliated party provision of section 771(33) when responding to the Department's questionnaires. Saha Thai acknowledges, however, that the Department may classify certain members of the Siam Steel Group as affiliated because Saha Thai's managing director is chairman of each of these companies.

Petitioners argue that Saha Thai is affiliated with a certain end-user customer which also produces PVC-coated water pipes (Company E). Petitioners argue that PVC-coated steel water pipes are within the scope in this proceeding since the scope places no restriction on the surface finish of the merchandise. Moreover, petitioners note that it is likely that Company E would make uncoated water pipes as well as its production lines and would certainly be capable of producing uncoated water pipes as a requisite step in the production of coated water pipes. Petitioners argue that Saha Thai should have reported information about Company E's production and sales.

Petitioners also argue that home market customer Company D is affiliated with Saha Thai. Petitioners contend that Saha Thai admitted that the Chairman of Saha Thai is the Honorary Chairman of Company D.

Department's Position

Saha Thai, Company D, a home market customer, and Company E, a steel pipe producer, and other home market service providers are all members of the Siam Steel Group. The Department's regulations state that when analyzing affiliations under section 771(33) of the Act, the existence of corporate or family groupings is one indicia of control that will be closely scrutinized in each case. Final Regulations, 62 FR at 27380. The evidence on the record of this case demonstrates that, because of the Karuchit/Kunanantakul family's control of its member companies, the Siam Steel Group is a corporate or family grouping as envisioned by the SAA and the regulations, and therefore, the member companies are affiliated under section 771(33) of the Act.

Saha Thai acknowledged the potential for affiliation in its response to the Department's second supplemental questionnaire when it stated that ''[t]he Chairman of Saha Thai is in a position to exercise 'restraint or control' over Saha Thai due to his position as Chairman and the authority he exercises on a day-to-day basis over the company's affairs. For this reason, we have described other members of the Siam Steel Group as potentially affiliated * * *''. November 26, 1996 response at 2. Even more on point, in its rebuttal brief, Saha Thai conceded that at least four members of the Siam Steel Group are affiliated with Saha Thai because Mr. Somchai Karuchit, Saha Thai's Managing Director, is also the Chairman of these four companies. Saha Thai Rebuttal Brief at 4. As we stated in the preliminary results, Saha Thai's managing director is also chairman of Siam Steel International, a member of the Siam Steel Group, which during the POR became Saha Thai's largest shareholder. Saha Thai noted at verification that Siam Steel International also has investments in 11 of the other members of the Siam Steel Group. Saha Thai Cost Verification Report at 5. Moreover, the record evidence demonstrates that the Karuchit/ Kunanantakul family has significant common ownership interests in the members of the Siam Steel Group.

We find that this evidence of common management of and common ownership interests in these companies by Saha Thai's Managing Director and his family is strong evidence of affiliation by common control and the existence of a corporate or family grouping. However, despite the Department's request for such information, Saha Thai failed to provide sufficient data on the Siam Steel Group to permit a full analysis of control within the group. We disagree that Saha Thai has ''provided excruciating detail'' concerning the Siam Steel Group and its affiliation with Mr. Karuchit, Saha Thai's Managing Director (Rebuttal Brief at 35). For example, in its second supplemental questionnaire response, Saha Thai offered what can only be described as minimal disclosure on the nature of the common stockholding interests held by the family in the Siam Steel Group companies. While Saha Thai listed all family members with stock interests in group companies, Saha Thai failed to provide the percentage of interest held by each family member and the specific member company in which the family member's interests were held. September 23, 1996 response at 1. Further, Saha Thai provided only a ''summary of the ownership and control structure'' of each member of the group with no documentation to support its later claim that the companies in the group are operated independently. November 26, 1996 QR at 1. Saha Thai's submission is devoid of any explanation of the operation of the member companies; Saha Thai simply listed each company's investors and provided no explanation of the meaning it intended to convey when it identified companies being ''controlled'' by the family or certain investors.

The ''affiliated person'' provision of the statute is critical to the Department's antidumping analysis. Transactions between affiliated persons are highly scrutinized because they provide a means of potentially masking dumping and undermining the remedial purpose of the statute. With enactment of the URAA, Congress intended the Department to expand its longstanding scrutiny of relationships among corporate entities to ''permit a more sophisticated analysis which better reflects the realities of the marketplace,'' identifying corporate or family groupings as illustrative areas warranting heightened scrutiny. SAA at 838. Accordingly, based on the facts of this case, we find it reasonable to conclude that the Siam Steel Group companies, which include Saha Thai, Company D, and Company E are affiliated under section 771(33)(F) of the Act based on common control. As described above, Saha Thai identified members of the Siam Steel Group as potential affiliates but provided incomplete information concerning the ownership interests and management structure of these companies in response to supplemental questionnaires. Absent this information,

the Department was unable to examine the extent of common management and ownership among the Siam Steel Group. Saha Thai's failure to report complete information on the Siam Steel Group Companies is an additional factor supporting our determination to resort to total adverse facts available for this review. However, because evidence on the record does not establish that the products manufactured by Company E are within the scope of the antidumping duty order, our finding of affiliation between Saha Thai and this producer will not further affect the final results. (For a more detailed analysis of this issue, see the public version of the *Memorandum to the File*, October 7, 1997.)

Comment 4

Saha Thai argues that application of the Department's standard arm's length test is unreasonable and that use of an alternative test supports a finding of no affiliation between Saha Thai and certain of its home market customers. Saha Thai argues that reviewing courts have indicated that where evidence on the record of an individual case demonstrates that the test ''resulted in actual distortion of price comparability'' or otherwise produced unreasonable results, the standard test would not be sustained. Saha Thai further argues that the standard test continues to undergo refinements, and notes that the Department did not codify the standard test in its just-released final regulations, and cites the preamble to the Final Regulations, at 27355. Saha Thai claims that the Department's standard arm's length test, which uses average prices over the entire POR, introduces distortions into the price comparisons made and therefore produces inaccurate results. Saha Thai claims that its prices fluctuate with the cost of coil, the major production input, which changes frequently. Saha Thai claims that if a customer had no purchases of the product or if it purchased smaller quantities in months of lower prices, a comparison of this price with a weighted average based on the entire POR virtually guarantees that the alleged affiliate's price will fail the arm's length test. Saha Thai submits that because its prices are subject to frequent change the arm's length test used to analyze those prices must also compare prices at frequent intervals.

Saha Thai proposes limiting the window from which comparison sales are obtained to the allegedly affiliated parties' sale date. Under this proposed alternative, Saha Thai notes that no company which was reported as affiliated by Saha Thai, nor any company determined by the Department to be affiliated, fails the test. Saha Thai asserts that the Department should modify the standard arm's length test as proposed by Saha Thai for the final results of this administrative review. Saha Thai argues that application of this test yields two conclusions, either of which supports the use of Saha Thai's data as submitted: first, that Saha Thai is not affiliated with these resellers because it is not dealing with the resellers any differently from its dealings with other unaffiliated customers, and second, Saha Thai's prices to these resellers are at arm's length, thus permitting the use of these prices in the calculation of normal value even if the resellers are considered affiliated.

Petitioners counter that Saha Thai has provided no compelling reason for the Department to change its arm's length test at this belated stage of this administrative review. Therefore, argue petitioners, the Department should continue to apply its traditional court-approved 99.5% arm's length test for the final results of this administrative review. Petitioners first note that while the Department did not incorporate its arm's length test into its new regulations, just as they were not part of the old regulations, it did not repudiate this test. Petitioners note that in the preamble to Final Regulations at 27355, the Department states that it ''will continue to apply the current 99.5% test unless and until we develop a new method.'' Petitioners hold that if the Department was going to change the 99.5% rule in this proceeding it should have done so in the preliminary results and afforded all parties adequate opportunity for comment for the final results.

Second, petitioners dispute Saha Thai's allegation that the 99.5% test does not reflect its pricing practices and should be modified. Petitioners oppose Saha Thai's suggestion of limiting the arm's length test to sales within seven days. Petitioners claim that this methodology is far too restrictive to capture the effects of changes in coil cost, as most companies purchase coils on a quarterly or monthly basis and the price of the output pipe does not change on a daily basis because of changing coil cost.

Department's Position

Although the Department did not codify its standard arm's length test in the final regulations, the Department explicitly stated its intent to continue to apply the current test. Final Regulations, 62 FR at 27355. The Department's 99.5 percent arm's length test methodology is well established, and the CIT has repeatedly sustained the methodology. *See Micron Technology, Inc.* v. *United States*, 893 F. Supp. 21 (CIT 1995), *Usinor Sacilor* v. *United States*, 872 F. Supp. 1000 (CIT 1994), *NTN Bearing Corp. Of America* v. *United States*, 905 F. Supp. 1083 (CIT 1995), and *Torrington Co.* v. *United States*, Slip Op. 97–29 (March 7, 1997). As cited in *Micron*, the CIT will uphold the arm's length test, unless that test is shown to be unreasonable. 893 F. Supp at 45 (*citing Usinor*, 872 F. Supp at 1004). In this case, Saha Thai has not provided sufficient record evidence to warrant the Department's departure from its standard arm's length test. As coil costs change on a monthly or quarterly basis, prices do not change rapidly enough to compel the use of a restrictive seven-day window for comparison. Absent compelling evidence of price distortion, the Department finds no reason to depart from its standard methodology for purposes of this review. Thus, the Department finds it reasonable to apply the standard arm's length test in this instance and has done so for this review. Further, even if these sales had passed the arm's-length test, we would still be using total facts available for Saha Thai's margin because of its failure to identify affiliated producers. Thus, this issue is moot.

Comment 5

Saha Thai asserts in its case and rebuttal briefs that the Department should have terminated this review upon the timely withdrawal by Saha Thai and SAF of their request for a review. Saha Thai states that on May 14, 1996, in accordance with 19 CFR 353.22(a)(5), it timely submitted a letter to the Department withdrawing the request for the 1995–1996 administrative review. Saha Thai argues that since it was the only party to the proceeding to make a timely review request in accordance with the law and the Department's regulations, and since that request was timely and properly withdrawn, the Department should terminate this review immediately. Saha Thai notes that while the domestic interested parties claimed that they filed a review request on March 29, 1996, they conceded in their June 21, 1996, letter that the Department had no knowledge of their review request and that the request was neither entered in the Central Record Unit log nor placed in the proper file. Saha Thai holds that the only question, jurisdictional in nature, is whether the document was received by the Central Records Unit and that there is no reason for the

Department to depart from the unambiguous filing requirements for administrative review requests.

Petitioners argue that they made a timely request for an administrative review for the 1995–1996 period and that request was delivered to Saha Thai's counsel. They argue that this delivery constituted notice to Saha Thai, who had itself requested a review for this period, that petitioners had requested a review. Petitioners state that, several weeks after submitting its request, it was informed by the Department that its request was not entered into the log of the Department's Central Records Unit and was not placed in the proper file. Petitioners cite evidence showing that copies of their request were delivered in a timely manner to the Central Records Unit and to the Department official identified as the contact for requests for this review by messengers and that these copies of the request were received by the proper Department employees. Petitioners argue that the evidence it cites constitutes reliable evidence of actual delivery and receipt of a request for an administrative review that satisfies the requirements of both the Act and the Department's regulations.

Petitioners argue that the Department should not penalize the domestic interested parties because the Department inexplicably failed to perform the ministerial tasks of stamping, logging in and filing in their timely request for an administrative review. Further, petitioners cite *Kemira Fibres Oy* v. *United States*, Slip Op. 95–1077 at 10 (Federal Circuit, August 2, 1995) *citing Brock* v. *Pierce County*, 476 U.S. 253, 260 (1986) as support for the proposition that the Department may accept the petitioners' request as timely where a party fails to comply with regulatory or statutory timing requirements.

Petitioners state that the Act does not require a stamped copy for proof of filing. Moreover, argue petitioners, while the Department's regulations do require a stamp as proof of timely filing, the regulations do not preclude the Department from considering other proof of timely filing such as that presented by petitioners in their case brief. Petitioners argue that the Department could consider the evidence they presented as sufficient to initiate or continue a review and that doing so would be within the Department's discretion.

Petitioners' argument continues that the Department's regulations in force at the time permit termination of a review upon timely withdrawal but do not require such termination. Given the domestic industry's interest in continuing the review and the evidence of a timely request detailed above, petitioners argue that the Department acted correctly in exercising its discretion to continue the review. Petitioners conclude by arguing that while the respondents in this review would not be prejudiced by the Department continuing this review the domestic interested parties have a statutory right to an administrative review and that the denial of this right would have caused them severe prejudice.

Department's Position

On May 14, 1996, Saha Thai, SAF, Ferro Union and ASOMA withdrew their request for review and requested that the Department terminate the review with respect to sales by Saha Thai/SAF during the period of review. The petitioners objected to termination of the review on the grounds that, in accordance with 19 CFR 353.22, they had submitted a timely request for review of these companies to the Department on March 29, 1996. Petitioners also noted that respondents were served with a copy of their request for review.

The antidumping statute is silent with respect to the Department's authority to terminate administrative reviews. When the statute is silent, the Department has inherent authority to fill any ''gaps'' in the statute by promulgating regulations. Section 353.22(a)(5) of the Department's regulations provides the Secretary with discretion in accepting a timely request for withdrawal. As indicated above, the evidence on the record does not provide a definitive answer as to whether there is an official record of petitioners' request for review in the Central Records Unit due to faulty delivery by the petitioners or ministerial error by the Department. The evidence does demonstrate, however, that the respondents were served with a copy of petitioners' request, and, therefore, were put on notice of petitioners' intent that the Department conduct this review. Given these facts and the remedial nature of the antidumping law, the Department exercised its discretion to continue the review. *See Memorandum to Robert S. LaRussa from Stephen J. Powell*, July 11, 1996.

Comment 6

Thai Union argues in its case and rebuttal briefs that the Department's use of average estimated margins contained in the original petition as the basis for the adverse facts available is an unwarranted departure from prior practice, frustrates the remedial purpose of the antidumping duty statute, is punitive, and is not the most probative evidence of the current margin of dumping. Thai Union claims that by resorting to margins contained in the original petition, the Department has eliminated any distinction between its treatment of cooperative respondents participating fully in an investigation and verification and its treatment of uncooperative respondents that ignore or mislead the Department. Thai Union contends that it has been a fully cooperative respondent during the 1995–1996 administrative review as evidenced by its detailed and timely responses to the Department's original and supplemental questionnaires, as well as to Department inquiries made by telephone. Thai Union further asserts that it cooperated fully with the Department during the verification and that Thai Union's employees met with the Department officials and responded to all questions and requests for information to the best of their ability. Thai Union argues that it encountered several situations which led to its failure of verification, but that these situations are not related to its efforts to cooperate. Thai Union states that several key Thai Union employees left the company during this administrative review. In addition, Thai Union contends that new individuals replacing the departed personnel entered their positions without the benefit of proper training and instruction from their predecessors.

Thai Union states that adverse facts available is usually applied to respondents who disregard the Department's requests for information, who refuse to participate in an investigation and verification, or who attempt to mislead the Department with the information provided. Thai Union contends that it does not fall into this category of respondent. As such, Thai Union argues that resorting to the adverse inference in this case frustrates the purpose of the statute, which is to induce respondents to provide the Department with requested information in a timely, complete, and accurate manner so that the Department may determine current margins within statutory deadlines. Thai Union argues that because the record demonstrates that it did not refuse to cooperate with the Department assigning the higher rate for facts available is unreasonable. Thai Union avers that the Department's reasoning defeats the policy behind the two-tiered BIA structure because it completely overlooks substantial cooperation by the company and instead focuses on the results of the verification

to measure responsiveness. However, Thai Union contends that at verification, for a number of reasons, none of which touch on Thai Union's level of cooperation or participation, the data provided simply did not measure up. Thai Union states that the Department erred in its reference to Thai Union's ''substantial omissions and incomplete responses'' to the Department's requests for cost data as a justification for applying an adverse inference to the selection of facts available. Thai Union argues that it was wrong for the Department to gauge Thai Union's responsiveness on the results of verification. Thai Union states that it did not refuse to cooperate, but provided as much information as possible each time the Department made requests and communicated regularly with the Department during the investigation.

Thai Union claims the Department's determination—that the highest calculated margin in a prior review is not adverse—is unfounded. Thai Union argues that the Department offered no support for its opinion that application of the highest calculated margin of 29.89 percent *ad valorem* was not adverse to Thai Union, and that the average of the estimated margins in the petition, 37.55 percent *ad valorem*, was adverse.

Thai Union also contends that the Department acted punitively in its choice of facts available. Thai Union argues that in choosing the average of petition rates instead of the highest calculated margin to assign to Thai Union the Department in effect sought out the most punitive information rather than the best information. Thai Union argues that the Department has violated the ruling in *Rhone Poulenc, Inc.* v. *United States*, 899 F.2d 1185 (Fed. Cir. 1990) where the court stated that the application of the BIA rule is punitive if the Department rejects ''low margin information in favor of high margin information that was demonstrably less probative of current conditions.'' Thai Union argues that the Department should have found that the highest calculated margin from the 1987–1988 administrative review was the most probative evidence of current margins but that it instead relied on refuted allegations from the original petition. Thai Union adds that there is no information on the record indicating that 29.89 percent is not indicative of current conditions and that there is no information on the record indicating that conditions reflected in the original investigation are more probative than the Department's findings in a more contemporaneous review. It argues that the Department should choose the most contemporaneous information in making its choice of facts available.

Finally, Thai Union argues that the Department erred in rejecting Thai Union's sales data. Thai Union states that the Department rejected Thai Union's sales data because the cost data could not be verified and to avoid manipulation of the margin calculation. Thai Union argues that this was inappropriate because Thai Union provided sales data in a timely manner, which the Department elected not to verify; therefore, there is nothing on the record which supports the conclusion that Thai Union's sales data is inaccurate. Thai Union concludes that the Department's rejection of Thai Union's sales data was arbitrary and that the Department improperly selected unverified estimates of margins, refuted in the original investigation, rather than using previously verified margins to determine the facts available in this administrative review.

Petitioners hold that the Department should apply adverse facts available to Thai Union for the final results as it did in the preliminary results of this review. Petitioners note that Thai Union had not provided complete questionnaire responses at the time verification commenced. In addition, during verification, Thai Union was unable to produce necessary records or to reconcile its submitted data with its records. Petitioners argue that virtually no aspect of Thai Union's cost of production and constructed value data was able to be verified by the Department. Moreover, the Department discovered at verification that Thai Union did not use its normal accounting books and records to prepare its responses even though these books contained product specific data, which Thai Union claimed to have used in its responses. Petitioners emphasize that Thai Union's incomplete general ledger made it impossible for the Department to reconcile the responses to the ledger. Petitioners assert that the cost build-ups provided by Thai Union at verification were inaccurate concerning reported labor costs, and Thai Union could not explain the calculations contained in those worksheets.

Petitioners argue that, because the cost of production and constructed value data was unverifiable, this data is unreliable and unusable for the final results. Therefore, petitioners assert, the Department is unable to determine whether Thai Union's home market sales were made at less than cost of production. However, since the constructed value data is unreliable and unusable as well, petitioners argue, there is no information on the record on which to base normal value, and the Department should decline to consider any of Thai Union's submitted information for the final results. Petitioners argue that Thai Union did not cooperate with the Department or act to the best of its ability to provide the information requested by the Department. Therefore, according to petitioners, the Department should apply an adverse inference to the facts available for the final results as it did in the preliminary results.

Department's Position

For these final results, we have determined that the facts of this case support assigning 37.55 percent, the average estimated margins from the petition, as total adverse facts available for Thai Union. Assigning this rate is fully consistent with section 776(a) and 776(b) of the Act. Section 776(a)(1) of the Act mandates the Department to use the facts available if necessary information is not available on the record and section 776(a)(2)(D) of the Act mandates the use of facts available when an interested party or any other person provides information that cannot be verified. As detailed in the preliminary results, Thai Union's responses to the Department's initial and three supplemental COP questionnaires were incomplete and unresponsive and contained numerous errors, omissions, and discrepancies. The information that Thai Union failed to provide the Department in the supplemental questionnaire responses is, in many instances, data that the Department first requested in the initial questionnaire. Moreover, at verification, Thai Union was unable to reconcile its reported cost data with its normal books and records kept in the ordinary course of business, was unable to provide requested worksheets to demonstrate the methodology used to calculate COP and CV, and was generally unprepared to go over items identified on the verification agenda. *See* Thai Union Cost Verification Report. Accordingly, the record in this case fully supports our determination to use facts available because necessary information is not on the record and Thai Union provided information that could not be verified.

In light of unverifiable COP and CV responses, the Department had no option other than resort to total facts available. We disagree with Thai Union's contention that we arbitrarily rejected Thai Union's sales data because our decision to resort to total facts available is based on our determination that Thai Union's entire response does not meet the requirements of section 782(e) of the Act. Because of the

extensive defects as detailed in the preliminary results, Thai Union's submitted COP and CV data could not be verified, which renders this information unreliable for purposes of calculating costs associated with Thai Union's actual production experience as required under the statute. Further, Thai Union's sales data does not meet the requirements of section 782(e) and was, therefore, not considered. The Department can only make price-to-price comparisons (normal value to export price) using those home market sales that pass the cost test under section 773(b) of the Act. The systematically flawed nature of Thai Union's COP data prevents the Department from testing Thai Union's home market sales to distinguish between below cost sales, which must be disregarded, and above cost sales, which are included in the margin calculation. Also, the Department is unable to calculate reliable difference in merchandise figures (DIFMERs) using Thai Union's unverified COP data. In this review, DIFMERs would have been required for a majority of the United States and home market sales matches. However, because DIFMER data is based on COP information from Thai Union's questionnaire responses, which, as discussed above, could not be verified, the Department is unable to measure the effect of physical differences in making sales comparisons. Finally, as we explained in the preliminary results, we determine that the use of facts available for Thai Union's COP data precludes the use of the submitted CV data because this data is tainted with unreliable cost elements. In sum, the unreliability of the submitted cost data renders Thai Union's sales unreliable and unusable. Thus, our rejection of Thai Union's sales data is based on a full examination of the record and analysis of the factors set forth in section 782(e). In similar factual circumstances, the Department has rejected an entire response due to the unreliability of a respondent's submitted cost data. *See e.g., Notice of the Final Determination of Sales at Less than Fair Value: Certain Pasta from Turkey,* 61 FR 30309, 30312 (June 14, 1996); *Notice of Final Results of Antidumping Duty Administrative Review: Cut to Length Carbon Steel Plate from Sweden,* 62 FR 18396, 18401 (April 15, 1997).

Our determination that the use of adverse inferences is warranted in this review is also supported by record evidence that demonstrates Thai Union's failure to act to the best of its ability to comply with our requests. In this review, we evaluated Thai Union's level of cooperation based on both the sufficiency of its questionnaire responses and the results of verification. Thai Union's failure to provide complete and accurate responses coupled with the evident lack of preparation for the verification demonstrates that Thai Union did not act to the best of its ability to cooperate in this review. Thai Union's responses contained numerous discrepancies that remained unexplained at verification. Moreover, Thai Union was unprepared to perform the primary test of verification, e.g., reconciling its reported cost data with its normal books and records. This lack of preparation undermined the entire verification. Thai Union's attempt to explain its lack of preparation by arguing that key personnel had departed the company does not excuse its failure to explain the calculation of substantial portions of the cost response, retain necessary worksheets, or provide a complete general ledger from which we could examine the rudimentary elements of its cost data. We also note that Thai Union had participated in a previous segment of this proceeding wherein we conducted a verification of its response. *See e.g., Certain Circular Welded Carbon Steel Pipes and Tubes from Thailand; Final Results of Antidumping Administrative Review,* 56 FR 58355 (November 19, 1991). Therefore, the company was familiar with the requirements and procedures for verification.

We disagree with Thai Union's contention that because it has participated fully in this review we cannot find that it is uncooperative. The SAA explicitly states that the determination of whether a party is uncooperative rests on whether or not the party has ''acted to the best of its ability to comply with requests for necessary information.'' SAA at 870. A respondent's submission of information is one consideration in evaluating the level of cooperation. Neither the SAA nor our regulations prohibit us from finding a respondent has not cooperated to the best of its ability despite timely responses to our questionnaires. Rather, our determination is based on a full examination of the record of a particular segment to determine the quality of those responses (i.e., accuracy and completeness) and whether the respondent has hindered the calculation of accurate dumping margins. If this were not the case, then a respondent easily could manipulate the investigative process by providing complete yet inaccurate responses that cannot be verified. This scenario would cede control to the respondent to dictate the course of the review and force the Department to devote its limited administrative resources to scrutinizing frivolous questionnaire responses. In this regard, resorting to facts available under the current statute effectuates the same purpose as the BIA rule under the old law, that is, to encourage respondents to provide timely, complete, and *accurate* responses. *See e.g.,* Proposed Regulations, 61 FR 7307, 7327 (February 27, 1996) (noting that the factual circumstances triggering use of facts available are ''virtually identical'' to those triggering BIA); *Olympic Adhesives, Inc.* v. *United States,* 899 F.2d 1565, 1571 (Fed. Cir. 1990).

Thai Union's contention that we have unlawfully eliminated the distinction between cooperative and uncooperative respondents adopted under our prior practice apparently presumes that under the two-tiered BIA structure a cooperative respondent was assigned a non-adverse rate. However, that is not the case. As we explained in the Proposed Regulations, under the BIA provision, we automatically applied an adverse inference regardless of the level of cooperation by the respondent. *See* Proposed Regulations, 61 FR at 7327. We assigned the most adverse rate to uncooperative respondents and a less adverse rate to cooperative respondents. Thus, under either tier, the BIA rate was adverse. The URAA has eliminated this automatic use of an adverse inference by limiting the use of adverse inferences to factual situations in which the Department has determined that the respondent has not acted to the best of its ability. *Id.* Use of adverse inferences is now determined on a case-by-case basis by examining the record evidence in a particular segment to evaluate the respondent's level of cooperation. *Id.* at 7328; Final Regulations, 62 FR at 27340. Accordingly, Thai Union's reference to the two-tiered BIA structure under our prior practice is misplaced. In this review, consistent with the SAA and current practice, we have determined that the record evidence demonstrates that Thai Union failed to act to the best of its ability and appropriately have applied adverse inferences consistent with section 776(b) of the Act.

With respect to our selection of an adverse facts available rate, we disagree with Thai Union's assertion that the rate most recently calculated for Thai Union is an appropriate adverse facts available rate for purposes of this review. The SAA directs us to consider ''the extent to which a party may benefit from its own lack of cooperation'' in employing adverse inferences. SAA at 870. The

highest calculated rate from this proceeding (29.89%) is the cash deposit rate currently assigned to Thai Union, which has been carried forward from the 1987–1988 administrative review. Based on the facts of this case, we find that assignment of Thai Union's existing cash deposit rate would be insufficient to effectuate the purpose of the facts available rule. We therefore selected a higher rate, the average of the estimated margins in the petition (37.55%).

Nor do we agree with Thai Union's contention that assignment of 37.55% is inappropriately punitive because it is ''demonstrably less probative of current conditions.'' Section 776(c) authorizes the use of secondary information, which includes information derived from the petition, as a source of facts available, and the SAA explicitly states that the Department may rely upon information contained in the petition when making adverse inferences under section 776(b) of the Act. SAA, at 870. Therefore, the statute and SAA clearly envision the use of petition margins as the source of adverse total facts available, and there is no requirement that the Department prove that a petition margin is ''more probative'' than any other rate calculated during the particular proceeding. In fact, the SAA emphasizes that the Department need not ''prove that the facts available are the best alternative information.'' SAA at 869.

The corroboration requirement contained in section 776(c) serves the purpose of assessing the probative value of the selected secondary information. To this end, when the Department relies on petition margins or calculated rates as total facts available, our practice is to evaluate the reliability and relevance of the information used as a measure of probative value. *See, e.g., Tapered Roller Bearings and Parts Thereof, Finished and Unfinished from Japan and Tapered Roller Bearings, Four Inches or Less In Outside Diameter, and Components Thereof, from Japan: Final Results of Antidumping Duty Administrative Reviews,* 62 FR 11825 (March 13, 1997); *Notice of Final Determination of Sales at Less Than Fair Value: Certain Pasta from Turkey,* 61 FR 30309 (June 14, 1996).

In this case, as explained in the preliminary results, we determined that the petition margins are reliable because they were derived from price quotes, U.S. Customs data, import and export statistics, and other public information contemporaneous with the period of investigation. *See Antidumping Duty Petition,* February 28, 1985; *Memorandum for Alan F. Holmer from Gilbert B. Kaplan,* March 20, 1985. We also determined that the petition margins are relevant because there is no information on the record that demonstrates that 37.55% is not an appropriate total adverse facts available rate for Thai Union. *See e.g., Certain Welded Stainless Steel Pipe From Taiwan; Final Results of Administrative Review,* 62 FR 37543, 37555 (July 14, 1997).

Final Results of the Review

As a result of this review, we have determined that the following weighted-average dumping margins exist for the period March 1, 1995, through February 29, 1996:

Manufacturer/exporter	Period	Margin (percent)
Saha Thai/SAF/ Thai Tube/Thai Hong	3/1/95–2/29/96	29.89
Thai Union	3/1/95–2/29/96	37.55

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

Furthermore, the following deposit requirements shall be effective upon publication of this notice of final results of review for all shipments of certain welded carbon steel pipes and tubes from Thailand, entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided for by section 751(a)(1) of the Tariff Act: (1) The cash deposit rates for the reviewed companies named above which have separate rates will be the rates for those firms as stated above; (2) for previously investigated companies not listed above, the cash deposit rate will continue to be the company-specific rate published for the most recent period; (3) if the exporter is not a firm covered in these reviews, or the original LTFV investigations, but the manufacturer is, the cash deposit rate will be the rate established for the most recent period for the manufacturer of the merchandise; and (4) if neither the exporter nor the manufacturer is a firm covered in these reviews, the cash deposit rate for this case will continue to be 15.67 percent, the ''All Others'' rate made effective by the LTFV investigation. These deposit requirements shall remain in effect until publication of the final results of the next administrative review.

This notice serves as a final reminder to importers of their responsibility under 19 CFR 353.26 to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's presumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with section 353.34(d) of the Department's regulations. Timely notification of return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This administrative review and notice are in accordance with section 751(a)(1) of the Act (19 U.S.C. 1675(a)(1)) and § 353.22 of the Department's regulations.

Dated: October 7, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–27471 Filed 10–15–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 100697C]

Advisory Committee to the U.S. Section of the International Commission for the Conservation of Atlantic Tunas (ICCAT); Fall Meeting and Notice of Availability of Statement of Operating Practices and Procedures (SOPP)

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

ACTION: Notice of public meeting and of availability of SOPP.

SUMMARY: The Advisory Committee to the U.S. Section of ICCAT will hold its annual fall meeting on November 2–4, 1997. In addition, the Advisory Committee has finalized its SOPP and is announcing the availability of this document to the public.

DATES: The open sessions will be held on November 2, 1997, from 1 p.m. to 6 p.m. and November 3, 1997, from 8 a.m. to 12:45 p.m. Closed sessions will be held on November 3 from 1:45 p.m. to 6 p.m. and on November 4 from 8 a.m.

to 1 p.m. Written comments should be received no later than October 31, 1997.

ADDRESSES: The meeting will be held at NOAA Headquarters, 1315 East-West Highway (Silver Spring Metro Center Building 3), Silver Spring, MD 20910 in conference room 4527. Written comments should be sent to Kim Blankenbeker, Executive Secretary to the Advisory Committee, NOAA - Fisheries, 1315 East-West Highway, Silver Spring, MD 20910. Copies of the Advisory Committee's SOPP also can be requested by writing the Committee's Executive Secretary.

FOR FURTHER INFORMATION CONTACT: Kim Blankenbeker, (301) 713-2276.

SUPPLEMENTARY INFORMATION: The Advisory Committee to the U.S. Section to ICCAT will meet in two open sessions to consider information being presented on stock status of highly migratory species and 1997 management recommendations of ICCAT's Standing Committee on Research and Statistics (SCRS). Also in the open sessions, the Advisory Committee will review and consider 1996 ICCAT meeting accomplishments, reports of ICCAT's intersessional meetings, results of the Committee's regional meetings, and implementation of 1996 and prior ICCAT recommendations and resolutions. Furthermore, the Committee will review highly migratory species research and management activities, including an overview of the status of recommendations resulting from the Advisory Committee's 1997 Species Working Group Workshop. Both sessions will be open to the public; however, the November 2 session will be the only opportunity for public comment. Written comments are encouraged and, if mailed, should be received by October 31, 1997, (See **ADDRESSES**). They can also be submitted during the open sessions of the Advisory Committee meeting.

The Advisory Committee will meet in closed session to discuss sensitive information, the discussion of which relates to U.S. negotiating positions to be taken at the Fifteenth Regular Meeting of the Commission to be held in Madrid, Spain, November 14–21, 1997. The Advisory Committee will discuss various options for the U.S. negotiating position during the closed sessions. Accordingly, the determination has been made that the Committee shall go into executive session for the afternoon session of November 3 and for the entire November 4 session.

The Atlantic Tunas Convention Act requires that the Advisory Committee draft its SOPP and make the document available to the general public. The Advisory Committee has finalized this document. It specifies the processes governing the Committee as a whole, its sub-groups, and its meetings, and it spells out Committee member functions. Members of the public that are interested in receiving a copy of the SOPP should write to the Advisory Committee's Executive Secretary (see **ADDRESSES**).

Special Accommodations

The meeting locations are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kim Blankenbeker at (301) 713–2276 at least 5 days prior to the meeting date.

Dated: October 10, 1997.

Bruce Morehead,

Deputy Director, Office of Sustainable Fisheries.

[FR Doc. 97–27357 Filed 10–15–97; 8:45 am]

BILLING CODE 3510–22–F

COMMISSION OF FINE ARTS

Notice of Meeting

The Commission of Fine Arts' meeting scheduled for October 16, 1997 has been cancelled. The next meeting is scheduled for November 20, 1997 at 10 a.m. in the Commission's offices in the Pension Building, Suite 312, Judiciary Square, 441 F Street, NW., Washington, DC 20001 to discuss various projects affecting the appearance of Washington, DC.

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 202–504–2200.

Dated in Washington, DC, October 8, 1997.

Charles H. Atherton,

Secretary.

[FR Doc. 97–27326 Filed 10–15–97; 8:45 am]

BILLING CODE 6330–01–M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Qatar

October 9, 1997.

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

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

EFFECTIVE DATE: October 16, 1997.

FOR FURTHER INFORMATION CONTACT: Janet Heinzen, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482–4212. For information on the quota status of 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 Categories 340/640, 341/641 and 347/348 are being increased for carryover.

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 58390, published on November 14, 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 9, 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 7, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton and man-made fiber textile products, produced or manufactured in Qatar and exported during the twelve-month period beginning on January 1, 1997 and extending through December 31, 1997.

Effective on October 16, 1997, you are directed to increase the current 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]
340/640	441,905 dozen.
341/641	164,887 dozen.
347/348	534,819 dozen.

[1] The limits have not been adjusted to account for any imports exported after December 31, 1996.

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. 97–27411 Filed 10–15–97; 8:45 am]

BILLING CODE 3510–DR–P

COMMODITY FUTURES TRADING COMMISSION

Agricultural Advisory Committee Meeting

This is to give notice, pursuant to section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, section 10(a) and 41 CFR 101–6.1015(b), that the Commodity Futures Trading Commission's Agricultural Advisory Committee will conduct a public meeting on October 29, 1997 from 1:00 p.m. to 5: 30 p.m. in the first floor hearing room of the Commodity Futures Trading Commission (Room 1000), Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581. The agenda will consist of:

Agenda

I. Welcoming Remarks by Commissioner Joseph B. Dial;
II. Report on USDA's Risk Management Education Summit;
III. Status report on potential lifting of the ban on Agricultural Trade Options;
IV. Status of proposed changes to the CBT Corn and Soybean Futures Contract delivery terms;
V. Status of delivery terms issues for the CBT Wheat Futures Contract;
VI. Status of FutureCom proposal for a new electronic exchange;
VII. Producer Panel discussions on ''How do agricultural producers feel about Risk Management?'';
VIII. Farmer Organizations' Panel on ''What will it take to motivate more producers to prudently manage their price and yield risks?''; and
IX. Presentations on the ''flex options'' being listed on the Coffee, Sugar, and Cocoa Exchange and the proposed listings on the Chicago Mercantile Exchange.
X. Other Committee Business;
XI. Closing Remarks by Commissioner Joseph B. Dial.

The purpose of this meeting is to solicit the views of the Committee on the above-listed agenda matters. The advisory Committee was created by the Commodity Futures Trading Commission for the purpose of receiving advice and recommendations on agricultural issues. The purposes and objective of the Advisory Committee are more fully set forth in the seventh renewal charter of the Advisory Committee.

The meeting is open to the public. The Chairman of the Advisory Committee, Commissioner Joseph B. Dial, is empowered to conduct the meeting in a fashion that will, in his judgment, facilitate the orderly conduct of business. Any member of the public who wishes to file a written statement with the Advisory Committee should mail a copy of the statement to the attention of: the Commodity Futures Trading Commission Agricultural Advisory Committee c/o Kimberly Harter, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, before the meeting. Members of the public who wish to make oral statements should also inform Ms. Harter in writing at the foregoing address at least three business days before the meeting. Reasonable provision will be made, if time permits, for an oral presentation of no more than five minutes each in duration.

Issued by the Commission in Washington, D.C. on October 10, 1997.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 97–27488 Filed 10–15–97; 8:45 am]

BILLING CODE 6351–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission of OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Associated Form, and OMB Number: Civil Aircraft Landing Permit System; DD Forms 2400, 2401, 2402; OMB Number 0701–0050.

Type of Request: Reinstatement.

Number of Respondents: 3,600.

Response Per Respondent: 1.

Annual Responses: 3,600.

Average Burden Per Response: 30 minutes.

Annual Burden Hours: 1,800.

Needs and Uses: The Federal Aviation Act of 1958 (Pub. L. 85–726, section 1107) authorizes government agencies to regulate public use of government-owned airfields. Military airfields are established and funded to support the level of operations necessary to support the national defense mission; therefore, civil aircraft access to military airfields is not comparable to civil airports. The Military Departments have made military airfields available to civil aircraft operators, primarily to conduct official business; however, use for other purposes is also occasionally accommodated. The collection of information is necessary to ensure that the security and operational integrity of military airfields are maintained; to identify the aircraft operator and aircraft to be operated; to avoid competition with the private sector by establishing the purpose for use of military airfields; and to ensure the U.S. Government is not held liable, if the civil aircraft becomes involved in an accident while using military airfields, facilities, and services.

Affected Public: Individuals or households; Business or Other For-Profit; Not-For-Profit Institutions.

Frequency: On occasion.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Mr. Edward C. Springer.

Written comments and recommendations on the proposed information collection should be sent to Mr. Springer at the Office of Management and Budget, Desk Officer for DOD, Room 10236, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Mr. Robert Cushing.

Written requests for copies of the information collection proposal should be sent to Mr. Cushing, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, VA 22202–4302.

Dated: October 9, 1997.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–27316 Filed 10–15–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Partnership Council Meeting

AGENCY: Department of Defense.

ACTION: Notice of meeting.

SUMMARY: The Department of Defense (DOD) announces a meeting of the Defense Partnership Council. Notice of this meeting is required under the Federal Advisory Committee Act. This meeting is open to the public. The topics to be covered will include the Alternative Personnel System concept and other matters related to the enhancement of Labor-Management Partnerships throughout DOD.

DATES: The meeting is to be held November 19, 1997, in room 1E801, Conference Room 7, the Pentagon, from 1 p.m. until 3 p.m. Comments should be received by November 12, 1997, in order to be considered at the November 19 meeting.

ADDRESSES: We invite interested persons and organizations to submit written comments or recommendations. Mail or deliver your comments or recommendations to Mr. Kenneth Oprisko at the address shown below. Seating is limited and available on a first-come, first-serve basis. Individuals wishing to attend who do not possess an appropriate Pentagon building pass should call the below listed telephone number to obtain instructions for entry into the Pentagon. Handicapped individuals wishing to attend should also call the below listed telephone number to obtain appropriate accommodations.

FOR FURTHER INFORMATION CONTACT: Mr. Kenneth Oprisko, Chief, Labor Relations Branch, Field Advisory Services Division, Defense Civilian Personnel Management Service, 1400 Key Blvd, Suite B–200, Arlington, VA 22209–5144, 696–6301, ext. 704.

Dated: October 9, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–27315 Filed 10–15–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary of Defense

Department of Defense Wage Committee; Notice of Closed Meetings

Pursuant to the provisions of section 10 of Public Law 92–463, the Federal Advisory Committee Act, notice is hereby given that closed meetings of the Department of Defense Wage Committee will be held on November 4, 1997; November 18, 1997; and November 25, 1997, at 10:00 a.m. in Room A105, The Nash Building, 1400 Key Boulevard, Rosslyn, Virginia.

Under the provisions of section 10(d) of Public Law 92–463, the Department of Defense has determined that the meetings meet the criteria to close meetings to the public because the matters to be considered are related to internal rules and practices of the Department of Defense and the detailed wage data to be considered were obtained from officials of private establishments with a guarantee that the data will be held in confidence.

However, members of the public who may wish to do so are invited to submit material in writing to the chairman concerning matters believed to be deserving of the Committee's attention.

Additional information concerning the meetings may be obtained by writing to the Chairman, Department of Defense Wage Committee, 4000 Defense Pentagon, Washington, DC 20301–4000.

Dated: October 9, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–27314 Filed 10–15–97; 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: Notice to amend record systems.

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

DATES: This action will be effective without further notice on November 17, 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 Air Force notices for systems of records 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 records systems being amended are set forth below followed by the notices as amended, published in their entirety.

Dated: October 9, 1997.

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

F033 SAFLL A

SYSTEM NAME:

Congressional/Executive Inquiries *(June 11, 1997, 62 FR 31793).*

CHANGES:

* * * * *

STORAGE:

Delete entry and replace with 'Maintained in computer/imaging system.'

* * * * *

SAFEGUARDS:

Delete last sentence and insert 'Records in computer storage devices are protected by computer system software.'

RETENTION AND DISPOSAL:

Delete entry and replace with 'Current year plus 2 years of records will be retained in the records system, then deleted from the computer database.'

* * * * *

F033 SAFLL A

SYSTEM NAME:

Congressional/Executive Inquiries.

SYSTEM LOCATION:

Office of the Secretary of the Air Force, Washington, DC 20330–1160.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel, present and former civilian employees, Air Force Reserve and Air National Guard personnel, Air Force Academy nominees/applicants and cadets, Senior and Junior Air Force Reserve Officers, dependents of military personnel, and anyone who has written to the President or a Member of Congress regarding an Air Force issue.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of applicable Congressional/Executive correspondence and Air Force replies.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force.

PURPOSE(S):

Information is used as a reference base in the case of similar inquiries from other Members of Congress, in behalf of the same Air Force issue and/or follow-up by the same Member. Information may also be used by appropriate Air Force offices as a basis for corrective action and for statistical purposes.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES 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 computer/imaging system.

RETRIEVABILITY:

Retrieved by name.

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 in computer storage devices are protected by computer system software.

RETENTION AND DISPOSAL:

Current year plus 2 years of records will be retained in the records system, then deleted from the computer database.

SYSTEM MANAGER(S) AND ADDRESS:

Director of Legislative Liaison, Office of the Secretary of the Air Force, Headquarters, U.S. Air Force, Washington, DC 20330–1160.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to or visit the Director of Legislative Liaison, Office of the Secretary of the Air Force, Headquarters, U.S. Air Force, Washington, DC 20330–1160.

RECORD ACCESS PROCEDURES:

Individuals seeking access to information about themselves contained in this system should address written inquiries to or visit the Director of Legislative Liaison, Office of the Secretary of the Air Force, Headquarters, U.S. Air Force, Washington, DC 20330–1160.

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:

Personnel Records. Congressional and Executive inquiries and information from Air Force offices and organizations.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F036 AETC A

SYSTEM NAME:

Lead Management System (LMS) *(June 11, 1997, 62 FR 31793).*

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with 'Headquarters, Air Force Recruiting Service, 550 D Street, Suite 01, Randolph Air Force Base, TX 78150–4527, and a contracted advertising agency provide recruitment advertising for the Air Force - location depends on the contractor.

Air Force Opportunity Center (AFOC); (duties at this center are performed by a civilian contractor who is engaged by the Air Force to provide lead fulfillment services. Contact the system manager for specific locations).

Air Force Recruiting activities. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.'

* * * * *

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. 503, Enlistments; Air Education and Training Command Instruction 36–2002; and E.O. 9397 (SSN).'

* * * * *

RETRIEVABILITY:

Delete entry and replace with 'Retrieved primarily by name or Social Security Number. May be retrieved by recruiting program or any category in the data base.'

SAFEGUARDS:

Change last two sentences to read 'Records are stored in locked rooms, cabinets, and computers. Those in computer storage devices are password protected and encrypted by computer system software prior to transmission.'

* * * * *

F036 AETC A

SYSTEM NAME:

Lead Management System (LMS).

SYSTEM LOCATION:

Headquarters, Air Force Recruiting Service, 550 D Street, Suite 01, Randolph Air Force Base, TX 78150–4527, and a contracted advertising agency provide recruitment advertising for the Air Force - location depends on the contractor.

Air Force Opportunity Center (AFOC); (duties at this center are performed by a civilian contractor who is engaged by the Air Force to provide lead fulfillment services. Contact the system manager for specific locations).

Air Force Recruiting activities. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records notices.

CATEGORIES OF RECORDS IN THE SYSTEM:

Respondent's inquiry record containing name, address, date of birth, sex, telephone number, advertising medium, recruiting program in which interested, and source of referral, including name and Air Force base assigned. Recruiter contact records containing success of contact efforts, reason for not contacting, how contact was made, confirmation of educational level, qualification and status of individual.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; 10 U.S.C. 503, Enlistments; Air Education and Training Command Instruction 36–2002; and E.O. 9397 (SSN).

PURPOSE(S):

The contractor fulfills requests from respondents for information about the Air Force and notifies appropriate recruiting activities of respondent's interest. Contractor develops statistical summaries which are used by U.S. Air Force Recruiting Service to evaluate the effectiveness of the advertising and referral programs.

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 record system notices apply to this system.

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

STORAGE:

Maintained in paper form, in file folders and in computers and on computer products.

RETRIEVABILITY:

Retrieved primarily by name or Social Security Number. May be retrieved by recruiting program or any category in the data base.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms, cabinets, and computers. Those in computer storage devices are password protected and encrypted by computer system software prior to transmission.

RETENTION AND DISPOSAL:

Retained by contractor at the AFOC for two years after end of fiscal year in which all actions are completed, then records are destroyed by tearing into pieces, shredding, pulping, macerating or burning. Computer records are destroyed by erasing, deleting or overwriting.

SYSTEM MANAGER(S) AND ADDRESS:

Chief, Advertising Branch, Headquarters, U.S. Air Force Recruiting Service, 550 D Street West, Suite 01, Randolph Air Force Base, TX 78150–4527.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information on themselves should address inquiries to the Chief, Advertising Branch, Headquarters, U.S. Air Force Recruiting Service, 550 D Street West, Suite 01, Randolph Air Force Base, TX 78150–4527.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the Director of Advertising and Promotion, Headquarters, U.S. Air Force Recruiting Service, 550 D Street West, Suite 01, Randolph Air Force Base, TX 78150–4527.

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:

Individual respondent and automated system interfaces.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F036 AF PC N

SYSTEM NAME:

Unit Assigned Personnel Information *(June 11, 1997, 62 FR 31793).*

CHANGES:

* * * * *

STORAGE:

Add to end of entry 'and in computers and computer output products.'

* * * * *

F036 AF PC N

SYSTEM NAME:

Unit Assigned Personnel Information.

SYSTEM LOCATION:

Headquarters, U.S. Air Force; major command headquarters; all Air Force installations and units, and headquarters of unified and specified 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.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty military personnel, and Air Force Reserve and Air National Guard personnel. Air Force civilian employees may be included when records are created which are identical to those on military members. 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:

File copies of separation actions, newcomers briefing letters, line of duty determinations, assignment actions, retirement actions, in and out processing checklists, promotion orders, credit union authorization, disciplinary actions, favorable/unfavorable communications, record of counseling, appointment notification letters, duty status changes, applications for off duty employment, applications and allocations for school training, professional military and civilian education data, private weapons storage records, locator information including names of dependents, home address, phone number, training and experience data, special recognition nominations, other personnel documents, and records of training.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013, Secretary of the Air Force; as implemented by Air Force Manual 30–3, Vol III, Mechanized Personnel Procedures, Air Force Manual 30–130, Vol I, Base Level Military Personnel System, and E.O. 9397 (SSN).

PURPOSE(S):

Provides information to unit commanders/supervisors for required actions related to personnel administration and counseling, promotion, training, separation, retirement, reenlistment, medical examination, testing, assignment, sponsor program, duty rosters, and off duty activities.

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 record system 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, and card files and in computers and computer output products.

RETRIEVABILITY:

Retrieved by name and Social Security Number.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties and by authorized personnel who are properly screened and cleared for need-to-know. Records are stored in locked rooms and cabinets.

RETENTION AND DISPOSAL:

Retained in office files until superseded, no longer needed, separation or reassignment of individual on permanent change of assignment (PCA) or permanent change of station (PCS). On intercommand reassignment PCA or PCS the file is given to individual or destroyed. On intracommand reassignment PCA or PCS the file is given to individual, forwarded to gaining commander, or destroyed. Records are destroyed by tearing into pieces, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Personnel, Headquarters, U.S. Air Force, Washington, DC 20330–5060.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether this system of records contains information on them should address inquiries to or visit the system manager or to agency officials at location of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

RECORD ACCESS PROCEDURES:

Individuals seeking to access records about themselves contained in this system should address requests to the system manager or to agency officials at location of assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of record systems notices.

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 the individual concerned, financial institutions, educational institution employees, medical institutions, police and investigating officers, bureau of motor vehicles, witnesses, reports prepared on behalf of the agency, standard Air Force forms, personnel management actions, extracts from the Personnel Data System (PDS) and records of personal actions submitted to or originated within the organization.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 97–27317 Filed 10–15– 97; 8:45 am]

BILLING CODE 5000–04–P

DELAWARE RIVER BASIN COMMISSION

Notice of Commission Meeting and Public Hearings

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Wednesday, October 22, 1997. The hearing will be part of the Commission's regular business meeting which is open to the public and scheduled to begin at 7 p.m. in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey.

In addition to the subjects listed which are scheduled for public hearing at the business meeting, the Commission will also address the following: Minutes of the September 24, 1997 business meeting; announcements; General Counsel's Report; report on Basin hydrologic conditions; consideration of Jefferson Township Sewer Authority Docket No. D–97–6 CP; a resolution to establish a Monitoring Advisory Committee; a status report on proposed amendments to the Commission's Ground Water Protected Area Regulations for Southeastern Pennsylvania and public dialogue.

The subjects of the hearing will be as follows:

Current Expense and Capital Budgets. A proposed current expense budget for the fiscal year beginning July 1, 1998, in the aggregate amount of $3,737,000 and a capital budget reflecting revenues of $2,302,500 and expenditures of $2,155,500. Copies of the current expense and capital budgets are available from the Commission on request by contacting Richard C. Gore at (609) 883–9500 ext. 201.

A Proposal to Adopt the 1998 Water Resources Program. A proposal that the 1996–1997 Water Resources Program and the activities, programs, initiatives, concerns, projections and proposals identified and set forth therein be extended and adopted as the 1998 Water Resources Program and that a staff report of progress during 1997 in completing elements of the program and policies in the 1996–1997 Water Resources Program be made a part thereof, in accordance with the requirements of Section 13.2 of the Delaware River Basin Compact.

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or Section 3.8 of the Compact

1. *Town of Milto D–83–22 CP RENEWAL 2.* An application for the renewal of a ground water withdrawal project to supply up to 10 million gallons (mg)/30 days of water to the applicant's distribution system from Well Nos. 2, 3, 4 and 5. Commission approval on August 12, 1992 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 10 mg/30 days. The project is located in the Town of Milton, Sussex County, Delaware.

2. *New Jersey-American Water Company D–90–89 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 15 mg/30 days of water to the applicant's Belvidere System from Well Nos. 1 and 2. Commission approval on August 12, 1992 was limited to five years. The applicant requests that the total withdrawal from all wells remain limited to 15 mg/30 days. The project is located in White Township, Warren County, New Jersey.

3. *Borough of Glassboro D–96–54 CP.* An application for approval of a ground water withdrawal project to supply water to the applicant's distribution system from previously approved Well Nos. 2 through 7 and new Well Nos. 8 and 9, to increase the existing withdrawal limit of 25.92 mg/30 days from all Cohansey wells to 75.8 mg/30 days, and to increase the total allocation from all wells of 88.7 mg/30 days to 105 mg/30 days. The project is located in Glassboro Township, Gloucester County, New Jersey.

4. *London Grove Township Municipal Authority D–97–27 CP.* An application for approval of a new 0.243 million gallons per day (mgd) (average monthly design capacity) spray irrigation discharge project to serve the Inniscone residential development in London Grove Township as well as a portion of Avondale Borough, and to provide golf course irrigation in London Grove Township, Chester County, Pennsylvania. Secondary treatment will be provided by lined aerated lagoons prior to tertiary filtration and chlorine disinfection and discharge to either a 47-acre spray irrigation disposal area or for irrigation of a 72-acre golf course area. The project is located in the East Branch White Clay Creek watershed but no stream discharge is proposed.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact Thomas L. Brand at (609) 883–9500 ext. 221 concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary at (609) 883–9500 ext. 203 prior to the hearing.

Other Scheduled Hearing

By earlier notice, the Commission announced that it will hold a public hearing to receive comments on proposed amendments to its Administrative Manual—Rules of Practice and Procedure which are intended to delete obsolete provisions, to clarify certain provisions of the rules and better inform the signatory parties, applicants and the general public with regard to the Commission's practices and procedures. The proposed revisions conform the rules to existing Commission interpretations and practices.

The public hearing will be held on October 22, 1997 beginning at 3 p.m. and continuing until 5 p.m., as long as there are people present wishing to testify. The hearing will be held in the Goddard Conference Room of the Commission's offices at 25 State Police Drive, West Trenton, New Jersey. The deadline for inclusion of written comments in the hearing record will be announced at the hearing. Copies of the full text of the proposed amendments to the Administrative Manual—Rules of Practice and Procedure may be obtained by contacting Susan M. Weisman at (609) 883–9500 ext. 203. Persons wishing to testify are requested to notify the Secretary in advance. Written comments on the proposed amendments should be submitted to the Secretary at the Delaware River Basin Commission, PO Box 7360, West Trenton, New Jersey 08628.

Dated: October 7, 1997.

Susan M. Weisman,

Secretary.

[FR Doc. 97–27328 Filed 10–15–97; 8:45 am]

BILLING CODE 6360–01–P

DEPARTMENT OF EDUCATION

National Advisory Council on Indian Education; Meeting

AGENCY: National Advisory Council on Indian Education, ED.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda for a meeting of the National Advisory Council on Indian Education. This notice also describes the functions of the Council. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES AND TIMES: November 4–5, 1997, 9:00 a.m. to 4:00 p.m.

ADDRESSES: The National Indian Education Association Convention, Washington State Historical Society Museum-Auditorium, 1911 Pacific Avenue, Tacoma, Washington, 98402.

FOR FURTHER INFORMATION CONTACT: Dr. David Beaulieu, Director, Office of Indian Education, 1250 Maryland Avenue, Portals 4300, Washington, DC 20202. Telephone: (202)–260–2431; Fax: (202) 260–7779.

SUPPLEMENTARY INFORMATION: The National Advisory Council on Indian Education is a Presidentially appointed advisory council on Indian education established under Section 9151 of Title IX of the Elementary and Secondary Education Act of 1965, as amended, (20 U.S.C. 7871). The Council advises the Secretary of Education and the Congress on funding and administration of programs with respect to which the Secretary has jurisdiction and that includes Indian children and adults as participants or from which they benefit. The Council also makes recommendations to the Secretary for filling the position of Director of Indian Education whenever a vacancy occurs.

This meeting will be open to the public without advanced registration. Public attendance may be limited to the space available. Members of the public may make statements during the meeting, to the extent time permits, and file written statements with the Committee for its consideration. Written statements should be submitted to the address listed above.

A summary of the proceedings and related matters which are informative to the public consistent with the policy of Title 5 U.S.C. 552b will be available to the public within fourteen days of the meeting, and are available for public inspection at the Office of Elementary and Secondary Education, U.S. Department of Education, 1250 Maryland Avenue, SW, Washington, DC 20202 from the hours of 8:30 a.m. to 5:00 p.m.

Gerald N. Tirozzi,

Assistant Secretary, Office of Elementary and Secondary Education.

National Advisory Council on Indian Education

November 4–5, 1997

Meeting Location; Washington State Historical Society Museum-Auditorium; 1911 Pacific Avenue, Tacoma, Washington

Meeting Agenda

Tuesday, November 4, 1997

8:30 a.m.—Meeting Location: Washington State Historical Society Museum-Auditorium, 1911 Pacific Avenue, Tacoma, Washington.
9:00 a.m.—Call to Order by NACIE Chairman & Roll Call, Introductions, Invocation
9:30 a.m.—Reorganization of the National Advisory Council on Indian Education
11:45 a.m.—Lunch
1:00 p.m.—Public Hearing on Indian Education Issues
4:30 p.m.—Recess

Wednesday, November 5, 1997

8:30 a.m.—NACIE will attend General Session of NIEA—Dr. Tirozzi/ Keynote
10:00 a.m.—Meeting Location: Washington State Historical Society Museum-Auditorium
10:30 a.m.—NACIE Discussion on Congressional Reporting Requirements
12:00 Noon—Lunch
1:00 p.m.—Public Hearing on Indian Education Issues
3:30 p.m.—Recess to meet with Dr. Tirozzi, Council Deliberation and Recommendations

[FR Doc. 97–27420 Filed 10–15–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF EDUCATION

National Board of the Fund for the Improvement of Postsecondary Education; Meeting

AGENCY: National Board of the Fund for the Improvement of Postsecondary Education, Education.

ACTION: Notice of meeting.

SUMMARY: This notice sets forth the proposed agenda of a forthcoming meeting of the National Board of the Fund for the Improvement of Postsecondary Education. This notice also describes the functions of the Board. Notice of this meeting is required under section 10(a)(2) of the Federal Advisory Committee Act.

DATES AND TIMES: October 30, 1997 from 9:00 a.m. to 4:00 p.m.

ADDRESSES: Hyatt Regency Crystal City, 2799 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Charles Karelis, U.S. Department of Education, 600 Independence Avenue, SW., Room 3100, ROB #3, Washington, DC 20202–5175. Telephone: (202) 708–5750. Individuals who use a telecommunication device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339 between 8:00 a.m. and 8:00 p.m., Eastern time, Monday through Friday).

Individuals with disabilities may obtain this document in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed in the preceding paragraph.

SUPPLEMENTARY INFORMATION: The National Board of the Fund for the Improvement of Postsecondary Education is established under Section 1001 of the Higher Education Amendments of 1980, Title X (20 U.S.C. 1131a-1). The National Board of the Fund is authorized to recommend to the Director of the Fund and the Assistant Secretary for Postsecondary Education priorities for funding and approval or disapproval of grants of a given kind.

The meeting of the National Board is open to the public. The National Board will meet on Thursday, October 30, from 9:00 a.m. to 4:00 p.m. to provide an overview of the Fund's program status and special initiatives and orient new Board members.

The meeting site is accessible to individuals with disabilities. An individual with a disability who will need an auxiliary aid or service to participate in the meeting (e.g., interpreting service, assistive listening device or materials in an alternate format) should notify the contact person listed in this notice at least two weeks before the scheduled meeting date. Although the Department will attempt to meet a request received after that date, the requested auxiliary aid or service may not be available because of insufficient time to arrange it.

Records are kept of all Board proceedings, and are available for public inspection at the office of the Fund for the Improvement of Postsecondary Education, Room 3100, Regional Office Building #3, 7th & D Streets, SW., Washington, DC 20202 from the hours of 8:00 a.m to 4:30 p.m.

Dated: October 10, 1997.

David A. Longanecker,

Assistant Secretary for Postsecondary Education.

[FR Doc. 97–27487 Filed 10–15–97; 8:45 am]

BILLING CODE 4000–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP96–641–000]

ANR Pipeline Company; Notice of Site Visit

October 9, 1997.

On October 16, 1997, beginning at 12:00 p.m., the Office of Pipeline Regulation (OPR) staff will conduct a compliance inspection of ANR Pipeline Company's (ANR) Michigan Leg South Looping Project facilities in Porter County, Indiana, beginning at ANR's construction office located at 8619 Louisiana Place, Merrillville, Indiana.

All parties may attend. Those planning to attend must provide their own transportation.

For further information, please contact Paul McKee at (202) 208–1088.

Robert J. Cupina,

Deputy Director, Office of Pipeline Regulation.

[FR Doc. 97–27330 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

[Docket No. CP97–783–000]

Federal Energy Regulatory Commission

ANR Pipeline Company; Notice of Application

October 9, 1997.

Take notice that on September 30, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit Michigan 48243, filed, in Docket No. CP97–783–000, an application pursuant to Section 7(c) of the Natural Gas Act and Part 157 of the Commission's Regulations for authorization to utilize temporary work spaces and for any other authorization deemed necessary associated with a pipeline replacement project in La Porte County, Indiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

ANR proposes to replace a 0.62 mile line segment of both its 22-inch O.D. main line and its 30-inch O.D. loop line beginning at Mile Post 891.69 to satisfy the safety requirements of Part 192 of the U.S. Department of Transportation's regulations. ANR states that in order to make the replacement it will have to utilize temporary work spaces which may not have been included in the scope of the original authorization to construct the facilities. Therefore, ANR requests the temporary use of work space and any other authorizations deemed necessary by the Commission in order to make the replacement. ANR states that the construction will be done within the existing right-of-way under the authority of section 2.55 of the Commission's regulations, which authorizes replacement within the existing right-of-way.

Any person desiring to be participate in the hearing process or to make any protest with reference to said application should on or before October 30, 1997, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 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 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.

A person obtaining intervenor status will be placed on the service list maintained by the Secretary of the Commission and will receive copies of all documents filed by the applicant and by every one of the intervenors. An intervenor can file for rehearing of any Commission order and can petition for court review of any such order. However, an intervenor must submit copies of comments or any other filing it makes with the Commission to every other intervenor in the proceeding, as well as 14 copies with the Commission.

A person does not have to intervene, however, in order to have comments considered. A person, instead, may submit two copies of comments to the Secretary of the Commission. Commenters will be placed on the Commission's environmental mailing list, will receive copies of environmental documents and will be able to participate in meetings associated with the Commission's environmental review process. Commenters will not be required to serve copies of filed documents on all other parties. However, commenters will not receive copies of all documents filed by other parties or issued by the Commission and will not have the right to seek rehearing or appeal the Commission's final order to a federal court.

The Commission will consider all comments and concerns equally, whether filed by commenters or those requesting intervenor status.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the

time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that 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 ANR to appear or to be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27331 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–2–000]

ANR Pipeline Company; Notice of Application

October 9, 1997.

Take notice that on October 1, 1997, ANR Pipeline Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed an application in Docket No. CP98–2–000 pursuant to section 7(c) of the Natural Gas Act, for authorization to utilize temporary work spaces and any other authorization deemed necessary associated with a pipeline replacement project in Kent County, Michigan, all as more fully set forth in the application on file with the Commission and open to public inspection.

ANR proposes to replace a 0.96 mile line segment of its mainline system because of increased population density in order to satisfy U.S. Department of Transportation safety regulations. ANR states that in order to make the replacement, it will have to utilize temporary work spaces which may not have been included in the scope of the original authorization to construct the facilities. ANR states that the construction will be done within the existing right-of-way under the authority of Section 2.55 of the Commission's Regulations, which authorizes replacement within the existing right-of-way.

Any person desiring to be heard or to make any protest with reference to said application should on or before October 30, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 and 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules 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 a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its 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 ANR to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27332 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–3–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

October 9, 1997.

Take notice that on October 2, 1997, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, S.E., Charleston, West Virginia 25314–1599, filed in Docket No. CP98–3–000 a request pursuant to sections 157.205, and 157.211, of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211) for authorization to construct and operate a new point of delivery to Bayer Corporation in Wetzel Country, West Virginia, under Columbia's blanket certificate issued in Docket No. CP83–76–000 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.

Columbia states that the point of delivery has been requested by Bayer Corporation for industrial service. The estimated quantities of natural gas to be delivered will be up to 2,737,500 Dth/annually with a volume of 20,000 Dth/day. The estimated cost to construct is $250,000.

Any person or the Commission's staff may, within 45 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to section 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefor, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27333 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–10–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

October 9, 1997.

Take notice that on October 7, 1997, Koch Gateway Pipeline Company (Koch), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–10–000 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 approval to operate as a jurisdictional facility a four-inch tap and three-meter station placed into service under section 311(a) of the Natural Gas Policy Act (NGPA) and section 284.3(c) of the Commission's regulations, under Koch's blanket certificate issued in Docket No. CP82–430–000, pursuant to Section 7(c) of the Natural Gas Act (NGA), all as more fully set forth in the request which is on file

with the Commission and open to public inspection.

Koch asserts that the proposed certification of facilities will enable Koch to provide transportation services under its blanket transportation certificate through a tap serving Entex, Inc. (Entex), a local distribution company, in Harris County, Texas. Koch states that the estimated average day and peak day requirements for this delivery point are 600 MMBtu and 3,600 MMBtu, respectively. Koch further states that such volumes will be transported pursuant to either, or a combination of Koch's Firm Transportation (FTS) or No Notice Transportation Service (NNS) rate schedules. Koch further asserts that the tap and meter station cost approximately $40,000.

Any person or the Commission's Staff may, within 45 days of the issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214), a motion to intervene and pursuant to section 157.205 of the regulations under the Natural Gas Act (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefor, the proposed activities 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 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. 97–27334 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–37–002]

Northwest Pipeline Corporation; Notice of Compliance Filing

October 9, 1997.

Take notice that on October 6, 1997, Northwest Pipeline Corporation (Northwest) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, the following tariff sheet, to become effective October 1, 1997:

2nd Substitute Twenty-Second Revised Sheet No. 2.2

Northwest states that the purpose of this filing is to comply with the Commission's September 29, 1997 order in Docket No. TM98–1–37–001. Accordingly, Northwest has reinstated the GRI Adjustment as an MMBtu rate.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. 97–27339 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–64–002]

Pacific Interstate Offshore Company; Notice of Compliance Filing

October 9, 1997.

Take notice that on October 7, 1997, Pacific Interstate Offshore Company (PIOC) tendered for filing to be part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised tariff sheet, with an effective date of October 1, 1997:

Substitute Fourth Revised Sheet No. 6

PIOC states that the purpose of this filing is to comply with a Commission order dated September 29, 1997 (80 FERC § 62,290) which approved PIOC's filing subject to PIOC revising its pagination on the tariff sheet as a substitute tariff sheet within 15 days of the Commission's order. PIOC states that no other changes have been made to the tariff sheet.

PIOC states that copies of this filing has been served on PIOC's sole customer, the Southern California Gas Company and the Public Utilities Commission of the State of California and other interested parties.

Any persons desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, DC 20426, in accordance with Section 385.211 and 385.214 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27340 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–14–000]

Tennessee Gas Pipeline Company; Notice of Cashout Report

Take notice that on October 6, 1997, Tennessee Gas Pipeline Company (Tennessee) tendered for filing its third annual cashout report for the September 1995 through August 1996 period.

Tennessee states that the cashout report reflects a net cashout loss during this period of $9,143,633. Tennessee further states that the report also reflects Tennessee's loss to date from cashout operations since August 1993 totaling approximately $10,715,607.

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 on or before October 17, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27338 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–503–001]

Wyoming Interstate Company, Ltd.; Notice of Tariff Filing

October 9, 1997.

Take notice that on October 6, 1997, Wyoming Interstate Company, Ltd. (WIC) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Second Revised Sheet No. 62, in compliance with the Commission's Order dated September 25, 1997.

That order identified an error in the proposed tariff sheet mentioned above. The original WIC filing of August 28, 1997, changed the method WIC uses to bill flowing gas under firm transportation agreements from receipts to deliveries as well as making certain housekeeping-type revisions. The error noted by the Commission did not appear on the ''redlined'' version of the tendered tariff sheet, but, through an oversight, the Second Revised Tariff Sheet No. 62 in publication format and the electronic version were not updated. WIC's October 6 filing corrects these errors.

WIC states that copies of this filing have been served on WIC's jurisdictional customers and public bodies.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed in accordance with section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection in the Public Reference Room.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27337 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2004–073–MA and 11607–000–MA]

Holyoke Water Power Company, Ashburnham Municipal Light Plant and Massachusetts Municipal Wholesale Electric Company; Notice Establishing Subsequent Licensing Procedural Schedule and a Deadline for Submission of Final Amendments

October 9, 1997.

The license for the Holyoke Hydroelectric Project, FERC Project No. 2004, located on the Connecticut River, in Hampden, Hampshire, and Franklin Counties, Massachusetts, expires on August 31, 1999. Competing applications for a new license have been filed as follows:

Project No.	Applicant	Contact
P–2204–073	Holyoke Water Power Company	Ronald G. Chevalier, Holyoke Water Power Co., P.O. Box 270, Hartford, CT 06141, (860) 665–5315. James J. Kearns, NE Utilities. Serv. Co., P.O. Box 270, Hartford, CT 06141, (860) 665–5936. Catherine E. Shively, Public Serv. Co. NH, 1000 Elm Street, Manchester, NH 03105, (603) 634–2326.
P–11607–000	Ashburnham Municipal Light Plant & Mass. Municipal Wholesale Electric Company.	Roger W. Bacon, Mass. Wholesale Elec. Co., Randall Rd., P.O. Box 426, Ludlow, MA 01056, (413) 589–1041. Thomas E. Lewis, Ashburnham Municipal Light Plant, 78 Central Street, P.O. Box 823, Ashburnham, MA 01430, (508) 827–4423.

The following is an approximate procedural schedule that will be followed in processing the applications:

Date	Action
November 27, 1997	Commission notifies applicant that its application is deficient, if applicable.
January 31, 1998	*Commission's deadline for applicant to file final amendment, if any, to its application.*
February 14, 1998	*Commission's deadline for applicants to serve a copy of its competing application on each of the other applicants per section 4.36 (d)(2)(ii) of the Commission's regulations.*
February 28, 1998	Commission notifies applicant that its application has been accepted, and issues public notice of the accepted application establishing dates for filing motions to intervene and protests.
March 31, 1998	*Commission's deadline for applicants to file a detailed and complete statement of how its plans are as well or better adapted than the plans of each of the other license applications to develop, conserve, and utilize in the public interest, the water resources of the region, per section 4.36(d)(2)(iii) of the Commission's regulations.*
May 31, 1998	Commission notifies all parties and agencies that the application is ready for environmental analysis.

Upon receipt of all additional information and the information filed in response to the public notice of the acceptance of the applications, the Commission will evaluate the applications in accordance with applicable statutory requirements and take appropriate action on each application.

Any questions concerning this notice should be directed to Allan Creamer at (202) 219–0365.

Lois D. Cashell,

Secretary.

[FR Doc. 97–27335 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Intent To File an Application for a Subsequent License

October 9, 1997.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Type of filing:* Notice of Intent to File An Application for a Subsequent License.

b. *Project No.:* 3516.

c. *Date filed:* October 1, 1997.

d. *Submitted By:* City of Hart, Michigan, current licensee.

e. *Name of Project:* Hart Lake Project.

f. *Location:* On the Pentwater River, in Hart Township, Oceana County, Michigan.

g. *Filed Pursuant to:* 18 CFR 16.19 of the Commission's regulations.

h. *Effective date of current license:* April 1, 1962.

i. *Expiration date of current license:* September 30, 2002.

j. *The project consists of:* (1) a 31-foot-high, 890-foot-long dam; (2) a 240-acre reservoir; (3) a powerhouse containing two generating units with a combined total capacity of 320 kW; (4) an 80-foot-long tailrace; (5) transmission lines; and (6) appurtenant facilities.

k. *Pursuant to 18 CFR 16.7, information on the project is available at:* The City of Hart, Clerk's Office, 407 State Street, Hart, Michigan 49420, (616) 873–2488.

l. *FERC contact:* Tom Dean (202) 219–2778.

m. Pursuant to 18 CFR 16.9 and 16.20 each application for a new or subsequent license and any competing license applications must be filed with the Commission at least 24 months prior to the expiration of the existing license. All applications for license for this project must be filed by September 30, 2000.

Lois D, Cashell,

Secretary.

[FR Doc. 97–27336 Filed 10–15–97; 8:45 am]

BILLING CODE 6717–01–M

ENVIRONMENTAL PROTECTION AGENCY

[OPP–00510; FRL–5751–2]

Pesticide Program Dialogue Committee; Open Meeting

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: As required by section 10(a)(2) of the Federal Advisory Committee Act [Public Law 92–463], EPA's Office of Pesticide Programs (OPP) is giving notice of a public meeting of the Pesticide Program Dialogue Committee (PPDC).

DATES: The meeting will be held on Wednesday, October 22, 1997 from 1:00 p.m. to 5:15 p.m. and Thursday, October 23, 1997 from 8:30 a.m. to 4:30 p.m.

ADDRESSES: The meeting will be held at: the Holiday Inn (Hotel & Suites, Historic District Alexandria); 625 First Street; Alexandria, VA 22314; Phone: 703–548–6300.

FOR FURTHER INFORMATION CONTACT: By mail: Margie Fehrenbach or Linda Murray, Office of Pesticide Programs (7501C), Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. Office location and telephone number: Rm. 1119, Crystal Mall #2, 1921 Jefferson Davis Highway; Arlington, VA; Phone: 703–305–7090; e-mail: fehrenbach.margie@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: The PPDC is composed of a balanced group of participants from the following sectors: pesticide industry and user groups; federal agencies and state governments; consumer and environmental/public interest groups, including representatives from the general public; academia; the public health community; and, congressional staff. The Committee was formed to foster communication and understanding among the parties represented on the Committee and with OPP. The Committee also provides advice and guidance to OPP regarding pesticide regulatory, policy, and implementation issues.

PPDC meetings are open to the public. Outside statements by observers are welcome. Oral statements will be limited to five minutes, and it is preferred that only one person present the statement. Any person who wishes to file a written statement can do so before or after a Committee meeting. These statements will become part of the permanent file and will be provided to the Committee members for their information. Materials will be available for public review at the following address: U.S. Environmental Protection Agency, Rm. 1128, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703) 305–5805.

Topics to be discussed at the October 22–23, 1997 meeting are:

1. Update on FQPA implementation and year-end status report for FY-97;
2. Communications/Right-to-know: consumer brochure, consumer labeling initiative and inerts;
3. Antimicrobials: ''treated articles issue'' (products impregnated with pesticides);
4. Discussion of FQPA issues covered at recent Science Advisory Panel (SAP) meeting (criteria for requiring in-utero cancer studies and exposure assessment methodologies for residential scenarios);
5. Discussion of ILSI workshop on organophosphate (OP) recommendations;
6. Other science and policy issues/ impact on FQPA (e.g., use of the 10-fold additional uncertainty factor, reassessment of carcinogens under a threshhold model); and,
7. Minor use pesticides -- how tolerances are evaluated and set for section 18s.

List of Subjects

Environmental protection.

Dated: October 10, 1997.

Daniel M. Barolo,

Director, Office of Pesticide Programs.

[FR Doc. 97–27630 Filed 10–15–97; 8:45 am]

BILLING CODE 6560–50–F

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

October 8, 1997.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995, Public Law 104–13. An

agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the Paperwork Reduction Act (PRA) that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written comments should be submitted on or before November 17, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., NW., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0745.

Title: Implementation of the Local Exchange Carrier Tariff Streamlining Provisions in the Telecommunications Act of 1996, CC Docket No. 96–187.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 170.

Estimated Time Per Response: 37.18 hours (avg.).

Cost to Respondents: $45,000.

Total Annual Burden: 4,250 hours.

Needs and Uses: In the Report and Order issued in CC Docket 96–187, the Commission adopts measures to implement the specific streamlining tariff filing requirements for local exchange carriers (LECs) of the Telecommunications Act of 1996 (1996 Act). The Commission requires the following information be collected from LECs eligible for streamlined regulation: (a) electronic filing requirements; (b) requirement that carriers desiring tariffs proposing rate decreased to be effective in seven days must be filed in separate transmittals; (c) requirement that carriers identify transmittals filed pursuant to the streamlined provisions of the 1996 Act; (d) requirement that price cap LECs file their Tariff Review Plans (TRSs) prior to filing their annual access tariffs; (e) petitions and replies; and (f) standard protective orders. All of the requirements would be used to ensure that local exchange carriers comply with their obligations under the Communications Act and that the Commission be able to ensure compliance within the streamlined timeframes established by the 1996 Act.

OMB Approval Number: 3060–0438.

Title: Transmittal Sheet for Cellular Applications for Unserved Areas.

Form Number: FCC Form 464.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 49.

Estimated Time Per Response: .166 hours (10 minutes).

Cost to Respondents: N/A.

Total Annual Burden: 8 hours.

Needs and Uses: FCC rules require that applicants submit a transmittal sheet, FCC Form 464, in addition to other filing requirements pursuant to 47 CFR part 22. FCC Form 464 is designed to facilitate application intake and other processing functions by serving as a cover sheet to the application. FCC Form 464 is used in Phase I of the licensing scheme for Cellular Applications for Unserved Areas. The form is being revised to add a space for applicant's Internet or e-mail address and to add a space to collect Taxpayer Identification Number (TIN) as required by the Debt Collection Improvement Act of 1996.

OMB Approval Number: 3060–0318.

Title: Notification of Commencement of Service or of Additional or Modified Facilities.

Form Number: FCC Form 489.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 7,000.

Estimated Time Per Response: 3.62 hours.

Cost to Respondents: $525,000. Assuming that respondents contracting out the information would use an attorney or engineer at an approximate cost of $200 per hour.

Total Annual Burden: 8,960 hours.

Needs and Uses: The FCC Form 489 is a multi-purpose form used by commercial mobile radio service providers subject to 47 CFR parts 22 and 24 to notify the Commission of commencement of service, satisfaction of construction requirements, additional transmitters, minor modifications to stations and for certain other miscellaneous purposes. In addition to the requirements specified on the form, applicants may be required to file exhibits and showings as specified by the applicable rule part. The requested information is used by Commission staff in carrying out its duties as set forth in section 308 and 309 of the Communications Act of 1934, as amended. The forms is being revised to add a space for the licensee to provide an Internet/e-mail address and to request the licensee's Taxpayer Identification Number (TIN). The TIN is required to comply with the Debt Collection Improvement Act of 1996. A type of licensee ''government entity'' is also being added to the choices prior to the signature on the application.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–27412 Filed 10–15–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2232]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

October 10, 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, NW., Washington, DC or may be purchased from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed October 31, 1997. See Section 1.4(b)(1) of the commission's rule (4 CFR 1.4(b)(1)). Replies to an opposition must be filed within 10 days after the time for filing oppositions has expired.

Subject: Policy and Rules concerning the Interstate, Interexchange Marketplace Universal Service.

Implementation of Section 254(g) of the Communications Act of 1934, as amended (CC Docket No. 96–61).

Number of Petitions Filed: 7.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–27414 Filed 10–15–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL COMMUNICATIONS COMMISSION

[Report No. 2233]

Petitions for Reconsideration and Clarification of Action in Rulemaking Proceedings

October 14, 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 1.429(e). The full text of these documents are available for viewing and copying in Room 239, 1919 M Street, NW., Washington, DC or may be purchase from the Commission's copy contractor, ITS, Inc. (202) 857–3800. Oppositions to these petitions must be filed October 31, 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: Assessment and Collection of Regulatory Fees for Fiscal Year 1997 (MD Docket No. 96–186).

Number of Petitions Filed: 6.

Federal Communications Commission.

William F. Caton,

Acting Secretary.

[FR Doc. 97–27505 Filed 10–15–97; 8:45 am]

BILLING CODE 6712–01–M

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

DATE & TIME: Tuesday, October 21, 1997 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC.

STATUS: This meeting will be closed to the public.

ITEMS TO BE DISCUSSED:

Compliance matters pursuant to 2 U.S.C. 437g.

Audits conducted pursuant to 2 U.S.C. 437g, 438(b), and Title 26, U.S.C.

Matters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

DATE & TIME: Thursday, October 23, 1997 at 10:00 a.m.

PLACE: 999 E Street, NW., Washington, DC (ninth floor).

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Regulations: Who Qualifies as a ''Member'' of a Membership Association: Notice of Proposed Rulemaking.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer Telephone (202) 219–4155.

Mary W. Dove,

Administrative Assistant.

[FR Doc. 97–27589 Filed 10–14–97; 11:38 am]

BILLING CODE 6715–01–M

NATIONAL GAMBLING IMPACT STUDY COMMISSION

Meeting

AGENCY: National Gambling Impact Study Commission, Subcommittee on Research.

TIME AND DATE: Saturday, October 18, 1997, 10:30 a.m. to 3 p.m.

PLACE: The meeting site will be: The Doubletree Hotel, Denver, 3203 Quebec Street, Denver, CO 80207.

STATUS: Open to the public. Seating is limited to 90 people on a first come, first served basis.

NOTICE: The Subcommittee on Research will be convened to gather information for the National Gambling Impact Study Commission, to analyze relevant issues and facts, and to draft a proposed research agenda for deliberation by the Commission at its next regular meeting. The Subcommittee meeting falls under 41 CFR § 101–6.1004(k), and is not subject to FACA. Nonetheless, all interested parties are welcome to attend.

CONTACT PERSONS: For further information, contact Amy Ricketts at (202) 523–8217 or write to 800 North Capitol Street, NW., Suite 450, Washington, DC 20002.

Timothy A. Kelly,

Research Director.

[FR Doc. 97–27356 Filed 10–15–97; 8:45 am]

BILLING CODE 6820–ET–P

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Advanced Scientific Computing; 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 Advanced Scientific Computing (#1185).

Date and Time: November 7, 1997, 8:30 am to 5:00 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1150, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. John Van Rosendale, Program Director, New Technologies Program, Suite 1122, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1962.

Purpose of Meeting: To provide recommendations and advice concerning proposals submitted to NSF for financial support.

Agenda: Panel review of the New Technologies Program 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27467 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Astronomical Sciences (1186); Notice of Meetings

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces that the Special Emphasis Panel in Astronomical Sciences (1186) will be holding panel meetings for the purpose of reviewing proposals submitted to the Advanced Technologies and Instrumentation Program in the area of Astronomical Sciences. In order to review the large volume of proposals, panel meetings will be held on November 5 and 6 (1) and on November 12 (2). All meetings will be closed to the public and will be held at the National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia, from 9:00 A.M. to 4:00 PM each day.

Contact Person: Dr. Benjamin B. Snavely, Program Director, Advanced Technologies and Instrumentation, Division of Astronomical Sciences, National Science Foundation, Room 1045, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1828.

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 USC 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27461 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–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 & Time: November 6–7, 1997; 8 a.m. to 5 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 320, Arlington, VA 22230.

Contact Person: Dr. Edward H. Bryan, Program Director, Environmental Engineering 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 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27469 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biomolecular Processes; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Pane for Biomolecular Processes—(5138) (Panel A).

Date and Time: Wednesday, and Friday, November 5, 6, & 7, 1997 9:00 a.m.–5:00 p.m.

Place: National Science Foundation, 4201 Wilson Blvd., Room 310, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Susan Porter Ridley, Assistant Program Manager for Metabolic Biochemistry, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230. (703/306–1441).

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research proposals submitted to the Metabolic 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27459 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Cell Biology; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Panel for Cell Biology (1136)—(Panel B).

Date and Time: Wednesday, Thursday, and Friday November 5, 6, and 7, 1997 8:30 a.m. to 6:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 390, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Persons: Drs. Eve Barak and Richard D. Rodewald, Program Directors, for the Cell Biology Program, National Science Foundation, Room 655 South, Arlington, VA 22230. Telephone: 703/306–1442.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda. To review and evaluate research proposals submitted to the Cell Biology 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 10, 1997.

Rebecca M. Winkler,

Committee Management Officer.

[FR Doc. 97–27460 Filed 10–15–95; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Civil and Mechanical 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 Civil and Mechanical Systems (1205).

Date & Time: November 6 and November 7, 1997; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 530 & 580, Arlington, Virginia.

Contact Person: Drs. Jorn Larsen-Basse and Sunil Saigal, Program Directors, Surface Engineering & Tribology, Mechanics and Materials Programs, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1361, x5073 and x5069.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate research 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27462 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATONAL SCIENCE FOUNDATION

Special Emphasis Panel in Computer and Computation Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Special Emphasis Panel in Computer and Computation Research (1192).

Date: November 5 and 7, 1997.

Time: 8:00 a.m.–5 p.m.

Place: Rooms 1105.17, 1150, 920, and 770, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Kamal Abdali, Acting Director, CCR, room 1145, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, 703/306–1910.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the National Science Foundation for financial support.

Agenda: To review and evaluate Faculty Early Career Development (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 in the Sunshine Act.

Dated: October 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27463 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Design, Manufacture, and Industrial Innovation; 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 Design, Manufacture, and Industrial Innovation—(1194).

Date and Time: November 3, 1997, 8:00 a.m.–5:30 p.m.

Place: Rooms 360, 365, 390, and 680, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Delcie Durham, Program Director, Materials Processing and Manufacturing Program, Dr. George Hazelrigg, Program Director, Design and Integration Program, Dr. Ming Leu, Program Director, Manufacturing Machines and Equipment Program, Dr. Lawrence Seiford, Program Director, Operations Research and Production Systems, (703) 306–1330, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to the NSF for financial support.

Agenda: To review and evaluate Faculty Early Career Development (CAEER) and Presidential Early Career Awards for Scientists and Engineers (PECASE) proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information, financial data such as salaries, and personal information concerning individuals associated with the proposals. These matters that are exempt under 5 U.S.C. 552b(c) (4) and (6) of the Government in the Sunshine Act.

Dated: October 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27468 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Genetics; 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 Genetics (1149) Panel B.

Date and Time: Monday, November 3, 1997 through Tuesday, November 4, 1997, 8:30 am to 5:00 pm.

Place: Room 310, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. DeLill Nasser, Program Director for Eukaryotic Genetics, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1439.

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 Eukaryotic Genetics 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27465 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Genetics; 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 Genetics (1149) (Panel A).

Date and Time: Thursday, November 6, 1997 through Friday, November 7, 1997, 8:30 am to 5 pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Room 360, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Philip Harriman, Program Director for Microbial Genetics, Division of Molecular and Cellular Biosciences, Room 655, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230, (703) 306–1439.

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 Microbial Genetics 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27466 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Geosciences; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. Law 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Committee for Geosciences (1755).

Dates: November 6–7, 1997.

Time: 8:30 a.m.–5:00 p.m.

Place: Room 1235, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230.

Type of Meeting: Open.

Contact Person: Dr. Thomas J. Baerwald, Deputy Assistant Director for Geosciences, Suite 705, National Science Foundation, 4201 Wilson Boulevard, Arlington, Virginia 22230, 703–306–1502.

Minutes: May be obtained from the contact person listed above.

Purpose of Meeting: To provide advice, recommendations, and oversight concerning support for research, education, and human resources development in the geosciences.

Agenda:

NSF strategic planning and budget development
Geosciences long-range planning
Committee of Visitor reports and responses
Human resource issues in the geosciences
Geoscience staffing issues

Note: A detailed agenda will be posted on the NSF Homepage approximately one week prior to the meeting on http://www.geo.nsf.gov/adgeo/advcomm/start.htm

Dated: October 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27464 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Geosciences; 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 Geosciences (1756).

Date & Time: Thursday, November 6; 8:30 a.m.–5:00 p.m.

Place: Room 105, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Michael R. Reeve, Section Head, Division of Ocean Sciences, National Science Foundation, 4201 Wilson Blvd., Room 725, Arlington, VA 22230. Telephone: (703) 306–1582.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate OCE's Research Experiences for Undergraduate (REU) 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27458 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Mathematical and Physical Sciences; Committee of Visitors; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting.

Name: Advisory Committee for Mathematical and Physical Sciences (66).

Date and Time: November 6–7, 1997, 8 a.m.–5 p.m.

Place: Rm. 1060, NSF, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Open.

Contact Person: Dr. G. Bruce Taggart, Program Director for Materials Theory, Materials Research Division, Room 1065, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1834.

Purpose of Meeting: To carry out Committee of Visitors (COV) review of the Materials Theory Program grant portfolio and identify emerging research areas.

Agenda: To review and evaluate existing Materials Theory grant portfolio and recommend areas for future emphasis.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27456 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Polar Programs; 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 Polar Programs (1209).

Date and Time: November 3, 1997; 8:00 am to 5:00 pm.

Place: Room 755, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Fae Korsmo, Program Director for Arctic Social Science, Office of Polar Programs, Room 740, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1029.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Arctic Social Science proposals as part of the selection process for awards.

Reasons 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 10, 1997.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–27457 Filed 10–15–97; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket No. 40–8681–MLA–2 ASLBP No. 98–733–01–MLA]

International Uranium (USA) Corporation; Designation of Presiding Officer

Pursuant to delegation by the Commission dated December 29, 1972, published in the **Federal Register**, 37 FR 28710 (1972), and §§ 2.105, 2.700, 2.702, 2.714, 2.714a, 2.717 and 2.1207 of the Commission's Regulations, a single member of the Atomic Safety and Licensing Board Panel is hereby designated to rule on petitions for leave to intervene and/or requests for hearing and, if necessary, to serve as the Presiding Officer to conduct an informal adjudicatory hearing in the following proceeding.

International Uranium (USA) Corporation

White Mesa Uranium Mill

(Request for License Amendment)

The hearing, if granted, will be conducted pursuant to 10 CFR Subpart L of the Commission's Regulations, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' This proceeding concerns a request for hearing submitted by the Native American Petitioners on an amendment to the Source Material License of International Uranium (USA) Corporation to allow receipt and processing of uranium-bearing material. The license amendment was granted by the Nuclear Regulatory Commission staff on August 15, 1997.

The Presiding Officer designated for this proceeding is Administrative Judge Peter B. Bloch. Pursuant to the provisions of 10 CFR 2.722, Administrative Judge Charles N. Kelber

has been appointed to assist the Presiding Officer in taking evidence and in preparing a suitable record for review.

All correspondence, documents and other materials shall be filed with Judge Bloch and Judge Kelber in accordance with 10 CFR 2.701. Their addresses are:

Administrative Judge Peter B. Bloch, Presiding Officer, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Dr. Charles N. Kelber, Special Assistant, Atomic Safety and Licensing Board Panel, U.S. Nuclear Regulatory Commission, Washington, DC 20555

Issued at Rockville, Maryland, this 9th day of October 1997.

B. Paul Cotter, Jr.,

Chief Administrative Judge, Atomic Safety and Licensing Board Panel.

[FR Doc. 97–27423 Filed 10–15–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket Number 40–0299]

Umetco Minerals Corporation; Notice of Opportunity for a Hearing

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of receipt of application from Umetco Minerals Corporation to change six site-reclamation milestones in Condition 59 of Source Material License SUA–648 for the Gas Hills, Wyoming Uranium Mill.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) has received, by letter dated October 3, 1997, an application from Umetco Minerals Corporation (Umetco) to amend License Condition (LC) 59 of its Source Material License No. SUA–648 for the Gas Hills, Wyoming uranium mill. The license amendment application proposes to modify LC 59 to extend the completion dates for placement of the final radon barrier and the erosion protection cover for the Inactive, the A–9, and the Heap Leach impoundments.

FOR FURTHER INFORMATION CONTACT: Mohammad W. Haque, Uranium Recovery Branch, Division of Waste Management, U.S. Nuclear Regulatory Commission, Washington, DC 20555. Telephone (301) 415–6640.

SUPPLEMENTARY INFORMATION: The portion of LC 59 with the proposed changes would read as follows:

A. (3) Placement of final radon barrier designed and constructed to limit radon emissions to an average flux of no more than 20 pCi/m.^{2}/s above background:

for the Inactive impoundment (enhanced barrier)—December 31, 1999;

for the A–9 impoundment—December 31, 2003;

for the Heap Leach impoundment—December 31, 1998.

B. (1) Placement of erosion protection as part of reclamation to comply with Criterion 6 of Appendix A of 10 CFR Part 40:

for the Inactive impoundment—December 31, 2002;

for the A–9 impoundment—December 31, 2004;

for the Heap Leach impoundment—December 31, 2001.

Umetco's application to amend LC 59 of Source Material License SUA–648, which describes the proposed changes to the license condition and the reasons for the request is being made available for public inspection at the NRC's Public Document Room at 2120 L Street, NW (Lower Level), Washington, DC 20555.

The NRC hereby provides notice of an opportunity for a hearing on the license amendment under the provisions of 10 CFR Part 2, Subpart L, ''Informal Hearing Procedures for Adjudications in Materials and Operator Licensing Proceedings.'' Pursuant to § 2.1205(a), any person whose interest may be affected by this proceeding may file a request for a hearing. In accordance with § 2.1205(c), a request for hearing must be filed within 30 days of the publication of this notice in the **Federal Register**. The request for a hearing must be filed with the Office of the Secretary, either:

(1) By delivery to the Docketing and Service Branch of the Office of the Secretary at One White Flint North, 11555 Rockville Pike, Rockville, MD 20852; or

(2) By mail or telegram addressed to the Secretary, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch.

In accordance with 10 CFR 2.1205(e), each request for a hearing must also be served, by delivering it personally or by mail, to:

(1) The applicant, Umetco Minerals Corporation, 2754 Compass Drive, Suite 280, Grand Junction, Colorado 81506–8741, Attention: John S. Hamrick; and

(2) The NRC staff, by delivery to the Executive Director for Operations, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852 or by mail addressed to the Executive Director for Operations, U.S. Nuclear Regulatory Commission, Washington, DC 20555.

In addition to meeting other applicable requirements of 10 CFR part 2 of the NRC's regulations, a request for a hearing filed by a person other than an applicant must describe in detail:

(1) The interest of the requestor in the proceeding;

(2) How that interest may be affected by the results of the proceeding, including the reasons why the requestor should be permitted a hearing, with particular reference to the factors set out in § 2.1205(g);

(3) The requestor's areas of concern about the licensing activity that is the subject matter of the proceeding; and

(4) The circumstances establishing that the request for a hearing is timely in accordance with § 2.1205(c).

The request must also set forth the specific aspect or aspects of the subject matter of the proceeding as to which petitioner wishes a hearing.

Dated at Rockville, Maryland, this 8th day of October 1997.

Joseph J. Holonich,

Chief, Uranium Recovery Branch, Division of Waste Management, Office of Nuclear Material Safety and Safeguards.

[FR Doc. 97–27418 Filed 10–15–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Evaluation of Agreement State Radiation Control Programs

AGENCY: Nuclear Regulatory Commission.

ACTION: Implementation of the Integrated Materials Performance Evaluation Program and rescission of a final general statement of policy.

SUMMARY: The Nuclear Regulatory Commission (NRC) is implementing the Integrated Materials Performance Evaluation Program (IMPEP) for the evaluation of Agreement State programs. NRC is rescinding the May 28, 1992, General Statement of Policy ''Guidelines for NRC Review of Agreement State Radiation Control Programs, 1992,'' since it is now superseded.

The NRC has issued the final policy statements: ''Statement of Principles and Policy for the Agreement State Program'' and ''Policy Statement on the Adequacy and Compatibility of Agreement State Programs,'' (See 62 FR 46517; September 3, 1997). Conforming revisions to IMPEP in connection with these two policy statements have been completed and are reflected in the implementing procedure, Management Directive 5.6, Integrated Materials Performance Evaluation Program.

EFFECTIVE DATE: October 1, 1997.

ADDRESSES: Interested persons may obtain a single copy of Management Directive 5.6 by contacting Nancy Belmore, Office of State Programs, U.S. Nuclear Regulatory Commission, Document Control Desk, P1–37, Washington, DC 20555, telephone (301)–415–2326.

FOR FURTHER INFORMATION CONTACT: Kathleen N. Schneider, Office of State Programs, U.S. Nuclear Regulatory Commission, Document Control Desk, P1–37, Washington, DC 20555, telephone (301)–415–2320.

SUPPLEMENTARY INFORMATION: In 1995, NRC implemented, on an interim basis, a process to evaluate NRC regional licensing and inspection programs and Agreement State radiation control programs that regulate the use of radioactive materials in an integrated manner using common performance indicators (see 60 FR 54734; October 25, 1995). The NRC staff conducted the interim program using Management Directive 5.6, ''Integrated Materials Performance Evaluation Program'' dated September 12, 1995. On June 30, 1997, the Commission approved SECY–97–054, Final Recommendations on Policy Statements and Implementing Procedures for: ''Statement of Principles and Policy for the Agreement State Program'' and ''Policy Statement on the Adequacy and Compatibility of Agreement State Programs.'' NRC is implementing IMPEP with the corresponding revisions as a result of the final policy statements. The revised Management Directive is currently being prepared in final form to incorporate the final policy statements and comments received during interim implementation of IMPEP from the Regions and the Agreement States.

NRC is rescinding the May 28, 1992, ''NRC Review of Agreement State Radiation Control Programs: Final General Statement of Policy,'' on October 1, 1997. This policy is superseded by IMPEP, which is no longer considered an interim program.

SMALL BUSINESS REGULATORY ENFORCEMENT FAIRNESS ACT: In accordance with the Small Business Regulatory Enforcement Fairness Act of 1996, the NRC has determined that Management Directive 5.6 is not a major rule and has verified this determination with the Office of Information and Regulatory Affairs of the Office of Management and Budget.

Dated at Rockville Maryland this 7th day of October, 1997.

For the Nuclear Regulatory Commission.

John C. Hoyle,

Secretary of the Commission.

[FR Doc. 97–27424 Filed 10–15–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–271]

Vermont Yankee Nuclear Power Corporation, Vermont Yankee Nuclear Power Station; Issuance of Partial Director's Decision Under 10 CFR 2.206

Notice is hereby given that the Director, Office of Nuclear Reactor Regulation, has taken action with regard to a Petition dated December 6, 1996, submitted by Mr. Jonathan M. Block, on behalf of the Citizens Awareness Network, Inc. (CAN). The Petition requested evaluation of certain Memoranda enclosed with the Petition relating to the Vermont Yankee Nuclear Power Station operated by the Vermont Yankee Nuclear Power Corporation (Licensee) to see if enforcement action is warranted.

The first document enclosed with the Petition is a CAN Memorandum dated December 5, 1996, that reviews information presented by the Licensee at an enforcement conference held on July 23, 1996, involving the minimum flow valves in the Vermont Yankee residual heat removal system. CAN raises a concern that the corrective action taken by the Licensee in opening these valves may have introduced an unreviewed safety question with regard to containment isolation.

The second document enclosed with the Petition is a CAN Memorandum dated December 6, 1996, that contains a review of certain Licensee Event Reports (LERs) submitted by the Licensee in the latter part of 1996. Various issues are presented, such as fire protection, tornado protection, thermal protection for piping lines, equipment operability, and equipment testing. On the basis of its analysis of the LERs, CAN reaches certain conclusions regarding the performance of the Licensee and actions that should be taken.

On the basis of these documents, CAN requests that the NRC determine whether enforcement action is warranted pursuant to 10 CFR 2.206.

The Director of the Office of Nuclear Reactor Regulation has granted the Petition in that the NRC staff has evaluated the majority of issues and LERs raised in these Memoranda to see if enforcement action is warranted based upon the information contained therein. The conclusion of the evaluation is that no further enforcement action is warranted for those issues and LERs that are closed. LERs which remain open will be resolved through the normal inspection and enforcement process and will be addressed in a Final Director's Decision after the NRC staff has completed its evaluations. The reasons for the staff's conclusions are provided in the ''Partial Director's Decision Pursuant to 10 CFR 2.206'' (DD–97–25), the complete text of which follows this notice and is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20037, and at the local public document room located at Brooks Memorial Library, 224 Main Street, Brattleboro, VT 05301. A copy of the Decision will be filed with the Secretary of the Commission for the Commission's review in accordance with 10 CFR 2.206(c) of the Commission's regulations. As provided for by this regulation, the Decision will become the final action of the Commission 25 days after the date of issuance, unless the Commission, on its own motion, institutes a review of the decision in that time.

Dated at Rockville, Maryland, this 8th day of October 1997.

For the Nuclear Regulatory Commission.

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

Partial Director's Decision Pursuant to 10 CFR 2.206

I. Introduction

On December 6, 1996, Mr. Jonathan M. Block, submitted a Petition to the Office of the Secretary of the U.S. Nuclear Regulatory Commission (NRC) pursuant to Section 2.206 of Title 10 of the Code of Federal Regulations (10 CFR 2.206). The Petition was submitted on behalf of the Citizen's Awareness Network, Inc. (CAN or Petitioner), and contained two Memoranda from CAN. The first Memorandum enclosed with the Petition is dated December 5, 1996. It reviews information presented by the Vermont Yankee Nuclear Power Corporation (Licensee) at a predecisional enforcement conference held on July 23, 1996, involving the minimum flow valves in the residual heat removal (RHR) system at the Vermont Yankee Nuclear Power Station (Vermont Yankee facility). CAN raises a concern that the corrective action taken by the Licensee in opening these valves may have introduced an unreviewed safety question with regard to containment isolation.

The second Memorandum enclosed with the Petition is dated December 6, 1996, and contains a review of certain licensee event reports (LERs) submitted by the Licensee in the latter part of 1996. Various issues are presented, such as fire protection, tornado protection, thermal protection for piping lines, equipment operability, and equipment testing. On the basis of its analysis of the LERs, CAN reaches certain conclusions regarding Licensee performance and actions that should be taken. In the Petition, the Petitioner requested that the NRC evaluate these documents, pursuant to 10 CFR 2.206, to see if enforcement action is warranted based upon the information contained therein.

On February 12, 1997, the NRC informed the Petitioner in an acknowledgement letter that the Petition had been referred to the Office of Nuclear Reactor Regulation for the preparation of a Director's Decision and that action would be taken within a reasonable time regarding the specific concerns raised in the Petition.

II. Discussion

The NRC staff evaluation of these documents follows.

A. The Residual Heat Removal System

The first document enclosed with the Petition is a CAN Memorandum dated December 5, 1996, that reviews information presented by the Licensee at a predecisional enforcement conference held on July 23, 1996, involving the minimum flow valves in the Vermont Yankee RHR system.[1] The Vermont Yankee RHR system consists of two loops. Each loop has two pumps that take suction from the suppression chamber. Each pump has a minimum flow line equipped with a minimum flow valve that returns flow to the suppression chamber. The RHR pumps start automatically to cool the reactor in case of a loss-of-coolant accident (LOCA). The minimum flow valves close to prevent flow from being diverted from the reactor core to the suppression pool when flow is being supplied from the RHR pumps to the reactor core, and open automatically on high pump discharge pressure to protect the RHR pumps if other valves between the RHR pumps discharge and the reactor core are not yet open.

The Licensee discovered a vulnerability to single failure which could prevent the minimum flow valves from opening to protect the RHR pumps during a LOCA. To resolve this concern, the Licensee changed the normal and failed positions of these valves from CLOSED to OPEN. The Petitioner is concerned that the corrective action taken by the Licensee in opening these valves may have introduced an unreviewed safety question with regard to containment isolation.[2] A pipe break outside containment would breach primary containment with an OPEN minimum flow valve.

This issue must be addressed in terms of the Vermont Yankee facility licensing basis. The basic design for early boiling-water reactors, including the Vermont Yankee facility which was reviewed and accepted by the NRC, considered the piping of the RHR and Core Spray (CS) Systems to be a closed extension of primary containment. Failure of the passive pressure boundary (piping) of these systems during either the short-term (injection phase) or long-term (recirculation phase) course of a design-basis accident (DBA) was not a design basis assumption. As a result, the RHR and CS suction and minimum flow lines were not provided with containment isolation valves, or if valves were provided in these lines, they were not provided for the purpose of meeting containment isolation requirements and thus were not classified as containment isolation valves. In most if not all cases, the penetrations of concern in the older plants were originally provided with at least one valve capable of performing the containment isolation function, and these valves are periodically tested under inservice testing (IST) program requirements. The Vermont Yankee minimum flow valves can be remotely closed and are periodically tested under the IST program.

For more recent facilities, emergency core cooling system (ECCS) closed systems outside containment are required to have at least one recognized isolation valve at each penetration. This is not the case for the Vermont Yankee facility.

In view of the licensing criteria applicable to the Vermont Yankee facility, maintaining the minimum flow valves of the RHR system in the OPEN position is permitted and acceptable. The Vermont Yankee final safety analysis report (FSAR) does not describe the minimum flow valves as being in the CLOSED position, and placing these valves in the OPEN position is not a change to the facility under the meaning of 10 CFR 50.59 and no unreviewed safety question is presented. For the above reasons, no enforcement action is warranted with regards to this issue.

B. Licensee Event Reports

The second document enclosed with the Petition is a CAN Memorandum dated December 6, 1996, that contains a review of several LERs submitted by the Licensee in the latter part of 1996. Various issues are presented, such as fire protection, tornado protection, thermal protection for piping lines, equipment operability, and equipment testing. On the basis of its analysis of the LERs, CAN reaches certain conclusions regarding Licensee performance and actions that it believes should be taken. First, CAN requests that the NRC and the Licensee review all safety analyses conducted since initial startup of the Vermont Yankee facility with particular attention to their role in providing a complete and up-to-date FSAR. Second, the Licensee needs to correct serious deficiencies in its design change control process and should undertake a historical review of its design control documentation to verify its accuracy. Third, the Licensee should perform a global evaluation to determine how many modifications have been inadequately tested since startup. Fourth, the Licensee needs to initiate a thorough retraining program to review and emphasize the underlying safety purposes of Technical Specifications, the FSAR, design bases and NRC regulations in relation to routine operation of the Vermont Yankee facility, emergency preparedness, and practical implementation of the NRC's ''defense in depth'' philosophy. Finally, CAN strongly recommends that the Licensee's Vermont Yankee staff receive training on the proper use of the ''Single Failure'' criterion.

The LERs identified in the CAN Memorandum are briefly discussed below.

(1) LER 96–13: ''Two fire suppression systems do not meet design requirements due to personnel error on the part of [the] vendor who designed and installed the systems''

CAN asserts that the LER did not address the cause and consequences of

[1] Several statements in the December 5, 1996, Memorandum are either unclear or incorrect. A single power supply failure does not prevent RHR minimum flow valves in both loops from operating, contrary to the statement on page 2 of the Memorandum. Minimum flow valves in both loops will not remain open if a single power supply failure occurs, contrary to the statement on page 3 of the Memorandum. Also, on page 4 of the December 5, 1996, Memorandum, CAN questions the remote manual closure capability of the minimum flow valves. The minimum flow valves have remote manual closure and opening capability, but the pump protection logic will override any remote manual closure or opening signal.

[2] The NRC staff assumes Petitioner's reference to an ''unreviewed safety question'' is in the context of the NRC's regulation 10 CFR 50.59, ''Changes, Tests, and Experiments''.

the foam suppression system deficiency, which is one of the two fire suppression systems addressed in this LER. CAN is correct in that the Licensee did not determine a precise root cause because such a long time had elapsed since the occurrence (1978). It is not unreasonable for a licensee to be unable to ascertain the exact root cause of a personnel error that took place many years before (18 years in this case). Key points that are considered in reviewing an LER are (1) whether the specific problem is being appropriately addressed, (2) whether the potential for a broader problem exists and, (3) if a broader problem exists, whether it is properly addressed. In this case, the Licensee reviewed its current design process and procedures and determined that a similar occurrence would not be expected to occur now, and the Licensee had two teams that were actively reviewing the fire protection design bases and searching for the types of problems reported in the LER. CAN is incorrect in stating that the consequences of the foam system deficiency were not discussed in the LER. The Licensee stated that any fire in the area would be contained and suppressed, preventing its spread to safety-related equipment.

Because the design deficiencies addressed in this LER were licensee-identified and corrected, they were treated as Non-Cited Violations in Inspection Report 50–271/96–05 in accordance with Section VII.B.1 of the NRC's Enforcement Policy,[3] and the LER was closed in Inspection Report 50–271/96–06. Further enforcement action is not warranted.

(2) LER 96–14: ''Failure to provide tornado protection for diesel generator rooms as specified in the Final Safety Analysis Report due to unknown cause''

The FSAR states that large venting areas are provided to vent the diesel generator room in the event of a tornado to provide pressure equalization. The LER notes that the facility as constructed did not include venting. CAN asserts that ''flaws in the FSAR cause serious, rippling effects throughout VY's [Vermont Yankee facility's] safety systems'' and that the Licensee ''must include assessments of the impact of the deficient conditions upon all affected programs.''

The Licensee took immediate action to insure emergency diesel generator (EDG) operability in the absence of the pressure relief panels. The Licensee took immediate compensatory measures which included blocking open the EDG room doors and posting fire and security watches. The Licensee took additional compensatory actions for the restoration of operability of the diesel and day tank enclosures during cold weather months when the EDG doors had to be shut. An NRC inspector verified that the recommended compensatory measures were properly implemented.

The discrepancy between the actual plant design and the FSAR is a de facto change to the facility as described in the safety analysis report, and thus required an evaluation to meet the requirements of 10 CFR 50.59. The failure to perform such a 10 CFR 50.59 evaluation was categorized as a Severity Level IV violation, and was dispositioned in Inspection Report 96–11 as a Non-Cited Violation in accordance with Section VII.B.1 of the Enforcement Policy.

Other plants have been found to have FSARs which do not properly describe the facilities. Consequently, for this reason and as a result of lessons learned from events at Millstone Nuclear Power Station and Maine Yankee Atomic Power Station, on October 9, 1996, the NRC requested information from all power reactor licensees, to verify, among other things, that the plant FSARs properly describe the facilities, and that the systems, structures, and components are consistent with the design basis. In conjunction with this request for information, and in order to encourage licensees to identify discrepancies, the Commission approved a modification to the NRC Enforcement Policy that allows the NRC staff to exercise enforcement discretion for a period of 2 years for violations related to FSAR discrepancies identified by licensees. The policy revision was published in the **Federal Register** on October 18, 1996 (61 FR 54461).

In the Licensee's response to this request for information dated February 14, 1997, the Licensee committed to complete its FSAR verification program in 1998.

CAN raises a concern about a potential error in the Licensee's statement in this LER of no prior occurrences, based on a James A. Fitzpatrick Nuclear Power Plant report of a similar problem. Licensees are only required to report prior similar occurrences at their facility, and not at any other facility. Therefore, the Licensee was accurately reporting that a similar event had not previously occurred at Vermont Yankee Nuclear Power Station. This LER is closed. Further enforcement action is not warranted. The Licensee has issued a supplement to this LER to document the long term corrective actions to vent the EDG room in the event of a tornado to provide pressure equalization. This LER supplement remains open pending NRC inspection of the Licensee's modifications to the EDG room to provide the required pressure equalization.

(3) LER 96–15: ''Original B31.1 ANSI Code Section that Required Overpressurization Relief for Isolated Piping Sections was not Considered during [the] Original Design''

Certain piping sections, which would be isolated after a LOCA, were found to lack overpressure protection contrary to code requirements. The water in this piping could expand because of the high temperatures accompanying a LOCA and exceed the design pressure rating of the piping. CAN asserts that the Licensee failed to take advantage of earlier opportunities to identify this design error when making modifications to the six systems discussed in the LER. CAN is correct in that the LER represented the first discovery of this problem, although modifications had been made to the affected systems earlier. This potential overpressurization problem has been identified at other plants, as evidenced by the issuance of NRC Information Notice (IN) 96–49 on August 20, 1996, and NRC Generic Letter (GL) 96–06 on September 30, 1996. The Licensee did maintain an awareness of events in this area and identified this issue at its site before the generic communications referred to above were issued. The NRC staff encourages licensee initiatives to identify and correct safety problems that may be generic to the industry in advance of generic NRC staff communications to the industry. The Licensee's corrective actions included a design change which provided the required overpressure protection for the

[3] The NRC's policy and procedures for determining the enforcement action that may be warranted for a violation are discussed in NUREG–1600, ''General Statement of Policy and Procedures for NRC Enforcement Actions'' (Enforcement Policy). Because regulatory requirements have varying degrees of safety, safeguards, or environmental significance, the first step in the enforcement process is to evaluate the significance of the violation and then assign a severity level to the violation. A violation is assigned one of four severity levels. As described in Section IV of the Enforcement Policy, Severity Level I is assigned to violations that are the most safety significant and Severity Level IV is assigned to violations that are the least safety significant. Consistent with the recognition that violations have different degrees of safety significance, the Enforcement Policy recognizes that there are other violations of minor safety or environmental concern that are below the level of significance of Severity Level IV violations. These minor violations are not normally the subject of formal enforcement action and are not usually described in inspection reports. To the extent that such violations are described, they are usually described as ''Non-Cited Violations.''

affected lines. The change was completed in the 1996 refueling outage.

This LER remains open. Responses from power reactor licensees to GL 96–06 were received by the NRC staff in February 1997 and are undergoing review to assure that the overpressure protection issue is being adequately addressed and resolved. Following this generic review, a determination will be made of whether enforcement action is warranted for specific plants. Information regarding the completion of this activity and any enforcement action taken will be publicly available in the plant specific Inspection Reports. This LER will be further discussed in a Final Director's Decision when the LER is closed.

(4) LER 96–18: ''Inadequate Installation and Inspection of Fire Protection Wrap Results in Plant Operation Outside of Its Design Basis, A Single Fire Would Impact Multiple Trains of Safety-Related Equipment''

CAN asserts that this deficiency had significant adverse safety implications. The reported deficiency consisted of a small gap in the fire barrier installed on a cable tray support. The cable tray contained wiring to support operation of the ECCS. The NRC staff does not consider CAN's claim, that a fire could have rendered both divisions of the ECCS inoperable, credible. The Licensee's evaluation found that existing fire protection analyses were very conservative, and that, with the combustible loading and fire detection and suppression equipment in the area, no credible fire threat could challenge the functionality of the ''as found,'' wrapped cable. The Licensee has acted appropriately to correct the fire barrier deficiency and to prevent similar problems in the future. With the combustible loading, fire detection, and suppression equipment in the area, the NRC staff conceptually agrees with the Licensee's conclusion that no credible fire threat could challenge the functionality of the ''as found'' wrapped cable. Inspection activities were performed the week of August 18, 1997 to verify the Licensee's conclusion.

This LER remains open. Results of the inspection and any enforcement action as a result of this inspection activity will be made publicly available through plant specific Inspection Reports. This LER will be further discussed in a Final Director's Decision when the LER is closed.

(5) LER 96–19: ''Half scram and group III containment isolation caused by loose Reactor Protection System breaker termination''

The NRC staff agrees with CAN that this event presented no significant risk to public health and safety. This LER is closed. No violation was involved, therefore the NRC staff concludes that enforcement action is not warranted.

(6) LER 96–20: ''Inadequate vender [sic] design activity and Licensee design verification result in inability to demonstrate Fire Suppression System Operability''

This LER involved the inability of the carbon dioxide fire suppression system to fully extinguish a deep-seated fire, as required. The Licensee stated in the LER that this event had no safety significance. The NRC staff considered this LER to have little apparent actual or potential safety significance. This conclusion was based on the Licensee's analysis that although the carbon dioxide suppression systems might not fully extinguish a deep-seated fire, the suppression and detection systems would function. Fire detection would alert the fire brigade, and because the carbon dioxide fire suppression system had reduced the fire, the fire brigade could extinguish the fire more easily. The NRC staff closed this LER in Inspection Report 96–11. Pending inspector review of the Licensee's corrective actions, the unresolved item initiated for this issue in Inspection Report 96–08 (URI 96–08–01) was left open. As documented in Inspection Report 97–05, unresolved item 96–08–01 was closed and a Non-Cited Violation was issued, consistent with Section VII.B.1 of the NRC Enforcement Policy. Further enforcement action is not warranted.

CAN asserts that this LER reveals a serious deficiency in the Licensee's design change control process, and that the Licensee should determine how many other modifications have been inadequately tested since startup. The NRC staff agrees that this event demonstrated a weakness in the Licensee's modification and testing programs associated with fire protection. As noted under the discussion regarding LER 96–13, the Licensee has initiated reviews of the fire protection design bases to search for these types of problems, and believes that the current design process and procedures are adequate to prevent similar problems. As discussed earlier, by letter dated October 9, 1996, the NRC staff requested information from all licensees, to verify, among other things, the adequacy of the design change control process and to determine the rationale for concluding that design-basis requirements are properly translated into operating, maintenance, and testing procedures. The Licensee responded by letter dated February 14, 1997.

(7) LER 96–21: ''Inadequate procedural controls of MOV Limit Switch Settings result in a potential common cause failure mode with the capacity to affect multiple safety significant components''

This LER involved two limit switches on shutdown cooling suction motor-operated valve (MOV) to the ''D'' RHR pump. The switches measure valve travel towards the open position. One open limit switch permits the pump motor to start after the valve position is sufficiently open, and the other limit switch stops valve travel so that the motor doesn't drive the valve too far and damage the valve. The Licensee identified that a modification to the valve's motor operator resulted in the improper setting of these two limit switches.

Inspector follow-up, as documented in Inspection Report 97–05, led to the conclusion that this error was of low safety significance. The failed start of the ''D'' RHR pump because of this limit switch error on the shutdown cooling suction valve affected only the shutdown cooling mode of operation of the RHR system. The failure did not impact the other modes of RHR system operation and the safety design bases functions of the RHR system. Further, prompt Licensee action was taken to check the other recently modified MOVs. Their limit switches were found to be properly set and therefore their safety functions were unaffected. This licensee-identified and corrected violation resulted in the issuance of a Non-Cited Violation, consistent with Section VII.B.1 of the NRC Enforcement Policy. This LER is closed. Further enforcement action is not warranted.

(8) LER 96–22: ''Combination of poor man-machine interface, an inadequate procedure, inadequate Operating Experience Review results in a common cause failure mechanism, and an Emergency Diesel Generator to exceed Tech Spec [sic] outage time''

The output breaker for one emergency diesel generator (EDG) was found to be incapable of closing because of a missing cotter pin which was necessary for a mechanical linkage. As a result of the absence of this cotter pin, the breaker closing springs failed to recharge, rendering the breaker incapable of being closed from the control room. The only indication that the closing springs had failed to recharge was a mechanical flag indicator located behind the breaker cubicle door.

No licensee procedures required verification of the closing spring status. The closing springs were apparently in an uncharged condition for over three weeks without discovery. Because the periodic surveillance interval for the breaker is greater than the EDG limiting condition for operation (LCO), the Licensee unknowingly operated in violation of its Technical Specification (TS) governing diesel generator operability. After reviewing the Licensee's root cause analysis of this event, the NRC staff determined that the missing cotter pin would not reasonably have been expected to be detected by the Licensee's existing quality assurance program or through other related control measures.[4] The Licensee identified the EDG inoperability, investigated to determine when the problem arose, and reported that the LCO time was exceeded. The Licensee responded to the inoperable equipment when the inoperability was discovered. The Licensee did not intentionally exceed an LCO. Rather, the Licensee discovered an equipment problem caused by a malfunction beyond its control which meant that, in hindsight, an LCO had been exceeded. The Licensee is designing a modification for this and other circuit breakers of similar design to allow monitoring of the charging status of the closing springs without having to open the circuit breaker cubicle door.

Because the EDG inoperability was not avoidable by reasonable Licensee quality assurance measures or management controls, the NRC did not issue a Notice of Violation for this issue. This is consistent with Section VI.A of the Enforcement Policy. This LER is closed. The NRC staff concludes that further enforcement action is not warranted.

(9) LER 96–23: ''Inadequate Surveillance Procedure results in failure to meet Technical Specification requirements for Radiation Monitor Functional Testing''

The reactor building and refueling floor radiation monitor test procedure did not verify the high alarm contact actuation as required by TS. The NRC staff agrees with CAN that this event presented no significant risk to public health and safety. Considering that the monitors were verified to be fully functional, and were in the condition required by Plant Technical Specifications, this specific event appears to have been limited to an inadequate testing methodology. The Licensee's corrective actions included revising the deficient surveillance test procedure to properly test the high alarm output contacts.

However, the LER remains open as the NRC staff has not completed its inspection activities related to this LER. The NRC staff will look historically to see if this is an isolated case as part of the enforcement consideration. On January 10, 1996 the NRC issued Generic Letter (GL) 96–01 , ''Testing of Safety-Related Logic Circuits,'' that requested, among other things, that all power reactor licensees review their surveillance test procedures to ensure that all portions of the logic circuitry are being tested. The Licensee's response to GL 96–01, due to be sent to the NRC in September 1997, will be evaluated with respect to the Licensee's long-term corrective action for logic testing procedures, because any associated corrective action could be considered in determining whether enforcement action is warranted. Information regarding any enforcement action taken will be available publicly in plant-specific Inspection Reports. This LER will be further discussed in a Final Director's Decision when the LER is closed.

(10) LER 96–25: ''Inadequate testing leads to misadjustment of isolation valve mechanical stop and failure to meet Technical Specification leak rate limits for containment purge isolation valve''

This LER involved a containment isolation valve which leaked in excess of TS requirements. The amount of valve leakage was influenced by the direction in which the valve was leak tested and the adjustment of a mechanical stop. CAN's concern appears to be that the Licensee failed to apply the single-failure criterion in assessing the significance of the failure in its LER. section 50.73(b)(3) requires that an LER contain an assessment of the safety consequences and implications of the event, including the availability of other systems or components that would have performed the safety function of the failed system or component. In this case, the requirement is that the assessment include the availability of a redundant component (valve) that would have performed the safety function (torus isolation). Petitioner's issue is thus whether the LER should have, in addition, assessed the potential radiological consequences had a design-basis accident (DBA) occurred with failure of the redundant isolation valve. Compliance with section 50.73(b)(3) does not require that the assessment consider an additional single failure beyond the failure which forms the basis for the assessment. On the basis of required reporting, LER 96–25 was not deficient in omitting discussion of the potential consequences of failure of the redundant valve. Inspection Report 50–271/96–11 dispositioned this Severity Level IV TS violation as a Non-Cited Violation in accordance with the criteria for enforcement discretion in Section VII.B.1 of the Enforcement Policy. Although the event was considered to be of more than minor safety significance, the outboard valves had successfully passed all previous tests, and thus the demonstrated containment integrity was always maintained for the two affected penetrations. This LER is closed. No further enforcement action is warranted.

C. Summary

In summary, with respect to CAN's concern that an unreviewed safety question with respect to containment isolation may have been introduced by Licensee actions in opening the RHR minimum flow lines, the NRC staff determined that no unreviewed safety question was introduced and, therefore, no enforcement action is warranted. With respect to CAN's concerns related to the LERs, the NRC staff finds that the Enforcement Policy has been applied consistently for the LERs that have been closed and further enforcement action is not warranted.

For those LERs which remain open the Inspection/Enforcement process will continue until the staff has completed its investigation and consideration of the issues involved. LER closure and enforcement action, as appropriate, will be documented publicly as is NRC staff practice, and will documented in a Final Director's Decision.

With regard to CAN's overall conclusions based on its analysis of the above LERs, the NRC staff has reached the following conclusions:

With respect to CAN's conclusion that the NRC and the Licensee should review all safety analyses conducted since startup of the Vermont Yankee facility with particular attention to their role in providing a complete and up-to-date FSAR, the NRC staff has taken actions as noted in the discussion above related to LER 96–14 with respect to identifying and correcting FSAR inaccuracies. This action was taken in a request on October 9, 1996, to all licensees, including Vermont Yankee, to provide the requested information. In addition, the NRC staff has implemented a series of

[4] CAN asserts that the Licensee misconstrues the purposes of TS Limiting Conditions for Operation (LCOs) as part of a ''chronic pattern of misunderstanding'' of TS, FSAR design bases, and NRC regulations. For the reasons described herein, LER 96–22 does not provide a basis for this assertion.

engineering design inspections, including an inspection to verify portions of the Licensee's design control process and maintenance of the Licensees's FSAR commitments. The results of the NRC design inspection conducted at Vermont Yankee were reported in Inspection Report 97–201 dated August 27, 1997.

With respect to CAN's conclusion that the Licensee needs to correct serious deficiencies in its design change control process and should undertake a historical review of its design control documentation to verify its accuracy, the NRC staff has taken action as noted in the discussion related to LER 96–20 with respect to identifying and correcting design change control process deficiencies. In the October 9, 1996 letter to all licensees, including Vermont Yankee, the NRC staff requested information to verify, among other things, the adequacy of the design change control process and to determine the rationale for concluding that design-basis requirements are properly translated into operating, maintenance, and testing procedures. As also noted in the discussion related to LER 96–20, the Licensee has undertaken a review of the fire protection design bases to search for the type of problems involved in LER 96–20, and believes that the current modification programs are adequate to prevent similar problems.

With respect to CAN's conclusion that the Licensee should perform a global evaluation to determine how many modifications have been inadequately tested since startup, as noted in the discussion related to LER 96–20, the Licensee has been required to provide verification of the design change control process, including among other things the rationale for concluding that design basis requirements are translated into testing procedures.

With respect to CAN's conclusion that the Licensee needs to initiate a thorough retraining program to review and emphasize the underlying safety purposes of TSs, the FSAR, design bases and NRC regulations in relation to routine operation of the Vermont Yankee facility, emergency preparedness, and practical implementation of the NRC's ''defense in depth'' philosophy, the NRC staff disagrees. In the discussion related to LER 96–22, the NRC staff addresses CAN's assertion that the Licensee misconstrues the purposes of TS LCO as part of a ''chronic pattern of misunderstanding'' of TS, FSAR design bases and NRC regulations. The NRC staff finds no basis to require such a retraining program.

Finally, CAN strongly recommends that the Licensee's Vermont Yankee staff receive training on the proper use of the ''Single Failure Criterion.'' In the discussion related to LER 96–25, the NRC staff addresses what seems to be the basis for CAN's recommendation: i.e. the perception that the Licensee failed to properly apply the Single Failure Criterion in assessing the significance of a leaking isolation valve in LER 96–25. Compliance with Section 50.73 does not require that the assessment consider an additional single failure. The enforcement conference related to the minimum flow valves concerned a problem in implementation of the Single Failure Criterion; not a misunderstanding of the requirements of the Single Failure Criterion. Because the Licensee did not err in the instance described in LER 96–25 and the Petition provides no other instances in which problems were caused by a misunderstanding of the Single Failure Criterion, the NRC staff finds no basis for requiring additional training.

III. Conclusion

The NRC staff has reviewed the information submitted by the Petitioner. The Petitioner's request is granted in that the NRC staff has evaluated the majority of issues and LERs raised in the Memoranda provided by the Petitioner to see if enforcement action is warranted based on the information contained therein. The NRC staff has discussed each Memorandum above and described any related enforcement action taken for those issues and LERs which are closed. The NRC will continue the same process and consideration for the LERs that remain open and documentation of any inspection and/or enforcement action will be consistent with agency practices and will also be the subject of a Final Director's Decision.

As provided in 10 CFR 2.206(c), a copy of this Decision will be filed with the Secretary of the Commission for the Commission's review. This Decision will become the final action of the Commission 25 days after issuance, unless the Commission, on its own motion, institutes review of the Decision in that time.

Dated at Rockville, Maryland, this 8th day of October 1997.

For the Nuclear Regulatory Commission.

Original signed by

Samuel J. Collins,

Director, Office of Nuclear Reactor Regulation.

[FR Doc. 97–27417 Filed 10–15–97; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 50–213]

Connecticut Yankee Atomic Power Company, Haddam Neck Plant; Notice of Meeting Regarding Post-Shutdown Decommission Activities Report

The Nuclear Regulatory Commission (NRC) previously published a Notice of Receipt (62 FR 46783, dated September 4, 1997) of the Post-Shutdown Decommissioning Activities Report (PSDAR), dated August 22, 1997, for the Haddam Neck Plant (HNP) located in Middlesex County, Connecticut, Town of Haddam.

In that previous **Federal Register** Notice, the NRC stated that it would hold a public meeting in the vicinity of the Haddam Neck Plant within 60 days of that notice. The purpose of this informational meeting is to (1) describe the licensee's planned activities, (2) describe the regulatory process for decommissioning, (3) hear public comments regarding health and safety, and protection of the environment during decommissioning, and (4) provide an opportunity for State and local representatives to participate. The licensee, Connecticut Yankee Atomic Power Co., will discuss their plans to decommission the Haddam Neck Plant. The NRC will discuss the PSDAR and the license termination process, and describe the program for future plant oversight. The public will have an opportunity to comment on the PSDAR and the meeting will be transcribed by a court reporter.

The meeting is scheduled for Monday, October 27, 1997 from 6:30 pm to 10:00 pm in the auditorium of the Haddam Killingsworth High School on Little City Road in Higganum, Connecticut.

The PSDAR is available for public inspection at the local public document room located in the Russell Library, 123 Broad Street, Middletown, CT 06457, and at the Commission Public Document Room, 2120 L Street, NW., Washington, DC 20037.

Dated at Rockville, Maryland, this 9th day of October 1997.

For the Nuclear Regulatory Commission.

Seymour H. Weiss,

Director, Non-Power Reactors and Decommissioning Project Directorate, Division of Reactor Program Management, Office of Nuclear Reactor Regulation.

[FR Doc. 97–27416 Filed 10–15–97; 8:45 am]

BILLING CODE 7950–01–P

RAILROAD RETIREMENT BOARD

Sunshine Act Meeting

Notice is hereby given that the Railroad Retirement Board will hold a meeting on October 22, 1997, 9:00 a.m., at the Board's meeting room on the 8th floor of its headquarters building, 844 North Rush Street, Chicago, Illinois, 60611. The agenda for this meeting follows:

Portion Open to the Public

(1) Letter from General Services Administration Regarding the Board's Obligation for Rent Payments
(2) Coverage Determination—Little Kanawha River Rail, Inc.
(3) Field Service Personnel Practices
(4) Buyout Surveys
(5) Cost Associated with the Railroad Retirement Board's Data Center
(6) Fiscal Year 1998 Performance Appraisal Plans
(7) Year 2000 Issues
(8) Labor Member Truth in Budgeting Status Report

Portion Closed to the Public

(A) 1997 Performance Appraisals for Director of Administration, Director of Programs, and General Counsel

(B) Pending Board Appeals

1. John C. Patman
2. Milford Durwood Smith
3. Vincent B. Ruck
4. Ray L. White
5. Donna R. Kepner
6. Janelle V. Henson
7. Arlin R. Slack
8. Arthur Roche

The person to contact for more information is Beatrice Ezerski, Secretary of the Board, Phone No. 312–751–4920.

Dated October 10, 1997.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–27567 Filed 10–14–97; 10:23 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 15c3–3, SEC File No. 270–87, OMB Control No. 3235–0078

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 collection of information summarized below. The Commission plans to submit this existing collection of information to the Office of Management and Budget for extension and approval.

• Rule 15c3–3 Customer Protection—Reserves and Custody of Securities

Rule 15c3–3 (''Rule'') requires registered broker-dealers to maintain certain records in connection with their compliance with the Rule's requirements that broker-dealers maintain possession and control of the segregate customer funds and securities. Commission staff estimates that the average number of hours necessary for each broker-dealer to make the required computations pursuant to the Rule is 2.5 hours per response. In order to demonstrate compliance with the Rule, approximately 326 broker-dealers choose to make a weekly computation and 197 broker-dealers choose to make a monthly computation. Accordingly, the total is 48,290 hours annually for all broker-dealers, based upon past submissions. The average cost per hour is approximately $60. Consequently, Commission staff estimates that the annual total cost of compliance with the Rule for all broker-dealers is $2,897,400.

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 shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information 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, NW., Washington, DC 20549.

Dated: October 8, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27319 Filed 10–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Submission for OMB Review; Comment Request

Upon Written Request, Copies Available From: Securities and Exchange Commission, Office of Filings and Information Services, Washington, DC 20549

Extension:

Rule 17Ad–11, SEC File No. 270–261, OMB Control No. 3235–0274

Rule 17Ad–13, SEC File No. 270–263, OMB Control No. 3235–0275

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'') has submitted to the Office of Management and Budget requests for extension of the previously approved collections of information discussed below.

Rule 17Ad–11 requires transfer agents to report to issuers and the appropriate regulatory agency in the event that aged record differences exceed certain dollar value thresholds. An aged record difference occurs when an issuer's records do not agree with those of securityowners as indicated, for instance, on certificates presented to the transfer agent for purchase, redemption or transfer. In addition, the rule requires transfer agents to report to the appropriate regulatory agency in the event of a failure to post certificate detail to the master securityholder file within 5 business days of the time required by Rule 17Ad–10. Also, transfer agents must maintain a copy of each report prepared under Rule 17Ad–11 for a period of three years following the date of the report. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule.

Because the information required by Rule 17Ad–11 is already available to transfer agents, any collection burden for small transfer agents is minimal. The staff estimates 150 registered transfer agents take approximately one hour annually to comply with Rule 17Ad–11. Therefore, the total burden is 150 hours annually for transfer agents, based upon past submissions. The average cost per hour is approximately $30. Therefore,

the total cost of compliance for transfer agents is $4,500.

Rule 17Ad–13 requires approximately 200 registered transfer agents to obtain an annual report on the adequacy of internal accounting controls. In addition, transfer agents must maintain copies of any reports prepared pursuant to Rule 17Ad–13 plus any documents prepared to notify the Commission and appropriate regulatory agencies in the event that the transfer agent is required to take any corrective action. These recordkeeping requirements assist the Commission and other regulatory agencies with monitoring transfer agents and ensuring compliance with the rule. Small transfer agents are exempt from Rule 17Ad–13.

The staff estimates 200 registered transfer agents take approximately 175 hours annually to comply with Rule 17Ad–13. Therefore, the total annual burden is 35,000 hours for transfer agents, based upon past submissions. The average cost per hour is approximately $60. Therefore, the total cost of compliance for transfer agents is $1,300,000.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid control number.

Written comments regarding the above information should be directed to the following persons: (i) Desk Officer for the Securities and Exchange Commission, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Comments must be submitted to OMB on or before November 17, 1997.

Dated: October 8, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27435 Filed 10–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39222; File No. SR–DTC–97–16]

Self-Regulatory Organization; The Depository Trust Company; Notice of Filing of a Proposed Rule Change Relating to a Decision by the Philadelphia Stock Exchange, Incorporated To Withdraw From the Clearance and Settlement and Securities Depository Businesses

October 8, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on August 5, 1997, The Depository Trust Company (''DTC'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change (File No. SR–DTC–97–16) as described in Items I, II, and III below, which items have been prepared primarily by DTC. The Commission is publishing this notice to solicit comments 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 proposed rule change involves proposed arrangements relating to a decision by the Philadelphia Stock Exchange, Incorporated (''PHLX'') to withdraw from the clearance and settlement and securities depository businesses. Parties to the proposed arrangements are DTC, PHLX, Philadelphia Depository Trust Company (''PHILADEP''), Stock Clearing Corporation of Philadelphia (''SCCP''), and the National Securities Clearing Corporation (''NSCC'').[2] The proposed arrangements as they relate to DTC will provide for the following:

(1) DTC will offer sole PHILADEP participants an opportunity to become DTC participants if they meet DTC's qualifications;

(2) DTC will make certain payments to PHLX, PHILADEP, and SCCP; and

(3) In general, for a period of five years PHLX, PHILADEP, and SCCP will not engage in the clearance and settlement and securities depository businesses. However, this prohibition will not apply to PHLX's equity ownership interest in The Options Clearing Corporation. In addition, SCCP may provide limited clearing and margin services to PHLX equity specialists for their specialist and alternate specialist transactions and for their propriety transactions in securities for which they are not appointed as specialists or alternate specialists and to certain PHLX members that are not PHLX equity specialists for their propriety transactions in securities.[3]

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments that it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PHLX has announced that it is withdrawing form the clearance and settlement and securities depository businesses in order to focus its resources on the operations of the exchange. The proposed arrangements have been designed to permit PHLX to achieve this objective while affording qualified sole PHILADEP participants an opportunity to become DTC participants and to transfer their securities to DTC. DTC believes that the proposed arrangements will result in substantial risk reduction and in increased savings for DTC participants and the securities industry as a whole.

Where there are interfaces among the securities depositories, same-day funds settlements[5] exposes each depository to certain risks, such as the failure of another depository to settle its net payment obligation because of a failure by one of the participants of such other depository to settle with it or because such other depository is experiencing a major systems problem. These risks cannot be entirely avoided with existing and available risk management controls. PHLX's withdrawal from the securities depository business will eliminate the exposure of DTC and its participants to

[1] 15 U.S.C. 78s(b)(1).

[2] These parties have entered into an agreement dated as of June 18, 1997.

[3] A more detailed description of these proposed arrangements is contained in Exhibit 2 to the filing. A copy of the filing and all exhibits are available for copying and inspection in the Commission's Public Reference Room.

[4] The Commission has modified the text of the summaries prepared by DTC.

[5] The term ''same-day funds'' refers to payment in funds that are immediately available and generally are transferred by electronic means.

the payment system risks associated with the DTC-PHILADEP interface.

In addition, the proposed arrangements should result in substantial savings for DTC participants and the securities industry. In connection with this proposal, former sole PHILADEP participants may become DTC participants if they qualify under DTC's participant standards. An increase in the number of DTC participants will result in higher DTC transaction volumes there by reducing the per unit service costs that must be recovered through DTC participant service fees.

Moreover, interdepository interfaces involve the maintenance of substantial facilities, communications networks and account and inventory reconciliation mechanisms. As a result of the proposal, the substantial costs incurred by both DTC and PHILADEP in operating an interface will be eliminated.

DTC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations promulgated thereunder because the rule proposal will help reduce the risk associated with having interfaces, provide for more efficient and less expensive clearing and depository services, and thereby facilitate the prompt and accurate clearance and settlement of such transactions. In addition, the proposal will provide qualified sole PHILADEP participants with access to DTC's facilities and will be implemented consistently with the safeguarding of securities and funds in DTC's custody and control.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed arrangements will have an impact on or impose a burden on competition. Securities depositories registered under Section 17A of the Act are utilities created to serve members of the securities industry for the purpose of providing certain services that are ancillary to the businesses in which industry members compete with one another. Operating a securities depository requires a substantial and continuing investment in infrastructure, including securities vaults, telecommunications links with users, data centers, and disaster recovery facilities, in order to meet the increasing needs of participants and respond to regulatory requirements.

After consummation of the proposed arrangements, securities industry members will continue to have access to high quality, low cost depository services provided under the mandate of the Act. The overall cost to the industry of having such services available should be reduced thereby permitting a more efficient and productive allocation of industry resources. Furthermore, because most of a depository's interface costs must be mutualized, thereby requiring some participants to subsidize costs incurred by others, PHLX's withdrawal from maintaining depository facilities should reduce costs to DTC participants and thereby remove impediments to competition. Finally, PHLX's ability to focus its resources on the operations of its exchange should help enhance competition among securities markets.

Despite the dominant market position that DTC will acquire, DTC believes that the current regulatory scheme and the very nature of the clearing and depository industries provide appropriate checks on the operations of DTC. DTC is owned by its members that utilize its services and its board of directors is comprised of its members. DTC must assure a fair representation of its members in the selection of its directors and administrators. DTC's service fees are reviewed by its board and subject to public notice and comment. Lastly, the existence of independent depositories for special securities and the potential for new clearing agency registrants offer significant checks on DTC's power.

(C) Self-Regulatory Organization's Statement on Comments on the proposed Rule Change Received From Members, Participants, or Others

Written comments on the proposal from DTC participants or others have not been solicited or received. However, the proposed arrangements are consistent with recommendations made to the boards of DTC and NSCC by the Vision 2000 Committee (''Committee''), a committee on industry representatives of the two boards. The Committee's Report dated September 1994 states:

> The industry currently owns a number of utilities that provide services related to the comparison, clearing, settlement and safekeeping of U.S. (and to a lesser degree, international) securities. These utilities overlap in two ways. * * * We believe that the industry's and, as important, the investors', overall costs can be reduced and safety and soundness can be enhanced by eliminating these overlaps where there is no clear advantage to having specialization or competing development.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC 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 Room, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to the File No. SR–DTC–97–16 and should be submitted by November 6, 1997.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27321 Filed 10–15–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39220; File No. SR–NSCC–97–08]

Self-Regulatory Organizations; National Securities Clearing Corporation; Notice of Filing of a Proposed Rule Change Relating to a Decision by the Philadelphia Stock Exchange, Incorporated To Withdraw From the Clearance and Settlement and Securities Depository Businesses

October 8, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the

[6] 17 CFR 200.30–3(a)(12).

''Act''),[1] notice is hereby given that on August 6, 1997, the National Securities Clearing Corporation (''NSCC'') filed with the Securities and Exchange Commission (''Commission'') and on August 28, 1997, amended the proposed rule change (File No. SR–NSCC–97–08) as described in Items I, II, and III below, which items have been prepared primarily by NSCC. 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 proposed rule change involves proposed arrangements relating to a decision by the Philadelphia Stock Exchange, Incorporated (''PHLX'') to withdraw from the securities clearance and settlement and securities depository businesses. Parties to the proposed arrangements are The Depository Trust Company (''DTC'') PHLX, Philadep Depository Trust Company (''PHILADEP''), NSCC, and Stock Clearing Corporation of Philadelphia (''SCCP'').[2]

The proposed arrangements as they relate to NSCC will provide for the following:

(1) NSCC will offer sole SCCP participants an opportunity to become NSCC participants if they meet NSCC's qualifications;

(2) NSCC and SCCP will cooperate to assure the orderly transfer of continuous net settlement securities positions of sole SCCP participants and dual NSCC/SCCP participants which authorize such transfer;

(3) NSCC will make certain payments to PHLX and SCCP;

(4) In general, for a period of five years PHLX, SCCP, and PHILADEP will not engage in the securities clearance and securities depository businesses. However, this prohibition will not apply to PHLX's equity ownership interest in The Options Clearing Corporation; and

(5) SCCP will become a participant of NSCC and will provide limited clearing and margin services to PHLX equity specialists and certain other PHLX members.[3]

[1] 15 U.S.C. 78s(b)(1).

[2] These parties have entered into an agreement dated as of June 18, 1997.

[3] A more detailed description of these proposed arrangements is contained in Exhibit 2 to the filing. A copy of the filing and all exhibits are available for copying and inspection in the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NSCC 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. NSCC has prepared summaries, set forth in Sections (A), (B), and (C) below, of the most significant aspects of such statements.[4]

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

PHLX has announced that it is withdrawing from the clearance and settlement and securities depository businesses in order to focus its resources on the operations of the exchange. The proposed arrangements will assist in achieving these objectives while affording qualified sole SCCP participants an opportunity to become NSCC participants and to transfer their continuous net settlement positions to NSCC. NSCC believes that the proposed arrangements will result in substantial risk reduction and increased savings for NSCC participants and the securities industry as a whole.

Where there are interfaces among the securities clearing agencies, same-day funds settlement[5] exposes each clearing agency to certain risks, such as the failure of another clearing agency to settle its net payment obligation because of a failure by one of the participants of such other clearing agency to settle with it or because such other clearing agency is experiencing a major systems problem. These risks cannot be entirely avoided with existing and available risk management controls. PHLX's withdrawal from the securities clearing business will eliminate the exposure of NSCC and its participants to the payment system risks associated with the NSCC–SCCP interface.

In addition, the proposed arrangements should result in substantial savings for NSCC participants and the securities industry. In connection with this proposal, former sole SCCP participants may become NSCC participants if they qualify under NSCC's participant standards. An increase in the number of NSCC participants will result in higher NSCC transaction volumes thereby reducing the per unit service costs that must be recovered through participant service fees. Moreover, interclearing corporation interfaces involve the maintenance of substantial facilities, communications networks, and account and inventory reconciliation mechanisms. As a result of the proposal, the substantial costs incurred by both NSCC and SCCP in operating an interface will be eliminated.

NSCC believes the proposed rule change is consistent with the requirements of Section 17A of the Act and the rules and regulations promulgated thereunder because the rule proposal will facilitate the industry's conversion to same-day funds settlement for virtually all securities transactions and thereby facilitate the prompt and accurate clearance and settlement of such transactions. In addition, the proposal will provide qualified sole SCCP participants with access to NSCC's facilities and will be implemented consistently with the safeguarding of securities and funds in NSCC's custody and control.

(B) Self-Regulatory Organization's Statement on Burden on Competition

NSCC does not believe that the proposed arrangements will have an impact on or impose a burden on competition. Securities clearing agencies registered under Section 17A of the Act are utilities created to serve members of the securities industry for the purpose of providing certain services that are ancillary to the businesses in which industry members compete with one another. Operating a securities clearing agency requires a substantial and continuing investment in infrastructure, including telecommunications links with users, data centers, and disaster recovery facilities, in order to meet the increasing needs of participants and to respond to regulatory requirements.

After consummation of the proposed arrangements, securities industry members will continue to have access to high quality, low cost clearance services provided under the mandate of the Act. The overall cost to the industry of having such services available should be reduced thereby permitting a more efficient and productive allocation of industry resources. Furthermore, because most interface costs must be mutualized, thereby requiring some participants to subsidize costs incurred by others, PHLX's withdrawal from maintaining clearing services should reduce costs to NSCC participants and thereby remove impediments to

[4] The Commission has modified the text of the summaries prepared by NSCC.

[5] The term ''same-day funds'' refers to payment in funds that are immediately available and generally are transferred by electronic means.

competition. Finally, PHLX's ability to focus its resources on the operations of its exchange should help enhance competition among securities markets.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments have been solicited or received. NSCC will notify the Commission of any written comments received. However, the proposed arrangements are consistent with recommendations made to the boards of DTC and NSCC by the Vision 2000 Committee (''Committee''), a committee on industry representatives of the two boards. The Committee's Report dated September 1994 states:

> The industry currently owns a number of utilities that provide services related to the comparison, clearing, settlement and safekeeping of U.S. (and to a lesser degree, international) securities. These utilities overlap in two ways * * *. We believe that the industry's and, as important, the investors', overall costs can be reduced and safety and soundness can be enhanced by eliminating these overlaps where there is no clear advantage to having specialization or competing development.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within thirty-five days of the date of publication of this notice in the **Federal Register** or within such longer period: (i) As the Commission may designate up to ninety days of such date if it finds such longer period to be appropriate and publishes its reason for so finding, or (ii) as to which NSCC 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 NSCC. All submissions should refer to the File No. SR–NSCC–97–08 and should be submitted by November 6, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–27320 Filed 10–15–97; 8:45 am]

BILLING CODE 8010–01–M

SMALL BUSINESS ADMINISTRATION

Data Collection Available for Public Comments and Recommendations

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the Small Business Administration's intentions to request approval on a new, and/or currently approved information collection.

DATES: Comments should be submitted on or before December 15, 1997.

FOR FURTHER INFORMATION CONTACT: Curtis B. Rich, Management Analyst, Small Business Administration, 409 3rd Street, SW., Suite 5000, Washington, DC 20416. Phone Number: 202–205–6629.

SUPPLEMENTARY INFORMATION:

Title: ''Use of Proceeds, 504 Program''.
Type of Request: Extension of a Currently Approved Collection.
Form No: 1429.
Description of Respondents: Certified Development Companies.
Annual Responses: 2,000.
Annual Burden: 1,000.

Title: ''Application for Loan Pool''.
Type of Request: Extension of a Currently Approved Collection.
Form No: 1454.
Description of Respondents: SBA Loan Poll Assemblers.
Annual Responses: 450.
Annual Burden: 1,350.
Comments: Send all comments regarding these information collections to Keith Lucas, Program Assistant, Office of Financial Assistance, Small Business Administration, 409 3rd Street, SW., Suite 8300, Washington, DC 20416. Phone No: 202–205–6570. Send comments regarding whether these information collections are necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize these estimates, and ways to enhance the quality.

Title: ''Client's Report of 7(J) Task Order Assistance Received''.
Type of Request: Extension of a Currently Approved Collection.
Form No: 1540.
Description of Respondents: Client's that require the completion of the 7(J) Task order.
Annual Responses: 1,000.
Annual Burden: 100.

Title: ''8 (A) Capability Statement''.
Type of Request: Extension of a Currently Approved Collection.
Form No: 1815.
Description of Respondents: 8 (A) Program Participants.
Annual Responses: 8,000.
Annual Burden: 4,000.
Comments: Send all comments regarding these information collection to Barbara Boone, Program Assistant, Minority Enterprise Development, Small Business Administration, 409 3rd Street, SW. Suite 8000, Washington, DC 20416. Phone 202–205–6412. Send comments regarding whether these information collections are necessary for the proper performance of the function of the agency, accuracy of burden estimate, in addition to ways to minimize these estimates, and ways to enhance the quality.

Jacqueline White,

Chief, Administrative Information Branch.

[FR Doc. 97–27325 Filed 10–15–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[License No. 04/04–0270]

CF Investment Company; Notice of Issuance of a Small Business Investment Company License

On March 15, 1995, an application was filed by CF Investment Company, at 102 South Main Street, Greenville, South Carolina 29601, with the Small Business Administration (SBA) pursuant to section 107.300 of the Regulations governing small business investment companies (13 CFR 107.300 (1996)) for a license to operate as a small business investment company.

Notice is hereby given that, pursuant to section 301(c) of the Small Business Investment Act of 1958, as amended, after having considered the application and all other pertinent information, SBA issued License No. 04/04–0270 on

[6] 17 CFR 200.30–3(a)(12).

September 17, 1997, to CF Investment Company to operate as a small business investment company.

(Catalog of Federal Domestic Assistance Program No. 59.011, Small Business Investment Companies)

Dated: October 6, 1997.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–27383 Filed 10–15–97; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Declaration of Economic Injury Disaster #9598]

State of North Carolina

Buncombe and Haywood Counties and the contiguous Counties of Henderson, Jackson, Madison, McDowell, Rutherford, Swain, Transylvania, and Yancey in the State of North Carolina constitute an economic injury disaster loan area as a result of a rockslide that occurred on July 1, 1997 closing Interstate 40 to all east and west traffic. Eligible small businesses and small agricultural cooperatives without credit available elsewhere may file applications for economic injury assistance for this disaster until the close of business on May 29, 1998 at the address listed below or other locally announced locations: U.S. Small Business Administration, Disaster Area 2 Office, One Baltimore Place, Suite 300, Atlanta, GA 30308.

The interest rate for eligible small businesses and small agricultural cooperatives is 4 percent.

The Tennessee counties contiguous to Haywood County have been previously declared for the same occurrence.

(Federal Domestic Assistance Program No. 59002)

Date: August 29, 1997

John T. Spotila,

Acting Administrator.

[FR Doc. 97–27455 Filed 10–15–97; 8:45 am]

BILLING CODE 8025–01–P

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–113]

Initiation of Section 302 Investigation and Request for Public Comment: Canadian Export Subsidies and Market Access for Dairy Products

AGENCY: Ofice of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comment.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(a) of the Trade Act of 1974, as amended (the Trade Act), with respect to certain acts, policies and practices of the Government of Canada with respect to export subsidies on dairy products, and with respect to the operation of Canada's tariff rate quota (TRQ) for fluid milk. USTR invites written comments from the public on the matters being investigated and the determinations to be made under section 304 of the Trade Act.

DATES: This investigation was initiated on October 8, 1997. Written comments from the public are due on or before noon on Tuesday, November 11, 1997.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Suzanne Early, Senior Advisor, Office of Agricultural Affairs, (202) 395–6127, Elizabeth Hyman, Office of the General Counsel, (202) 395–3150, or Daniel Brinza, Senior Advisor and Special Counsel for Natural Resources, (202) 395–7305.

SUPPLEMENTARY INFORMATION: On September 5, 1997, the National Milk Producers Federation, the U.S. Dairy Export Council, and the International Dairy Foods Association filed a petition to section 302(a) of the Trade Act (19 U.S.C. 2412(a)) alleging that certain export subsidies of the Government of Canada and Canada's failure to implement a TRQ for fluid milk constitute acts, policies and practices that violate, or are inconsistent with and otherwise deny benefits to the United States under the Uruguay Round Agreement on Agriculture and the General Agreement on Tariffs and Trade 1994 (''GATT 1994'').

In particular, the petition alleges that the Government of Canada maintains a two-tier pricing scheme under which it maintains high domestic prices and exports manufactured dairy products to world markets at lower, subsidized prices. Under this system, the milk producer receives a pooled price controlled by government agencies. Milk is sold to processors at a high price for domestic consumption and, with a government permit, as Class 5 industrial milk at the world price when used as an input in the production of milk products for export. Subsidized dairy product exports by Canada thus systematically exceed the ceiling on subsidized exports of such products which Canada agreed to in the Uruguay Round. The petition alleges that subsidized Canadian exports are undercutting U.S. prices to major U.S. export markets, and have led at least one exporting dairy processor to move its manufacturing operations to Canada in order to benefit from Canadian dairy export subsidies.

The petition also alleges that the Government of Canada agreed in the Uruguay Round to provide a TRQ of 64,500 metric tons (product weight basis) for commercial shipments of fluid milk. Canada nevertheless does not open the quota on the first day of the quota year nor does it announce the closure of the quota when it is filled. Instead, Canada excludes commercial milk imports on the basis of the claim that tourists and returning Canadian citizens carry pints, quarts and half gallon containers of fluid milk in such quantity as to fill the TRQ. The petition alleges that if Canada implemented its TRQ for fluid milk, U.S. dairy exports to Canada would increase by at least twenty million dollars annually.

Investigation and Consultations

On October 11, 1997, the USTR determined that an investigation should be initiated to determine whether certain acts, policies or practices of the Government of Canada regarding export subsidies and the failure to open the tariff-rate quota for fluid milk are actionable under section 301.

As required in section 3903(a) of the Trade Act, the USTR has requested consultations with the Government of Canada regarding the issues under investigation. The request was made pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII of the GATT 1994, Article 19 of the Agreement on Agriculture to the extent it incorporates Article XXII of the GATT 1994, and Article 30 of the Agreement on Subsidies and Countervailing Measures to the extent it incorporates Article XXII of the GATT 1994. If the consultations do not result in a satisfactory resolution of the matter, the USTR will request the establishment of a panel pursuant to Article 6 of the DSU. USTR will seek information and advice from the petitioner and appropriate representatives provided for under section 135 of the Trade Act in preparing the U.S. presentations for such consultations.

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30

days after the conclusion of WTO dispute settlement procedures, whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirement for Submissions

Interested persons are invited to submit written comments concerning the acts, policies and practices of Canada which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Tuesday, November 11, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 22, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

Comments will be placed in a file (Docket 301–113) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. Copies of the public version of the petition and other relevant documented are available for public inspection in the USTR Reading Room. An appointment to review the docket (Docket No. 301–107) may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 97–27306 Filed 10–15–97; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–114]

Initiation of Section 302 Investigation and Request for Public Comment: EU Circumvention of Export Subsidy Commitments on Dairy Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(b)(1) of the Trade Act of 1974, as amended (the Trade Act), with respect to certain acts, policies and practices of the European Union (EU) concerning export subsidies on processed cheese. The EU is bound by commitments it made in the Uruguay Round limiting the amount of cheese that may be exported with export subsidies. The EU is circumventing these commitments by exporting processed cheese under subsidy and counting these exports against other export subsidy commitments relating to powdered milk and butterfat. The USTR is investigating whether these acts, policies and practices are inconsistent with certain provisions of the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture. USTR invites written comments from the public on the matters being investigated.

DATES: This investigation was initiated on October 8, 1997. Written comments from the public are due on or before noon on Tuesday, November 11, 1997.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Suzanne Early, Senior Advisor, Office of Agricultural Affairs, (202) 395–6127, Elizabeth Hyman, Office of the General Counsel, (202) 395–3150, or Daniel Brinza, Senior Advisor and Special Counsel for Natural Resources, (202) 395–7305.

SUPPLEMENTARY INFORMATION: Section 302(b)(1) of the Trade Act, 19 U.S.C. 2412(b)(1), authorizes the USTR to initiate an investigation under chapter 1 of Title III of the Trade Act (commonly referred to as ''section 301'') with respect to any matter in order to determine whether the matter is actionable under section 301. Matters actionable under section 301 include, *inter alia,* the denial of rights of the United States under a trade agreement, or acts, policies, and practices of a foreign country that violate or are inconsistent with the provisions of, or otherwise deny benefits to the United States under, any trade agreement.

Investigation and Consultations

On October 8, 1997, having consulted with the appropriate private sector advisory committees, the USTR determined that an investigation should be initiated to assess whether certain acts, policies and practices of the EU regarding export subsidies on processed cheese are actionable under section 301(a).

The EU is bound by a schedule of commitments it made in the Uruguay Round limiting the amount of cheese that may be exported with export subsidies, as well as separate commitments limiting subsidized exports of various other agricultural products. The EU appears to be circumventing its commitments on processed cheese by exporting processed cheese under subsidy and counting these exports against other export subsidy commitments relating to components of processed cheese such as powdered milk, butterfat and natural cheese. Beginning in February, 1997, new rules implemented by the EU (including Commission Regulations 300/97, 417/97 and 418/97) recast the EU's ''inward processing'' regime to count the export subsidies on processed cheese as subsidies on the components of the cheese, instead. These acts, policies and practices appear to be inconsistent with certain provisions of the Agreement on Subsidies and Countervailing Measures and the Agreement on Agriculture.

As required in section 303(a) of the Trade Act, the USTR has requested consultations with the EU regarding the issues under investigation. The request was made pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (DSU), Article XXII of the GATT 1994, Article 19 of the Agreement on Agriculture to the extent it incorporates Article XXII of the GATT 1994, and Article 30 of the Agreement on Subsidies and Countervailing Measures to the extent it incorporates Article XXII of the GATT 1994. If the consultations do not result in a satisfactory resolution of the matter, the USTR will request the establishment of a panel pursuant to Article 6 of the DSU. USTR will seek information and advice from the petitioner and appropriate representatives provided for under section 135 of the Trade Act in preparing the U.S. presentations for such consultations.

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30 days after the conclusion of World Trade Organization dispute settlement procedures, whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the EU acts, policies and practices which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Wednesday, November 6, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, DC 20508.

Comments will be placed in a file (Docket 301–114) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket (Docket No. 301–112) may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 97–27305 Filed 10–15–97; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 301–112]

Initiation of Section 302 Investigation and Request for Public Comment: Japan Market Access Barriers to Agricultural Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of initiation of investigation; request for written comments.

SUMMARY: The United States Trade Representative (USTR) has initiated an investigation under section 302(b)(1) of the Trade Act of 1974, (the Trade Act), with respect to certain acts, policies and practices of the Government of Japan concerning Japan's prohibition on imports of certain agricultural products. Specifically, for each agricultural product for which Japan requires quarantine treatment, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that variety, even though the treatment has proven effective with respect to other varieties of the same product. This redundant testing requirement has no apparent scientific basis but serves as a significant barrier to market access. The United States alleges that these acts, policies and practices are inconsistent with certain provisions of the Agreement on the Application of Sanitary and Phytosanitary measures, the General Agreement on Tariffs and Trade 1994 (''GATT 1994''), and the Agreement on Agriculture. USTR invites written comments from the public on the matters being investigated.

DATES: This investigation was initiated on October 7, 1997. Written comments from the public are due on or before noon on Tuesday, November 11, 1997.

ADDRESSES: Office of the United States Trade Representative, 600 17th Street, NW, Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Audrae Erickson, Office of Agricultural Affairs (202) 395–6127, Elizabeth Hyman, Office of the General Counsel, (202) 395–3150, or Daniel Brinza, Senior Advisor and Special Counsel for Natural Resources, (202) 395–7305.

SUPPLEMENTARY INFORMATION: Section 302(b)(1) of the Trade Act, 19 U.S.C. 2412(b)(1), authorizes the USTR to initiate an investigation under chapter 1 of Title III of the Trade Act (commonly referred to as ''section 301'') with respect to any matter in order to determine whether the matter is actionable under section 301. Matters actionable under section 301 include, *inter alia*, the denial of rights of the United States under a trade agreement, or acts, policies, and practices of a foreign country that violate or are inconsistent with the provisions of, or otherwise deny benefits to the United States under, any trade agreement.

Investigation and Consultations

On October 7, 1997, having consulted with the appropriate private sector advisory committees, the USTR determined that an investigation should be initiated to assess whether certain acts, policies and practices of Japan regarding a prohibition on imports of certain agricultural products are actionable under section 301(a) and has requested the consultations required under section 303(a) of the Trade Act. For each agricultural product for which Japan requires quarantine treatment, Japan prohibits the importation of each variety of that product until the quarantine treatment has been tested for that variety, even though the treatment has proven effective with respect to other varieties of the same product. The relevant provisions of Japanese laws include the Plant Protection Law (Law No. 151) enacted May 4, 1950, as amended, and the Plant Protection Law Enforcement Regulation (Ministry of Agriculture, Forestry and Fisheries Ordnance No. 73) of June 30, 1950, as amended.

For example, after years of effort by the United States, in January 1995 Japan agreed to permit imports of U.S. Red Delicious and Golden Delicious apples based on Japan's determination that treatment of fruit from inspected orchards both with methyl bromide fumigation and a cold storage treatment would be effective against codling moth, a plant pest. However, Japan has refused to allow other varieties of apples, such as Gala, Fuji, Braeburn, Jonagold and Granny Smith, to be imported into Japan unless lengthy and expensive tests are performed on each variety to prove the efficacy of the same methyl bromide/cold storage treatment at killing codling moths. There is no scientific basis for distinguishing between different varieties of fruit in this respect. This practice of Japan affects not just apple imports, but imports of other fruit as well.

The USTR believes that these measures are inconsistent with the obligations of Japan under several provisions of the WTO Agreements, including Articles 2, 3, 4, 5, 7 and 8 of the Agreement on the Application of Sanitary and Phytosanitary Measures; Article XI of the General Agreement on

Tariffs and Trade 1994; and Article 4 of the Agreement on Agriculture.

On April 7, 1997, the Government of the United States requested consultations with Japan regarding these measures pursuant to Article 4 of the Understanding on Rules and Procedures Governing the Settlement of Disputes (''DSU''), Article 11 of the Agreement on the Application of Sanitary and Phytosanitary Measures, Article XXIII of the General Agreement on Tariffs and Trade 1994, and Article 19 of the Agreement on Agriculture.

Under section 304 of the Trade Act, the USTR must determine within 18 months after the date on which this investigation was initiated, or within 30 days after the conclusion of World Trade Organization dispute settlement procedures, whichever is earlier, whether any act, policy, or practice or denial of trade agreement rights described in section 301 of the Trade Act exists and, if that determination is affirmative, the USTR must determine what action, if any, to take under section 301 of the Trade Act.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the acts, policies and practices of Japan which are the subject of this investigation, the amount of burden or restriction on U.S. commerce caused by these acts, policies and practices, and the determinations required under section 304 of the Trade Act. Comments must be filed in accordance with the requirements set forth in 15 CFR 2006.8(b) (55 FR 20593) and must be filed on or before noon on Tuesday, November 11, 1996. Comments must be in English and provided in twenty copies to: Sybia Harrison, Staff Assistant to the Section 301 Committee, Room 223, Office of the U.S. Trade Representative, 600 17th Street, NW, Washington, DC 20508.

Comments will be placed in a file (Docket 301–112) open to public inspection pursuant to 15 CFR 2006.13, except confidential business information exempt from public inspection in accordance with 15 CFR 2006.15. Confidential business information submitted in accordance with 15 CFR 2006.15 must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page on each of 20 copies, and must be accompanied by a nonconfidential summary of the confidential information. The nonconfidential summary shall be placed in the file that is open to public inspection. An appointment to review the docket (Docket No. 301–112) may be made by calling Brenda Webb (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1:00 p.m. to 4:00 p.m., Monday through Friday, and is located in Room 101.

Irving A. Williamson,

Chairman, Section 301 Committee.

[FR Doc. 97–27304 Filed 10–15–97; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–19]

WTO Dispute Settlement Proceeding Regarding Korean Taxes on Alcoholic Beverages

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Round Agreements Act (URAA) (19 U.S.C. 3537(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine excise taxes imposed by Korea on distilled spirits. In this dispute the United States alleges that Korea's excise taxes are inconsistent with Article III:2 of the General Agreement on Tariffs and Trade 1994 (GATT 1994). USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before November 1, 1997 to be assured of timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: Korea Spirits Dispute, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Rick Ruzicka, Office of Asia & the Pacific, (202) 395–4755; Francis James, Office of Monitoring and Enforcement, (202) 395–3582; or Rachel Shub, Associate General Counsel, (202) 395–7305.

SUPPLEMENTARY INFORMATION: On September 10, 1997, the United States requested the establishment of a WTO dispute settlement panel to examine whether taxes on distilled spirits imposed by Korea are inconsistent with Korea's obligations under the GATT 1994. The WTO Dispute Settlement Body is likely to establish the panel no later than October 16, 1997. Under normal circumstances, the panel, which will hold its meetings in Geneva, Switzerland, would be expected to issue a report detailing its findings and recommendations within nine months after it is established.

Major Issues Raised by the United States and Legal Basis of Complaint

Korea assesses excise taxes at different rates on different types of distilled spirits. Under its general liquor tax law, Korea imposes a lower tax on soju, a traditional Korean distilled spirit, than the high taxes it applies to other distilled spirits such as whiskey, brandy, vodka, rum, gin and ''ad-mixtures.'' This tax differential is made even more dramatic by the application of an Education Tax, which is higher when the liquor tax rates are higher. Soju is very similar to the distilled products produced by the United States and also is in direct competition in the market with them. The result of this tax rate differential is a tax burden on some U.S. distilled spirits that is over four times greater than the burden on soju (assuming the actual prices where the same). The United States claims that these taxes contravene the obligations of Korea under Article III:2 of the GATT 1994.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate that information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute settlement proceeding, accessible to the public, in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–19, ''Korea Spirits Dispute'') may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

A. Jane Bradley,

Assistant U.S. Trade Representative for Monitoring and Enforcement.

[FR Doc. 97–27481 Filed 10–15–97; 8:45 am]

BILLING CODE 3190–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. WTO/D–21]

WTO Dispute Settlement Proceeding Regarding Indian Import Restrictions on Agricultural, Textile and Industrial Products

AGENCY: Office of the United States Trade Representative.

ACTION: Notice; request for comments.

SUMMARY: Pursuant to section 127(b)(1) of the Uruguay Agreements Act (URAA) (19 U.S.C. 3527(b)(1)), the Office of the United States Trade Representative (USTR) is providing notice that the United States has requested establishment of a dispute settlement panel under the Agreement Establishing the World Trade Organization (WTO), to examine quantitative restrictions maintained by India on over 2700 agricultural, textile and industrial product tariff lines. In this dispute the United States alleges that India's quantitative restrictions are inconsistent with Articles XI, XIII and XVIIII of the General Agreement on Tariffs and Trade 1994 (GATT 1994), and Article 4.2 of the WTO Agreement on Agriculture, and Article 3 of the WTO Agreement on Imports Licensing Procedures. USTR also invites written comments from the public concerning the issues raised in the dispute.

DATES: Although USTR will accept any comments received during the course of the dispute settlement proceedings, comments should be submitted on or before November 10, 1997 to be assured if timely consideration by USTR in preparing its first written submission to the panel.

ADDRESSES: Comments may be submitted to Ileana Falticeni, Office of Monitoring and Enforcement, Room 501, Attn: India Import Restrictions Dispute, Office of the U.S. Trade Representative, 600 17th Street, NW., Washington, DC 20508.

FOR FURTHER INFORMATION CONTACT: Rick Ruzicka, Office of Asian & the Pacific (202) 395–4755, Elena Bryan, Office of WTO and Multilateral Affairs, (202) 395–5079, Amelia Porges, Senior Counsel for Dispute Settlement, (202) 395–7305, or Gregory Gerdes, Office of Monitoring and Enforcement, (202) 395–3582).

SUPPLEMENTARY INFORMATION: On October 3, 1997, the United States requested the establishment of a WTO dispute settlement panel to examine whether quantitative restrictions maintained by India are inconsistent with India's obligation under the GATT 1994, the Agreement on Agriculture and the Agreement on Import Licensing Procedures. The WTO Dispute Settlement Body is likely to establish the panel no later than November 18, 1997. Under normal circumstances, the panel, which will hold its meetings in Geneva, Switzerland, would be expected to issue a report detailing findings and recommendations within nine months after it is established.

Major Issues Raised by the United States and Legal Basis of Complaint

Since the 1940s, India has maintained quantitative restrictions on imports of many agricultural, textile and industrial products. These restrictions were formerly maintained under provisions of the GATT which permit import restrictions to protect against a serious decline in a GATT member's foreign exchange reserves, or in the case of a GATT member with inadequate reserves, to achieve a reasonable rate of increase in those reserves. However, India's foreign exchange situation no longer justifies import restrictions; this fact has been recognized by the International Monetary Fund.

There are currently 2,714 eight-digit Indian tariff line items (one third of India's tariff schedule) subject to import restrictions or prohibitions for which no claim of legal justification has been made other than the GATT balance-of-payments provisions. These items are also subject to a complex and non-transparent import licensing system. The United States believes that these measures are inconsistent with several provisions of the WTO agreements. It appears that India's maintenance of import quotas is inconsistent with Articles XI:1 and XVIII:11 of the GATT 1994, and is not justified as a balance-of-payments measure under Article XVIII of the GATT 1994; India's maintenance of import quotas is also inconsistent with Article 4.2 of the Agreement on Agriculture; and India's import licensing procedures and practices are inconsistent with Article XIII:3(b) of the GATT 1994 and Article 3 of the Agreement on Import Licensing Procedures.

Public Comment: Requirements for Submissions

Interested persons are invited to submit written comments concerning the issues raised in the dispute. Comments must be in English and provided in fifteen copies. A person requesting that information contained in a comment submitted by that person be treated as confidential business information must certify that such information is business confidential and would not customarily be released to the public by the commenter. Confidential business information must be clearly marked ''BUSINESS CONFIDENTIAL'' in a contrasting color ink at the top of each page of each copy.

Information or advice contained in a comment submitted, other than business confidential information, may be determined by USTR to be confidential in accordance with section 135(g)(2) of the Trade Act of 1974 (19 U.S.C. 2155(g)(2)). If the submitter believes that information or advice may qualify as such, the submitter—

(1) Must so designate that information or advice;

(2) Must clearly mark the material as ''SUBMITTED IN CONFIDENCE'' in a contrasting color ink at the top of each page of each copy; and

(3) Is encouraged to provide a non-confidential summary of the information or advice.

Pursuant to section 127(e) of the URAA (19 U.S.C. 3537(e)), USTR will maintain a file on this dispute

settlement proceeding, accessing to the public in the USTR Reading Room: Room 101, Office of the United States Trade Representative, 600 17th Street, NW., Washington DC 20508. The public file will include a listing of any comments received by USTR from the public with respect to the proceeding; the U.S. submissions to the panel in the proceeding; the submissions, or non-confidential summaries of submissions, to the panel received from other participants in the dispute, as well as the report of the dispute settlement panel and, if applicable, the report of the Appellate Body. An appointment to review the public file (Docket WTO/D–21 (''India Import Restrictions Dispute'') may be made by calling Brenda Webb, (202) 395–6186. The USTR Reading Room is open to the public from 9:30 a.m. to 12 noon and 1 p.m. to 4 p.m., Monday through Friday.

Amelia Porges,

Senior Counsel for Dispute Settlement.

[FR Doc. 97–27482 Filed 10–15–97; 8:45 am]

BILLING CODE 3190–01–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Index of Administrator's Decisions and Orders in Civil Penalty Actions; Publication

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of publication.

SUMMARY: This notice constitutes the required quarterly publication of an index of the Administrator's decisions and orders in civil penalty cases. This publication represents the quarter ending on September 30, 1997. This pubication ensures that the agency is in compliance with statutory indexing requirements.

FOR FURTHER INFORMATION CONTACT: James S. Dillman, Assistant Chief Counsel for Litigation (AGC–400), Federal Aviation Administration, 400 7th Street, SW., Suite PL 200–A, Washington, DC 20590: telephone (202) 366–4118.

SUPPLEMENTARY INFORMATION: The Administrative Procedure Act requires Federal agencies to maintain and make available for public inspection and copying current indexes containing identifying information regarding materials required to be made available or published. 5 U.S.C. 552(a)92). In a notice issued on July 11, 1990, and published in the **Federal Register** (55 FR 29148; July 15, 1990), the FAA announced the public availability of several indexes and summaries that provide identifying information about the decisions and order issued by the Administrator under the FAA's civil penalty assessment authority and the rules of practice governing hearings and appeals of civil penalty actions. 14 CFR part 13, Subpart G.

The FAA maintains an index of the Administrator's decisions and orders in civil penalty actions organized by order number and containing identifying information about each decision or order. The FAA also maintains a cumulative subject-matter index and digests organized by order number.

The indexes are published on a quarterly basis (i.e., January, April, July, and October.) This publication represents the quarter ending on September 30, 1997.

The FAA first published these indexes and digests for all decisions and orders issued by the Administrator through September 30, 1990. 55 FR 45984; October 31, 1990. The FAA announced in that notice that only the subject-matter index would be published cumulatively and that the order number index would be non-cumulative. The FAA announced in a later notice that the order number indexes published in January would reflect all of the civil penalty decisions for the previous year. 58 FR 5044; Jan. 19, 1993.

The previous quarterly publications of the indexes of the Administrator's decisions and orders in civil penalty cases have appeared in the **Federal Register** as follows:

Dates of quarter	Federal Register publication
11/1/89–9/30/90	55 FR 45984; 10/31/90.
10/1/90–12/31/90 ..	56 FR 44886; 2/6/91.
1/1/91–3/31/91	56 FR 20250; 5/2/91.
4/1/91–6/30/91	56 FR 31984; 7/12/91.
7/1/91–9/30/91	56 FR 51735; 10/15/91.
10/1/91–12/31/91 ..	57 FR 2299; 1/21/92.
1/1/92–3/31/92	57 FR 12359; 4/9/92.
4/1/92–6/30/92	57 FR 32825; 7/23/92.
7/1/92–9/30/92	57 FR 48255; 10/22/92.
10/1/92–12/31/92 ..	58 FR 5044; 1/19/93.
1/1/93–3/31/93	58 FR 21199; 4/19/93.
4/1/93–6/30/93	58 FR 42120; 8/6/93.
7/1/93–9/30/93	58 FR 58218; 10/29/93.
10/1/93–12/31/93 ..	59 FR 5466; 2/4/94.
1/1/94–3/31/94	59 FR 22196; 4/29/94.
4/1/94–6/30/94	59 FR 39618; 8/3/94.
7/1/94–12/31/94	60 FR 4454; 1/23/95.
1/1/95–3/31/95	60 FR 19318; 4/17/95.
4/1/95–6/30/95	60 FR 36854; 7/18/95.
7/1/95–9/30/95	60 FR 53228; 10/12/95.
10/1/95–12/31/95 ..	61 FR 1972; 1/24/96.
1/1/96–3/31/96	61 FR 16955; 4/18/96.
4/1/96–6/30/96	61 FR 37526; 7/18/96.
7/1/96–9/30/96	61 FR 54833; 10/22/96.
10/1/96–12/31/96 ..	62 FR 2434; 1/16/97.
1/1/97–3/31/97	62 FR 24533; 5/2/97.
4/1/97–6/30/97	62 FR 38339; 7/17/97.

The civil penalty decisions and orders, and the indexes and digests are available in FAA offices. In addition, the Administrator's civil penalty decisions have been published by commercial publishers (Hawkins Publishing Company and Clark Boardman Callahan) and are available on computer on-line services (Westlaw, LEXIS, Compuserve and FedWorld). (The addresses of FAA offices where the civil penalty decisions may be reviewed and information regarding these commercial publications and computer databases is provided at the end of this notice.)

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97–27—Lock Haven Airmotive Co., Inc.
8/20/97—CP96NE0059
97–28—Continental Airlines, Inc.
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CIVIL PENALTY ACTIONS—ORDERS ISSUED BY THE ADMINISTRATOR

DIGESTS

(Current as of September 30, 1997)

The digests of the Administrator's final decisions and orders are arranged by order number, and briefly summarize key points of the decision. The following compilation of digests includes all final decisions and orders issued by the Administrator from July 1, 1997, to September 30, 1997. The FAA publishes noncumulative supplements to this compilation on a quarterly basis (*e.g.*, April, July, October, and January of each year).

These digests do not constitute legal authority, and should not be cited or relied upon as such. The digests are not intended to serve as a substitute for proper legal research. Parties, attorneys, and other interested persons should always consult the full text of the Administrator's decisions before citing them in any context.

In the Matter of Gordon Air Services Order No. 97–24 (7/1/97)

Counsel Granted Leave to Withdraw; Extension of Time. Counsel for Respondent is granted leave to withdraw as counsel, and Respondent is granted 30 days to file its appeal brief, either on its own or through new counsel. No further extension of time for the appeal brief will be granted.

In the Matter of Peter A. Martin & James C. Jaworski Order No. 97–25 (7/17/97)

Appeal Dismissed. Because Complaint has withdrawn its notice of appeal, its appeal is dismissed.

In the Matter of Delta Air Lines Order No. 97–26 (81/13/97)

Appeal Dismissed. Complainant has withdrawn its notice of appeal. As a result, its appeal is dismissed.

In the Matter of Lock Haven Airmotive Company, Inc. Order No. 97–27 (8/20/97)

Appeal Dismissed. Respondent has withdrawn its notice of appeal. As a result, its appeal is dismissed.

In the Matter of Continental Airlines, Inc. Order No. 97–28 (9/26/97)

Request to File Late Notice of Appeal and Appeal Brief Denied. After Complainant announced that it would not go forward with this case, the law judge issued a written order dismissing the case, finding that Complainant was in default. The order was sent to the former agency counsel mistakenly. Complaintant's motion to file a late notice of appeal and appeal brief is denied. Although the law judge's failure to send the order to the current agency counsel constituted good cause for filing a late notice of appeal, it does not justify waiting a year to request permission.

COMMERCIAL REPORTING SERVICES OF THE ADMINISTRATOR'S

CIVIL PENALTY DECISIONS AND ORDERS

1. *Commercial Publications:* The Administrator's decisions and orders in civil penalty cases are available in the following commercial publications:

Civil Penalty Cases Digest Service, published by Hawkins Publishing Company, Inc., P.O. Box 480, Mayo, MD, 21106, (410) 798–1677

Federal Aviation Decisions, Clark Boardman Callaghan, a subsidiary of West Information Publishing Company, 50 Broad Street East, Rochester, NY 14694, 1–800–221–9428

2. *CD–ROM.* The Administrator's orders and decisions are available on CD–ROM through Aeroflight Publications, P.O. Box 854, 433 Main Street, Gruver, TX 79040, (806) 733–2483.

3. *On-Line Services.* The Administrator's decisions and orders in civil penalty cases are available though the following on-line services:

- Westlaw (the Database ID is FTRAN–FAA)
- LEXIS [Transportation (TRANS) Library, FAA file.]
- Compuserve
- FedWorld

FAA OFFICES

The Administrator's decisions and orders, indexes, and digests are available for public inspection and copying at the following location in FAA headquarters: FAA Hearing Docket, Federal Aviation Administration, 800 Independence Avenue SW., Room 924A, Washington, DC 20591; (202) 267–3641.

These materials are also available at all FAA regional and center legal offices at the following locations:

Office of the Assistant Chief Counsel for the Aeronautical Center (AMC–7), Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73125; (405) 954–3296

Office of the Assistant Chief Counsel for the Alaskan Region (AAL–7), Alaskan Region Headquarters, 222 West 7th Avenue, Anchorage, AK 99513; (907) 271–5269

Office of the Assistant Chief Counsel for the Central Region (ACE–7), Central Region Headquarters, 601 East 12th Street, Federal Building, Kansas City, MO 64106; (816) 426–5446

Office of the Assistant Chief Counsel for the Eastern Region (AEA–7), Eastern Region Headquarters, JFK International Airport, Federal Building, Jamaica, NY 11430; (718) 553–3285

Office of the Assistant Chief Counsel for the Great Lakes Region (AGL–7), 2300 East Devon Avenue, Suite 419, Des Plaines, IL 60018; (708) 294–7108

Office of the Assistant Chief Counsel for the New England Region (ANE–7), New England Region Headquarters, 12 New England Executive Park, Room 401, Burlington, MA 01803–5299; (617) 238–7050

Office of the Assistant Chief Counsel for the Northwest Mountain Region (ANM–7), Northwest Mountain Region Headquarters, 1601 Lind Avenue SW., Renton, WA 98055–4056; (206) 227–2007

Office of the Assistant Chief Counsel for the Southern Region (ASO–7), Southern Region Headquarters, 1701 Columbia Avenue, College Park, GA 30337; (404) 305–5200

Office of the Assistant Chief Counsel for the Southwest Region (ASW–7), Southwest Region Headquarters, 2601 Meacham Blvd., Fort Worth, TX 76137–4298; (817) 222–5087

Office of the Assistant Chief Counsel for the Technical Center (ACT–7), Federal Aviation Administration Technical Center, Atlantic City International Airport, Atlantic City, NJ 08405; (609) 485–7087

Office of the Assistant Chief Counsel for the Western-Pacific Region (AWP–7), Western-Pacific Region Headquarters, 15000 Aviation Boulevard, Lawndale, CA 90261; (310) 725–7100

Issued in Washington, DC on October 7, 1997.

James S. Dillman,

Assistant Chief Counsel for Litigation.

[FR Doc. 97–27402 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–50]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and partiticpation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition of its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before October 21, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. 23771, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNTS@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11):

Issued in Washington, D.C., on October 6, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 23771.

Petitioner: Cessna Aircraft Company.

Sections of the FAR Affected: 14 CFR 91.9(a), and 91.531(a) (1) and (2).

Description of Relief Sought:

To amend exemption no. 4050, which permits single pilot operations in Cessna Citation Models 550, S550, 552, and 560, provided the pilot meets certain experience and training requirements and qualifications. Cessna requests an amendment to the requirement that an applicant seeking initial single pilot authorization must satisfactorily accomplish the final practical test within 10 days after training has been completed. Cessna requests the time period to complete the final practical test be extended from 10 days to 45 days.

[FR Doc. 97–27361 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE–97–51]

Petitions for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and must be received on or before November 3, 1997.

ADDRESSES: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rule Docket (AGC–200), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

Comments may also be sent electronically to the following internet address: 9–NPRM–CMNT@faa.dot.gov.

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC–200), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–3132.

FOR FURTHER INFORMATION CONTACT: Heather Thorson (202) 267–7470 or Angela Anderson (202) 267–9681 Office of Rulemaking (ARM–1), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591.

This notice is published pursuant to paragraphs (c), (e) and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on October 7, 1997.

Donald P. Byrne,

Assistant Chief Counsel for Regulations.

Petitions for Exemption

Docket No.: 28855.

Petitioner: Offshore Logistics, Inc.

Sections of the FAR Affected: 14 CFR 135.152(a).

Description of Relief Sought: To permit Offshore Logistics to operate certain multiengine turbine-powered rotorcraft with a seating configuration of 10 to 19 seats, excluding any required crewmember seat, that were brought onto the U.S. register after, or were registered outside the United States and added to Offshore's Operations Specifications after, October 11, 1991, without an approved digital flight data recorder.

Docket No.: 28905.

Petitioner: Petroleum Helicopters, Inc.

Sections of the FAR Affected: 14 CFR 135.152(a).

Description of Relief Sought: To permit Petroleum Helicopters (PHI) to place two Bell 214ST helicopters (Registration Nos. N59805 and N59806, and Serial Nos. 28141 and 28140, respectively), and one Bell 412SP helicopter (Registration No. N142PH, Serial No. 33150), on PHI's Operations Specifications and to operate those aircraft in nonscheduled part 135 operations until August 18, 2001, without a digital flight data recorder installed in those aircraft.

Dispositions of Petitions

Docket No.: 28291.

Petitioner: Airline Crew Training Corporation.

Sections of the FAR Affected: 14 CFR 121.411(a)(2) and (3), and (b)(2); 121.413(b), (c), and (d); and appendix H to part 121.

Description of Relief Sought/ Disposition: To continue to permit Airline Crew Training Corporation (ACT), without holding an air carrier operating certificate, to train part 121 certificate holders' pilots, flight engineers, and check airmen in initial,

transition, upgrade, differences, and recurrent training in Federal Aviation Administration (FAA)-approved simulators, without ACT's instructors and check airmen meeting all the applicable training requirements of part 121, subpart N. *Grant, September 30, 1997, Exemption No. 6165A.*

Docket No.: 27180.

Petitioner: EVA Airways Corporation.

Sections of the FAR Affected: 14 CFR 61.77(a) and (b), and 63.23(a) and (b).

Description of Relief Sought/ Disposition: To permit the issuance of U.S. special purpose pilot certificates and special purpose flight engineer certificates to airmen employed by EVA Airways without those airmen meeting the requirement to hold a current foreign certificate or license issued by a foreign contracting State to the Convention on International Civil Aviation (ICAO), provided the airmen hold appropriate certificates issued by the Civil Aeronautics Administration, Republic of China (CAARC). *Grant, September 30, 1997, Exemption No. 6689.*

Docket No.: 27402.

Petitioner: Atlantic Coast Airlines.

Sections of the FAR Affected: 14 CFR 61.57(e), 121.433(c)(1)(iii), 121.441(a)(1) and (b)(1), and appendix F to part 121.

Description of Relief Sought/ Disposition: To continue to permit Atlantic Coast Airlines (ACA) to conduct an FAA-monitored training program under which ACA pilots in command and seconds in command meet ground and flight recurrent training and proficiency check requirements through a single visit training program (SVTP). *Grant, September 30, 1997, Exemption No. 5783B.*

Docket No.: 26490.

Petitioner: Delta Air Lines, Inc.

Sections of the FAR Affected: 14 CFR 121.310(m).

Description of Relief Sought/ Disposition: To amend Delta Air Lines' (DAL) current exemption that permits DAL to operate certain foreign registered Lockheed L–1011–385–3 aircraft without conforming to the 60-foot required distance between emergency exits. The amendments requested would permit DAL to operate those aircraft with a passenger seating capacity in excess of 241. *Denial, September, Exemption No. 5301C.*

Docket No.: 27547.

Petitioner: Hughs Aircraft Company.

Sections of the FAR Affected: 14 CFR 91.319(c).

Description of Relief Sought/ Disposition: To permit Hughes to operate over densely populated areas or in congested airways with aircraft certificated in the experimental category. *Denial, September 26, 1997, Exemption No. 6687.*

Docket No.: 29004.

Petitioner: Captain Robert D. Marshall.

Sections of the FAR Affected: 14 CFR 121.383(c).

Description of Relief Sought/ Disposition: To allow Captain Marshall to act as a pilot in operations conducted under part 121 after reaching his 60th birthday. *Denial, September 25, 1997, Exemption No. 6688.*

[FR Doc. 97–27384 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Office of Environment and Energy Meeting Agenda

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of public forum.

SUMMARY: The FAA is issuing this notice to advise the public of a forum sponsored by the Office of Environment and Energy (AEE) to discuss aviation-related environmental issues.

DATES: The forum will be held on November 20, 1997 from 9:30 a.m. to 12:00 p.m.

ADDRESSES: The forum will be held in room 3246B at the Department of Transportation, 400 F Street SW, Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: Mr. James Littleton, Office of Environment and Energy, Federal Aviation Administration, 800 Independence Avenue SW, Washington, DC 20591, fax (202) 267–5594.

SUPPLEMENTARY INFORMATION: Notice is hereby given of a public forum sponsored by the Federal Aviation Administration Office of Environment and Energy (AEE) to be held on November 20, 1997.

The FAA Office of Environment and Energy (AEE) is developing a research agenda, called ''Environmental Research Beyond 2000,'' for identifying and addressing aviation-related environmental issues. These issues include but are not limited to aviation-related noise and emissions. As part of its effort to obtain input from all affected parties, AEE will hold a public forum to present its preliminary research agenda and to obtain information from the public for developing and refining this agenda. The public forum will be part of the first stage in the agenda building process; later activities will include a issue workshop, which will result in a findings report to guide AEE's research strategies.

The agenda for the meeting will include:

- Presentation of the Environmental Research Beyond 2000 program, outlining objectives and goals for research activities undertaken by the Office of Environment and Energy.
- Presentation of examples of recent and on-going environmental research by FAA and other Federal agencies and interagency groups.
- Public comment and discussion of aviation-related environmental issues and concerns.

Commercial aviation provides great economic benefits to the United States, and with the ''Environmental Research Beyond 2000'' project, AEE is seeking to identify Research and Development (R&D) strategies that can resolve or remediate environmental impediments to aviation activities and fulfill AEE's environmental obligations. These objectives can best be realized by obtaining participation and information from all interested parties.

In addition, AEE is seeking public comment and information regarding the following six questions. Input from the public and other aviation stakeholders on these questions will serve as guidance for AEE as it develops an aviation-related environmental research strategy that best addresses the concerns and needs of those affected by aviation activities.

1. What aviation environmental issues concern you most and how does each affect you?

2. How successful have existing aviation remediation and mitigation policies been in responding to the impact of aviation activities on the environment?

3. What is being done to address your concerns and how effective is it?

4. What should be done to address your concerns?

5. What role does research have in addressing your concerns?

6. Are important effects of aviation activities on environmental quality currently not addressed in government policy and scientific research?

Attendance is open to the public, but will be limited to the space available. The public must make arrangements by November 6, 1997 to present oral statements at the forum. Arrangements may be made by contacting the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Sign and oral interpretation can be made available at

the meeting, as well as an assistive listening device, if requested 10 calendar days before the forum. Written comments should be addressed to the person listed under the heading **FOR FURTHER INFORMATION CONTACT.** Comments must be received on or before December 15, 1997.

James R. Littleton, Jr.,

Office of Environment and Energy Analysis & Evaluation Branch.

[FR Doc. 97–27385 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

RTCA, Inc. Special Committee 186; Automatic Dependent Surveillance—Broadcast (ADS–B)

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463, 5 U.S.C., Appendix 2), notice is hereby given for Special Committee 186 meeting to be held November 3–4, 1997, starting at 9 a.m. on Monday, November 3. The meeting will be held at RTCA, Inc., 1140 Connecticut Avenue, NW, Suite 1020, Washington, DC 20036.

The agenda will include: (1) Chairman's Introductory Remarks/ Review of Meeting Agenda; (2) Review and Approval of Minutes of the Previous Meeting; (3) Ballot Review and Approval of *Guidance for Initial Implementation of Cockpit Display of Traffic Information* (Only written comments will be considered); (4) Other Business; (5) Date and Place of Next Meeting.

Attendance is open to the interested public but limited to space availability. With the approval of the chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, 1140 Connecticut Avenue, NW, Suite 1020, Washington, DC 20036; (202) 833–9339 (phone); (202) 833–9434 (fax); or http://www.rtca.org (web site). Members of the public may present a written statement to the committee at any time.

Issued in Washington, DC, on September 9, 1997.

Terry R. Hannah,

Deputy Director, Office of System Architecture and Investment Analysis, Designated Official.

[FR Doc. 97–27496 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Houghton County Memorial Airport, Hancock, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Houghton County Memorial Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158).

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

ADDRESSES: Comments on this application may be mailed or delivered in triplicate to the FAA at the following address: Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, MI 48111.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Ms. Sandra D. LaMothe, Airport Manager of the Houghton County Airport Committee at the following address: Route 1, Box 94, Calumet, MI 49913.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Houghton County Airport Committee under section 158.23 of part 158.

FOR FURTHER INFORMATION CONTACT: Mr. Jon Gilbert, Program Manager, Federal Aviation Administration, Detroit Airports District Office, Willow Run Airport, East, 8820 Beck Road, Belleville, MI 48111 (313–487–7281). The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at Houghton County Memorial Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Pub. L. 101–508) and part 158 of the Federal Aviation Regulations (14 CFR part 158)

On September 24, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by Houghton County Airport Committee was substantially complete within the requirements of section 158.25 of part 158. The FAA will approve or disapprove the application, in whole or in part, no later than December 16, 1997.

The following is a brief overview of the application.

PFC Application No.: 97–05–C–00–CMX.

Level of the proposed PFC: $3.00.

Proposed charge effective date: January 1, 1998.

Proposed charge expiration date: July 1, 1998.

Total estimated PFC revenue: $71,753.00.

Brief description of proposed projects: (1) Construct security fence (Phase I); (2) Rehabilitate HIRL (Runway 13/31); (3) Expand GA apron (200′×600′); (4) Reimbursement of charges for PFC application preparation (PFC No. 95–03–U–00–CMX and 96–04–X–00–CMX); (50 Sanitary Sewer Upgrade (Phase I); (6) Rehabilitate HVAC (Terminal Building); (7) Acquire SRE (Front End Loader); (8) Rehabilitate Runway 13/31 (Engineering Only).

Class or classes of air carriers which the public agency has requested not be required to collect PFC's: FAR Part 135 operators who file FAA Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under **FOR FURTHER INFORMATION CONTACT.**

In addition, any person may, upon request, inspect the application, notice, and other documents germane to the application in person at the Houghton County Airport Committee.

Issued in Des Plaines, Illinois, on October 2, 1997.

Benito De Leon,

Manager, Planning/Programming Branch, Airports Division, Great Lakes Region.

[FR Doc. 97–27360 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Intent To Rule on Application To Impose and Use the Revenue From a Passenger Facility Charge (PFC) at Los Angeles International Airport (LAX), Los Angeles, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of intent to rule on application.

SUMMARY: The FAA proposes to rule and invites public comment on the

application to impose and use the revenue from a PFC at Los Angeles International Airport under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

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

ADDRESSES: Comments on the application may be mailed or delivered in triplicate to: Federal Aviation Administration, Airports Division, 15000 Aviation Blvd., Room 3024, Lawndale, CA 90261.

In addition, one copy of any comments submitted to the FAA must be mailed or delivered to Mr. Jerald K. Lee, Deputy Executive Director, Los Angeles World Airports, #1 World Way, Los Angeles, CA 90045–5803.

Air carriers and foreign air carriers may submit copies of written comments previously provided to the Los Angeles World Airports under section 158.23 of Part 158.

FOR FURTHER INFORMATION CONTACT: John Milligan, Supervisor, Standards Section, AWP–621, Airports Division, Federal Aviation Administration, 15000 Aviation Blvd., Room 3024, Lawndale, CA 90261, Telephone (310) 725–3621. The application may be reviewed in person at this same location.

SUPPLEMENTARY INFORMATION: The FAA proposes to rule and invites public comment on the application to impose and use the revenue from a PFC at LAX under the provisions of the Aviation Safety and Capacity Expansion Act of 1990 (Title IX of the Omnibus Budget Reconciliation Act of 1990) (Public Law 101–508) and Part 158 of the Federal Aviation Regulations (14 CFR Part 158).

On August 22, 1997, the FAA determined that the application to impose and use the revenue from a PFC submitted by the Los Angeles World Airports was substantially complete within the requirements of section 158.25 of Part 158. The FAA will approve or disapprove the application, in whole or in part, no later than November 28, 1997.

The following is a brief overview of the application.

PFC application number: PFC No. 97–04–C–00–LAX.

Level of proposed PFC: $3.00.

Proposed charge effective date: January 1, 1998.

Proposed charge expiration date: March 31, 2000.

Total estimated PFC revenue collected: $150,000,000.00.

Brief description of the proposed impose and use project: Noise mitigation program for sound insulation of residences.

Class or classes of air carriers which the public agency has requested not be required to collect PFCs: Air Taxi/Commercial Operators (ATCO) filing Form 1800–31.

Any person may inspect the application in person at the FAA office listed above under FOR FURTHER INFORMATION CONTACT. In addition, any person may, upon request, inspect the application, notice and other documents germane to the application in person at the Los Angeles World Airports Office.

Issued in Los Angeles, California, on September 26, 1997.

Herman C. Bliss,

Manager, Airports Division, Western-Pacific Region.

[FR Doc. 97–27381 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–016, Notice 1]

Reports, Forms, and Record keeping Requirements

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Request for public comment on proposed collections of information.

SUMMARY: Before a Federal agency can collect certain information from the public, it must receive approval from the Office of Management and Budget (OMB). Under new procedures established by the Paperwork Reduction Act of 1995, before seeking OMB approval, Federal agencies must solicit public comment on proposed collections of information, including extensions and reinstatements of previously approved collections.

DATES: Comments must be received on or before December 15, 1997.

ADDRESSES: Comments must refer to the docket and notice numbers cited at the beginning of this notice and be submitted to Docket Section, Room 5109, NHTSA, 400 Seventh St., S.W., Washington, D.C. 20590. Please identify the proposed collection of information for which a comment is provided, by referencing its OMB Clearance Number. It is requested, but not required, that one (1) original plus two (2) copies of the comments be provided. The Docket Section is open on weekdays from 9:30 a.m. to 4 p.m.

FOR FURTHER INFORMATION CONTACT: Complete copies of each request for collection of information may be obtained at no charge from Mr. Edward Kosek, NHTSA Information Collection Clearance Officer, NHTSA, 400 Seventh Street, S.W., Room 6123, Washington, D.C. 20590. Mr. Kosek's telephone number is (202) 366–2589. Please identify the relevant collection of information by referring to its OMB Clearance Number.

SUPPLEMENTARY INFORMATION: Under the Paperwork Reduction Act of 1995, before an agency submits a proposed collection of information to OMB for approval, it must publish a document in the **Federal Register** providing a 60-day comment period and otherwise consult with members of the public and affected agencies concerning each proposed collection of information. The OMB has promulgated regulations describing what must be included in such a document. Under OMB's regulations (at 5 CFR 1320.8(d)), an agency must ask for public comment on the following:

(i) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(ii) The accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(iii) How to enhance the quality, utility and clarity of the information to be collected; and

(iv) How to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

In compliance with these requirements, NHTSA asks public comment on the following proposed collection of information:

Fatality Analysis Reporting System (FARS)

Type of Request—Reinstatement of clearance.

OMB Clearance Number—2127–0006

Form Numbers—HS–214, HS–214A, HS–214B and HS–214C.

Requested Expiration Date of Approval—December 31, 2000

Summary of the Collection of Information—FARS is the major system that acquires a national census of information on fatal motor vehicle traffic crashes. This information is collected directly from existing State files and documents. Under both the

Highway Safety Act of 1966 and the National Traffic and Motor Vehicle Safety Act of 1966, NHTSA has the responsibility to collect crash data that support the establishment and enforcement of motor vehicle regulations and highway safety programs. These regulations and programs are developed to reduce the severity of injury and property damage associated with motor vehicle crashes.

Description of the Need for the Information and Proposed Use of the Information—FARS is the largest and most comprehensive data base of fatal crash data in the world. The total user population includes Federal and State agencies and the private sector. This information comprises a national data base that is NHTSA's and many States' principal means of tracking trends in fatalities and quantifying problems or potential problems in highway safety. FARS data is also used extensively by State legislators for determining highway safety problem areas requiring laws and programs (mandatory use of seat belts, 55- vs. 65-mile per hour speed limits); by the highway research community including the private sector (industry and associations) for trend analysis, problem identification, and program evaluation (e.g., air bag studies and drunk driving campaigns); and by the Congress for making decisions concerning safety programs. The FARS data are available upon request to anyone interested in highway safety. FARS data has been made available through the Internet and via fax-on-demand service. On the average, more than 10,000 requests for information from FARS are received every year.

Description of the Likely Respondents (Including Estimated Number, and Proposed Frequency of Response to the Collection of Information)—''Respondents'' are employees of state agencies (FARS Analysts). Their salaries and other direct costs are 100% reimbursed through cooperative agreements duly executed through the NHTSA Office of Contracts and Procurement. Cooperative Agreements exist with all fifty states, the District of Columbia and Puerto Rico. The number of FARS Analysts varies by state from one to six. The entire corps of more than 70 FARS Analysts acquire and code the required information as fatal crashes occur. Approximately 2.15 hours per case are required to complete the FARS forms. The number of cases varies by state from a high of 3669 in California to a low of 54 in D.C. (in 1995).

Estimate of the Total Annual Reporting and Record keeping Burden Resulting from the Collection of Information—The 52 jurisdictions report on approximately 36,000 fatal cases per year. The estimated annual hour burden is 77,400 hours. This estimate is based on 20 years of FARS operation and includes the nominal time needed to access data from existing state files. These various sources reside in several places in each state. FARS does not involve the generation of new data. If the state analyst cannot get the information from existing records, it is reported to NHTSA as ''unknown.'' The FARS Analysts retain the current year's completed FARS forms plus three prior years' forms.

Dated: October 10, 1997.

Raymond P. Owings,

Associate Administrator, Research and Development.

[FR Doc. 97–27475 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

[Notice No. 97–11]

Safety Advisory: Unauthorized Marking of Compressed Gas Cylinders

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

ACTION: Safety advisory notice.

SUMMARY: This is to notify the public that RSPA is investigating the unauthorized marking of high-pressure compressed gas cylinders. On August 14 and 15, 1997, RSPA inspectors conducted a compliance inspection at Columbia Fire Protection Company (CFP), 3811 Contractors Place, Memphis, Tennessee. During the inspection it was determined that CFP was not registered or approved by DOT as a cylinder retester and was incapable of performing hydrostatic tests in accordance with the requirements of the Hazardous Materials Regulations (HMR). Subsequent inspection of CFP's customers revealed numerous cylinders marked by CFP with unauthorized Retester Identification Numbers and certified by CFP as retested in accordance with the HMR.

Failure to properly conduct a hydrostatic retest can result in cylinders that should be condemned being returned to service. The HMR requires that properly tested cylinders exceeding the allowable 10 percent permanent expansion be condemned and removed from service (49 CFR 173.34(e)(6)(i)(D)). Serious personal injury, death, and property damage could result from rupture of a cylinder. Cylinders that have not been retested in accordance with the HMR may not be charged or filled with a hazardous material.

FOR FURTHER INFORMATION CONTACT: Wayne Chaney, Hazardous Materials Enforcement Specialist, Southern Region, telephone (404) 305–6126, Fax (404) 305–6125, Office of Hazardous Materials Enforcement, Research and Special Programs Administration, Department of Transportation, 1701 Columbia Ave, DHM–46, Suite 520, College Park, GA 30337.

SUPPLEMENTARY INFORMATION: On Thursday, August 14, and Friday, August 15, 1997, RSPA inspectors conducted a compliance inspection at Columbia Fire Protection Company (CFP) in Memphis, Tennessee. Through follow-up inspections of CFP's customers, the inspectors observed a large number of cylinders marked with the following two Retester Identification Numbers (RINs):

(1)

B 4

X Y

3 2

where
X = month of retest
Y = year of retest

(2)

O 9

X Y

7 8

where
X = month of retest
Y = year of retest

On October 10, 1982, RSPA issued RIN B423 for a 5-year period to Walker Fire Protection Service, Inc. (Walker). Walker has renewed this RIN and is the current holder. Therefore, Walker is the only authorized user. Any cylinders marked and serviced by Walker are not a part of this safety advisory.

The RIN 0987 has never been issued by RSPA and is not an authorized RIN.

RSPA believes that any cylinder marked with RIN B423 or RIN O987 and was last serviced by CFP is not in compliance with the Hazardous Materials Regulations (HMR) (49 CFR Parts 171–180). Under the HMR, hydrostatic retesting is required to verify a cylinder's structural integrity. Thus, any person who has a cylinder marked with RIN B423 or RIN O987 and was last serviced by CFP may not charge or fill the cylinder with a hazardous

material without first having it inspected/retested by a DOT-authorized retest facility. Filled cylinders (if filled with an atmospheric gas) described in this safety advisory should be vented or otherwise properly and safely evacuated and purged, and taken to a DOT-authorized cylinder retest facility for visual reinspection and retest to determine compliance with the HMR. Under no circumstances should a cylinder described in this safety advisory be filled, refilled or used for any purpose other than scrap, until it is reinspected and retested by DOT-authorized retest facility.

It is further recommended that persons finding or possessing cylinders described in this safety notice contact Mr. Chaney, for further information and instructions.

Issued in Washington, D.C. on October 9, 1997.

Alan I. Roberts,

Associate Administrator for Hazardous Materials Safety.

[FR Doc. 97–27476 Filed 10–15–97; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33481]

Marksman Corporation; Lease and Operation Exemption; J.K. Line, Inc.

Marksman Corporation (Marksman), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to lease from J.K. Line, Inc., and to operate 17 miles of rail line in the State of Indiana from milepost 183, near Monterey, to milepost 199, near North Judson.

This transaction is related to the notice of exemption filed in STB Finance Docket No. 33483, *The Toledo, Peoria and Western Railroad Corporation-Continuance in Control Exemption-Marksman Corporation*, for The Toledo, Peoria and Western Railroad Corporation to continue in control of Marksman (once it becomes a carrier through consummation of the transaction in STB Finance Docket No. 33481), in addition to its indirect control of Toledo, Peoria & Western Railway Corporation (TPW Railway).[1] Because the exemption in STB Finance Docket No. 33483 is not scheduled to become effective until October 14, 1997, the earliest the transaction in STB Finance Docket No. 33481 can be consummated is October 14, 1997.

If the verified notice contains false or misleading information, the exemption is void *ab initio*. Petitions to reopen the proceeding to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33481, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Decided: October 8, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27485 Filed 10–15–97; 8:45 am]

BILLING CODE 4915–00–P

[1] Marksman owns 100% of the stock of TPW Railway.

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33482]

Toledo, Peoria & Western Railway Corporation; Lease and Operation Exemption; A & R Line, Inc.

Toledo, Peoria & Western Railway Corporation, a Class III rail common carrier, has filed a notice of exemption under 49 CFR 1150.41 to lease from A & R Line, Inc. and operate 27 miles of rail line in the State of Indiana from milepost 0.0, near Winimac, to milepost 74.5, near Logansport.

The earliest the transaction could be consummated was October 7, 1997, the effective date of the exemption (7 days after the exemption was filed).

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. 33482, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Decided: October 8, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27483 Filed 10–15–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33483]

The Toledo, Peoria and Western Railroad Corporation; Continuance in Control Exemption; Marksman Corporation

The Toledo, Peoria and Western Railroad Corporation (TPW Railroad) has filed a notice of exemption to continue in control of the Marksman Corporation (Marksman), upon Marksman's becoming a Class III railroad.

The earliest the transaction can be consummated is October 14, 1997, the effective date of the exemption (7 days after the exemption was filed).

This transaction is related to STB Finance Docket No. 33481, *Marksman Corporation—Lease and Operation Exemption—J.K. Line, Inc.*, wherein Marksman seeks to lease and operate a rail line from J.K. Line, Inc.

Applicant indirectly controls one existing Class III railroad subsidiary: Toledo, Peoria & Western Railway Corporation (TPW Railway),[1] operating in the States of Indiana, Illinois and Iowa.

Applicant states that: (i) The rail lines to be operated by Marksman do not connect with any railroad in the corporate family; (ii) the transaction is not part of a series of anticipated transactions that would connect Marksman's lines with any railroad in the corporate family; and (iii) the transaction does not involve a Class I carrier. Therefore, the transaction is exempt from the prior approval requirements of 49 U.S.C. 11323. *See* 49 CFR 1180.2(d)(2).

Under 49 U.S.C. 10502(g), the Board may not use its exemption authority to relieve a rail carrier of its statutory obligation to protect the interests of its employees. Section 11326(c), however, does not provide for labor protection for transactions under sections 11324 and 11325 that involve only Class III rail carriers. Because this transaction involves Class III rail carriers only, the Board, under the statute, may not

[1] Marksman owns 100% of the stock of TPW Railway.

impose labor protective conditions for this transaction.

If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 33483, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Eric M. Hocky, Esq., Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P.O. Box 796, West Chester, PA 19381–0796.

Decided: October 8, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27486 Filed 10–15–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–487 (Sub-No. 3X)]

Pittsburg & Shawmut Railroad, Inc.; Abandonment Exemption; in Jefferson and Clarion Counties, PA

On September 26, 1997, Pittsburg & Shawmut Railroad, Inc. (PSRR), filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon its line of railroad known as the Piney Branch, extending from milepost 0.00 (milepost 40.60 on the main line of the Laurel Subdivision), located at or near Coder to milepost 23.80 located at or near Piney, a distance of 23.80 miles, in Jefferson and Clarion Counties, PA. The line traverses U.S. Postal Service Zip Codes 15825, 15829, 15864, 16234 and 16258, and includes the stations of Sutton, milepost 9; and Piney Mine, milepost 21.

The line does not contain federally granted rights-of-way. Any documentation in PSRR's possession will be made available promptly to those requesting it.

The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen*, 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 14, 1998.

Any offer of financial assistance (OFA) under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each OFA must be accompanied by a $900 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 CFR 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 5, 1997. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–487 (Sub-No. 3X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW, Washington, DC 20423–0001; and (2) Sebastian Ferrer, Gollatz, Griffin & Ewing, P.C., 213 West Miner Street, P. O. Box 796, West Chester, PA 19381–0796.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be made available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: October 8, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27484 Filed 10–15–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–493 (Sub–No. 5X)] [1]

Track Tech, Inc.—Abandonment Exemption—in Potter County, TX

On September 24, 1997, Track Tech, Inc. filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad located generally between Amarillo, TX (milepost 761.80) and Bushland, TX (milepost 775.70), a distance of 13.90 miles in Potter County, TX. The line traverses U.S. Postal Service ZIP Code 79012.

The line does not contain any federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 12, 1998.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by a $900 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 5, 1997. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–493 (Sub-No. 5X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) T. Scott Bannister, 1300

[1] Petitioner acquired this line and 5 others from Burlington Northern Railroad Company in November 1996. Petitioner is also seeking to abandon, or will seek to abandon, the other lines via exemption in STB Docket No. AB–493 (Sub-Nos. 1X, 2X, 3X, 4X, and 6X).

Des Moines Building, 405 Sixth Avenue, Des Moines, IA, 50309.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. (TDD for the hearing impaired is available at (202) 565–1695.)

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: October 9, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27478 Filed 10–15–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–493 (Sub-No. 2X)] [1]

Track Tech, Inc.; Abandonment Exemption; in Franklin and Webster Counties, NE

On September 24, 1997, Track Tech, Inc. filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad located generally between Bladen, NE (milepost 96.30) and Hildreth, NE (milepost 119.34), a distance of 23.04 miles in Franklin and Webster Counties, NE. The line traverses U.S. Postal Service ZIP Codes 68928 and 68947.

The line does not contain any federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 12, 1998.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by a $900 filing fee. See 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 5, 1997. Each trail use request must be accompanied by a $150 filing fee. See 49 CFR 1002.2(f)(27).

All filings in response to this notice must refer to STB Docket No. AB–493 (Sub-No. 2X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) T. Scott Bannister, 1300 Des Moines Building, 405 Sixth Avenue, Des Moines, IA, 50309.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: October 9, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27479 Filed 10–15–97; 8:45 am]

BILLING CODE 4915–00–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Docket No. AB–493 (Sub–No. 1X)] [1]

Track Tech, Inc.; Abandonment Exemption; in Whiteside County, IL

On September 24, 1997, Track Tech, Inc. filed with the Surface Transportation Board (Board) a petition under 49 U.S.C. 10502 for exemption from the provisions of 49 U.S.C. 10903 to abandon a line of railroad located generally between Denrock, IL (milepost 25.15), and Lyndon, IL (milepost 28.35), a distance of 3.20 miles in Whiteside County, IL. The line traverses U.S. Postal Service ZIP Code 61261.

The line does not contain any federally granted rights-of-way. Any documentation in the railroad's possession will be made available promptly to those requesting it. The interest of railroad employees will be protected by the conditions set forth in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

By issuance of this notice, the Board is instituting an exemption proceeding pursuant to 49 U.S.C. 10502(b). A final decision will be issued by January 12, 1998.

Any offer of financial assistance under 49 CFR 1152.27(b)(2) will be due no later than 10 days after service of a decision granting the petition for exemption. Each offer of financial assistance must be accompanied by a $900 filing fee. *See* 49 CFR 1002.2(f)(25).

All interested persons should be aware that, following abandonment of rail service and salvage of the line, the line may be suitable for other public use, including interim trail use. Any request for a public use condition under 49 U.S.C. 1152.28 or for trail use/rail banking under 49 CFR 1152.29 will be due no later than November 5, 1997. Each trail use request must be accompanied by a $150 filing fee. *See* 49 CFR 1002.2(f)(27).

[1] Petitioner acquired this line and 5 others from Burlington Northern Railroad Company in November 1996. Petitioner is also seeking to abandon, or will seek to abandon, the other lines via exemption in STB Docket No. AB–493 (Sub-Nos. 1X, 3X, 4X, 5X, and 6X).

[1] Petitioner acquired this line and 5 others from Burlington Northern Railroad Company in November 1996. Petitioner is also seeking to abandon, or will seek to abandon, the other lines via exemption in STB Docket No. AB–493 (Sub-Nos. 2X, 3X, 4X, 5X, and 6X).

All filings in response to this notice must refer to STB Docket No. AB–493 (Sub-No. 1X) and must be sent to: (1) Surface Transportation Board, Office of the Secretary, Case Control Unit, 1925 K Street, NW., Washington, DC 20423–0001; and (2) T. Scott Bannister, 1300 Des Moines Building, 405 Sixth Avenue, Des Moines, IA, 50309.

Persons seeking further information concerning abandonment procedures may contact the Board's Office of Public Services at (202) 565–1592 or refer to the full abandonment or discontinuance regulations at 49 CFR part 1152. Questions concerning environmental issues may be directed to the Board's Section of Environmental Analysis (SEA) at (202) 565–1545. [TDD for the hearing impaired is available at (202) 565–1695.]

An environmental assessment (EA) (or environmental impact statement (EIS), if necessary) prepared by SEA will be served upon all parties of record and upon any agencies or other persons who commented during its preparation. Other interested persons may contact SEA to obtain a copy of the EA (or EIS). EAs in these abandonment proceedings normally will be available within 60 days of the filing of the petition. The deadline for submission of comments on the EA will generally be within 30 days of its service.

Decided: October 9, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27480 Filed 10–15–97; 8:45 am]

BILLING CODE 4915–00–P

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition Determinations

Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation Order No. 85–5 of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, ''Crowning Glory: Images of the Virgin in the Arts of Portugal'' imported from abroad for the temporary exhibition without profit within the United States, are of cultural significance. These objects are imported pursuant to a loan agreement with the foreign lender. I also determine that the exhibition or display of the listed exhibit objects at The Newark Museum, 49 Washington Street, Newark, New Jersey from November 26, 1997, through February 22, 1998, and at the San Diego Museum of Art and the Los Angeles County Museum of Art following its exhibition in Newark, New Jersey, is in the national interest. Public Notice of these determinations is ordered to be published in the **Federal Register**.[1]

Dated: October 9, 1997.

Les Jin,

General Counsel.

[FR Doc. 97–27434 Filed 10–15–97; 8:45 am]

BILLING CODE 8230–01–M

[1] A copy of this list may be obtained by contacting Ms. Neila Sheahan, Assistant General Counsel, at 202/619–5030, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547–0001

Corrections

Federal Register
Vol. 62, No. 200
Thursday, October 16, 1997

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Committee on Immunization Practices: Meeting

Correction

In notice document 97–25834 beginning on page 51111 in the issue of Tuesday, September 30, 1997 make the following correction:

On page 51111, in the third column, under the paragraph heading *Purpose*, in the third line from the bottom delete ''Page 2''.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

National Park Service

Notice of Intent to Repatriate Cultural Items in the Possession of the Peabody Essex Museum, Salem, MA

Correction

In notice document 97–26871 beginning on page 53022, in the issue of Friday, October 10, 1997, make the following correction:

On page 53023, in the first column, in the first full paragraph, in the 11th and 12th lines, ''*[thirty days following publication in the* **Federal Register**]'' should read ''November 10, 1997''.

BILLING CODE 1505-01-D

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 73

[Airspace Docket No. 94-ASO-18]

RIN 2120-AA66

Establishment of Restricted Areas; Camp Lejeune, NC

Correction

In final rule document 97–26671 beginning on page 52226 in the issue of Tuesday, October 7, 1997 make the following corrections:

§ 75.53 [Corrected]

(1) On page 52228, in the third column, under the heading **R-5304A Camp Lejeune, NC [New]**, in the sixth line ''77°35′15″W.;'' should read ''77°33′15″W.;''.

(2) On page 52229, in the first column, in the first line ''77°35′15″W.;'' should read ''77°33′15″W.;''.

(3) On the same page, in the same column, under the heading **R-5304C Camp Lejeune, NC [New]**, in the sixth line ''77°35′15″W.;'' should read ''77°33′15″W.;''.

BILLING CODE 1505-01-D

Federal Register

Thursday
October 16, 1997

Part II

Department of Education

Bilingual Education: Comprehensive School Grants Notice Inviting Applications for New Awards for Fiscal Year (FY) 1998; Notice

DEPARTMENT OF EDUCATION

[CFDA No.: 84.290U]

Bilingual Education: Comprehensive School Grants

Notice inviting applications for new awards for fiscal year (FY) 1998.

Note to Applicants: This notice is a complete application package. Together with the statute authorizing the program and the Education Department General Administrative Regulations (EDGAR), this notice contains all of the information, application forms, and instructions needed to apply for an award under this program. The statutory authorization for this program, and the application requirements that apply to this competition, are contained in sections 7114 and 7116 of the Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994 (Pub. L. 103–382, enacted October 20, 1994 (the Act) (20 U.S.C. 7424 and 7426)).

Purpose of Program: This program provides grants to implement schoolwide bilingual education programs or schoolwide special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all or virtually all limited English proficient (LEP) children and youth in one or more schools with significant concentrations of these children and youth.

Eligible Applicants: One or more local educational agencies (LEAs), or one or more LEAs in collaboration with an institution of higher education, community-based organizations, other LEAs, or a State educational agency.

Deadline For Transmittal Of Applications: January 26, 1998.

Deadline For Intergovernmental Review: March 27, 1998.

Available Funds: $12 million.

Note: The Congress has not yet enacted an FY 1998 appropriation for the Department of Education. The actual level of funding for this program is contingent upon final congressional action.

Estimated Range Of Awards: $150,000-$350,000.

Estimated Average Size Of Awards: $250,000.

Estimated Number Of Awards: 48.

Note: The Department is not bound by any estimates in this notice.

Project Period: 60 months.

Applicable Regulations: (a) The Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 79, 80, 81, 82, 85, and 86.

(b) The regulations in 34 CFR part 299.

Description of Program

Funds under this program are to be used to reform, restructure, and upgrade all relevant operations and programs, within a school, that serve LEP children and youth. Before carrying out a project assisted under this program, a grantee shall plan, train personnel, develop curriculum, and acquire or develop materials. In addition, grantees are authorized, under this program, to improve the education of LEP children and youth and their families by implementing family education programs, improving the instructional program for LEP children, compensating personnel who have been trained—or are being trained—to serve LEP children and youth, providing tutorials and academic or career counseling for LEP children and youth, and providing intensified instruction.

Priorities

Absolute Priority

The priority in the notice of final priority for this program, as published in the **Federal Register** on October 30, 1995 (60 FR 55245), applies to this competition.

Under 34 CFR 75.105(c)(3) and section 7114(a) of the Act, the Secretary gives an absolute preference to applications that meet the following priority. The Secretary funds under this competition only applications that meet this absolute priority:

Projects that serve only schools in which the number of LEP students, in each school served, equals at least 25 percent of the total student enrollment.

Competitive Priority

Within the absolute priority specified in this notice, the Secretary under 34 CFR 75.105(c)(2)(i) and 34 CFR 299.3(b) gives preference to applications that meet the following competitive priority. The Secretary awards 5 points to an application that meets this competitive priority. These points are in addition to any points the application earns under the selection criteria for the program:

Projects that will contribute to systemic educational reform in an Empowerment Zone, including a Supplemental Empowerment Zone, or an Enterprise Community designated by the United States Department of Housing and Urban Development or the United States Department of Agriculture, and are made an integral part of the Zone's or Community's comprehensive community revitalization strategies.

A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Invitational Priorities: Within the absolute priority specified in this notice, the Secretary is particularly interested in applications that meet one or more of the following invitational priorities. However, under 34 CFR 75.105(c)(1) an application that meets one or more of these invitational priorities does not receive competitive or absolute preference over other applications:

Invitational Priority 1—Reading

Projects that focus on reforming, restructuring, and upgrading reading instruction to assist limited English proficient students to read independently and well by the end of third grade.

Invitational Priority 2—Mathematics

Projects that focus on reforming, restructuring, and upgrading mathematics instruction to assist limited English proficient students to master challenging mathematics, including the foundations of algebra and geometry, by the end of eighth grade.

Invitational Priority 3—Preparation for Postsecondary Education

Projects that focus on motivating and academically preparing limited English proficient students for successful participation in college and other postsecondary education.

Invitational Priority 4—Professional Development

Applicants that consider the Department of Education Professional Development Principles in planning and designing a Comprehensive School Grant project.

Those principles call for educator professional development that focuses on teachers as central to student learning, yet includes all other members of the school community; focuses on individual, collegial, and organizational improvement; respects and nurtures the intellectual and leadership capacity of teachers, principals, and others in the school community; reflects best available research and practice in teaching, learning, and leadership; enables teachers to develop further expertise in subject content, teaching strategies, uses of technologies, and other essential elements in teaching to high standards; promotes continuous inquiry and improvement embedded in the daily life of schools; is planned collaboratively by those who will participate in and facilitate that development; requires substantial time and other resources; is driven by a coherent long-term plan; is evaluated

ultimately on the basis of its impact on teacher effectiveness and student learning; and uses this assessment to guide subsequent professional development efforts.

Selection Criteria

(a) (1) The Secretary uses the following selection criteria in 34 CFR 75.210 and sections 7114 and 7116 of the Act to evaluate applications for new grants under this competition.

(2) The maximum score for all of these criteria is 100 points.

(3) The maximum score for each criterion is indicated in parentheses.

(b) *The criteria*—(1) *Meeting the purposes of the authorizing statute.* (15 points) The Secretary reviews each application to determine how well the proposed project will implement schoolwide bilingual education programs or schoolwide special alternative instruction programs for reforming, restructuring, and upgrading all relevant programs and operations, within an individual school, that serve all (or virtually all) children and youth of limited English proficiency in schools with significant concentrations of those children and youth.

(Authority: 20 U.S.C. 7424(a))

(2) *Need for the project.* (10 points) The Secretary considers the need for the proposed project. In determining the need for the proposed project, the Secretary considers the following factors:

(i) The number of children and youth of limited English proficiency in the school or school district to be served, and

(ii) The characteristics of those children and youth, such as—

(A) Language spoken;

(B) Dropout rates;

(C) Proficiency in English and the native language;

(D) Academic standing in relation to the English proficient peers of those children and youth; and

(E) If applicable, the recency of immigration.

(Authority: 20 U.S.C. 7426(g)(1)(A))

(3) *Quality of the project design.* (15 points) 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:

(i) The extent to which the goals, objectives, and outcomes to be achieved by the proposed project are clearly specified and measurable.

(ii) 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.

(iii) The extent to which the proposed project is part of a comprehensive effort to improve teaching and learning and support rigorous academic standards for students.

(Authority: 34 CFR 75.210(c)(2) (i), (ii), and (xviii))

(4) *Project activities.* (15 points) The Secretary reviews each application to determine—

(i) How well the proposed project will improve the education of limited English proficient students and their families by carrying out some or all of the following authorized activities:

(A) Implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children.

(B) Improving the instructional program for limited English proficient students by identifying, acquiring, and upgrading curriculum, instructional materials, educational software, and assessment procedures, and, if appropriate, applying educational technology.

(C) Compensating personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to children and youth of limited English proficiency.

(D) Providing training for personnel participating in or preparing to participate in the program that will assist that personnel in meeting State and local certification requirements and, to the extent possible, obtaining college or university credit.

(E) Providing tutorials and academic or career counseling for children and youth of limited English proficiency.

(F) Providing intensified instruction.

(ii) The degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, and the appropriate local and State educational agency or businesses; and

(iii) How well the proposed project provides for utilization of the State and national dissemination sources for program design and in dissemination of results and products.

(Authority: 20 U.S.C. 7424(b)(3); 7426(h)(6) and (i) (4)–(5))

(5) *Proficiency in English and another language.* (5 points) The Secretary reviews each application to determine the extent to which the proposed project will provide for the development of bilingual proficiency both in English and another language for all participating students.

(Authority: 20 U.S.C. 7426(i)(1))

(6) *Quality of the management plan.* (10 points) 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:

(i) The adequacy of the management plan to achieve the objectives of the proposed project on time and within budget, including clearly defined responsibilities, timeliness, and milestones for accomplishing project tasks.

(ii) 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.

(Authority: 34 CFR 75.210(g) (1) and (2) (i) and (iv))

(7) *Quality of project personnel.* (5 points) (i) The Secretary considers the quality of the personnel who will carry out the proposed project.

(ii) 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.

(iii) In addition, the Secretary considers the following factors:

(A) The qualifications, including relevant training and experience, of the project director or principal investigator.

(B) The qualifications, including relevant training and experience, of key project personnel.

(Authority: 34 CFR 75.210(e) (1)–(3) (i) and (ii))

(8) *Language skills of personnel.* (3 points) The Secretary reviews each application to determine how well the proposed project meets the following requirements:

(i) The program will use qualified personnel, including personnel who are proficient in the language or languages used for instruction.

(ii) The applicant will employ teachers in the proposed program who, individually or in combination, are proficient in English, including written, as well as oral, communication skills.

(Authority: 20 U.S.C. 7426(g)(1)(E) and (h)(1))

(9) *Adequacy of resources.* (3 points) 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:

(i) The extent to which the budget is adequate to support the proposed project.

(ii) The extent to which the costs are reasonable in relation to the objectives, design, and potential significance of the proposed project.

(Authority: 75.210(f)(1) and (2)(iii)–(iv))

(10) *Integration of project funds.* (5 points) The Secretary reviews each application to determine how well funds received under this program will be integrated with all other Federal, State, local, and private resources that may be used to serve children and youth of limited English proficiency.

(Authority: 20 U.S.C. 7426(g)(2)(A)(iii))

(11) *Evaluation plan.* (10 points) The Secretary reviews each application to determine how well the proposed project's evaluation will meet the following requirements:

(i) Student evaluation and assessment procedures must be valid, reliable, and fair for limited English proficient students.

(ii) The evaluation must include—

(A) How students are achieving the State student performance standards, if any, including data comparing children and youth of limited English proficiency with nonlimited English proficient children and youth with regard to school retention, academic achievement, and gains in English (and, if applicable, native language) proficiency;

(B) Program implementation indicators that provide information for informing and improving program management and effectiveness, including data on appropriateness of curriculum in relationship to grade and course requirements, appropriateness of program management, appropriateness of the program's staff professional development, and appropriateness of the language of instruction; and

(C) Program context indicators that describe the relationship of the activities funded under the grant to the overall school program and other Federal, State, or local programs serving children and youth of limited English proficiency.

(Authority: 20 U.S.C. 7426(h)(3) and 7433(c)(1)–(3))

(12) *Commitment and capacity building.* (4 points) The Secretary reviews each application to determine how well the proposed project meets the following requirements:

(i) The proposed project must contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, that will be of sufficient size, scope, and quality to promise significant improvement in the education of students of limited English proficiency.

(ii) The applicant will have the resources and commitment to continue the program when assistance under this program is reduced or no longer available.

(Authority: 20 U.S.C. 7426(h)(5))

Intergovernmental Review of Federal Programs

This program is subject to the requirements of Executive Order 12372 (Intergovernmental Review of Federal Programs) and the regulations in 34 CFR part 79.

The objective of the Executive order is to foster an intergovernmental partnership and to strengthen federalism by relying on State and local processes for State and local government coordination and review of proposed Federal financial assistance.

Applicants must contact the appropriate State Single Point of Contact to find out about, and to comply with, the State's process under Executive order 12372. Applicants proposing to perform activities in more than one State should immediately contact the Single Point of Contact for each of those States and follow the procedure established in each State under the Executive order. If you want to know the name and address of any State Single Point of Contact, see the list published in the **Federal Register** on August 20, 1996 (61 FR 43133 through 43135).

In States that have not established a process or chosen a program for review, State, areawide, regional, and local entities may submit comments directly to the Department.

Any State Process Recommendation and other comments submitted by a State Single Point of Contact and any comments from State, areawide, regional, and local entities must be mailed or hand-delivered by the date indicated in this notice to the following address: The Secretary, E.O. 12372—CFDA# 84.290U, U.S. Department of Education, Room 6213, 600 Independence Avenue, SW., Washington, DC 20202–0124.

Proof of mailing will be determined on the same basis as applications (see 34 CFR 75.102). Recommendations or comments may be hand-delivered until 4:30 p.m. (Washington, DC time) on the date indicated in this notice.

Please Note That The Above Address Is Not The Same Address As The One To Which The Applicant Submits Its Completed Application. *Do Not Send Applications To The Above Address. Instructions For Transmittal Of Applications*

(a) If an applicant wants to apply for a grant, the applicant shall—

(1) Mail the original and two copies of the application on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.290U), Washington, DC 20202–4725 or

(2) Hand-deliver the original and two copies of the application by 4:30 p.m. (Washington, DC time) on or before the deadline date to: U.S. Department of Education, Application Control Center, Attention: (CFDA# 84.290U), Room #3633, Regional Office Building #3, 7th and D Streets, SW., Washington, DC.

(b) An applicant must show one of the following as proof of mailing:

(1) A legibly dated U.S. Postal Service postmark.

(2) A legible mail receipt with the date of mailing stamped by the U.S. Postal Service.

(3) A dated shipping label, invoice, or receipt from a commercial carrier.

(4) Any other proof of mailing acceptable to the Secretary.

(c) If an application is mailed through the U.S. Postal Service, the Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

Notes: (1) The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

(2) The Application Control Center will mail a Grant Application Receipt Acknowledgment to each applicant. If an applicant fails to receive the notification of application receipt within 15 days from the date of mailing the application, the applicant should call the U.S. Department of Education Application Control Center at (202) 708–9495.

(3) The applicant *must* indicate on the envelope and—if not provided by the Department—in Item 10 of the Application for Federal Assistance (Standard Form 424) the CFDA number—and suffix letter, if any—of the competition under which the application is being submitted.

Application Instructions and Forms

The appendix to this notice contains the following forms and instructions, plus a statement regarding estimated public reporting burden, a notice to applicants regarding compliance with

section 427 of the General Education Provisions Act, a checklist for applicants, various assurances, certifications, and required documentation:

a. Instructions for Application Narrative.

b. Additional Guidance.

c. Estimated Public Reporting Burden.

d. Notice to All Applicants (OMB No. 1801–0004).

e. Checklist for Applicants.

f. Application for Federal Assistance (Standard Form 424 (Rev. 4–88)) and instructions.

g. Budget Information—Non-Construction Programs (ED Form No. 524) and instructions.

h. Group Application Certification.

i. Student Data.

j. Project Documentation.

k. Program Assurances.

l. Assurances—Non-Construction Programs (Standard Form 424B) and instructions.

m. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements (ED 80–0013, 6/90) and instructions.

n. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion: Lower Tier Covered Transactions (ED 80–0014, 9/90) and instructions. (NOTE: ED 80–0014 is intended for the use of grantees and should not be transmitted to the Department.)

o. Disclosure of Lobbying Activities (Standard Form LLL) (if applicable) and instructions. This document has been marked to reflect statutory changes. See the notice published in the **Federal Register** (61 FR 1413) by the Office of Management and Budget on January 19, 1996.

An applicant may submit information on a photostatic copy of the application and budget forms, the assurances, and the certifications. However, the application form, the assurances, and the certifications must each have an original signature.

All applicants must submit ONE original signed application, including ink signatures on all forms and assurances, and TWO copies of the application. Please mark each application as ''original'' or ''copy.'' No grant may be awarded unless a completed application has been received.

FOR FURTHER INFORMATION CONTACT: Diane DeMaio, Cecile Kreins, James Lockhart, Harry Logel, Ursula Lord, or Brenda Turner, U.S. Department of Education, 600 Independence Avenue, SW., room 5605, Switzer Building, Washington, DC 20202–6510. Telephone: Diane DeMaio (202) 205–5716, Cecile Kreins (202) 205–5568, James Lockhart (202) 205–5426, Harry Logel (202) 205–5530, Ursula Lord (202) 205–5709, Brenda Turner (202) 205–9839. 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 notice in an alternate format (e.g., Braille, large print, audiotape, or computer diskette) on request to one of the contact persons listed in the preceding paragraph. Please note, however, that the Department is not able to reproduce in an alternate format the standard forms included in the notice.

Electronic Access to This Document

Anyone may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or portable document format (pdf) on the World Wide Web at either of the following sites: http://ocfo.ed.gov/fedreg.htm http://www.ed.gov/news.html

To use the pdf you must have the Adobe Acrobat Reader Program with Search, which is available free at either of the preceding sites. If you have questions about using the pdf, call the U.S. Government Printing Office toll free at 1–888–293–6498.

Anyone may also view these documents in text copy only on an electronic bulletin board of the Department. Telephone: (202) 219–1511 or, toll free, 1–800–222–4922. The documents are located under Option G—Files/Announcements, Bulletins and Press Releases.

Note: The official version of this document is the document published in the **Federal Register**.

Program Authority: 20 U.S.C. 7424.

Dated: October 9, 1997.

Delia Pompa,

Director, Office of Bilingual Education and Minority Languages Affairs.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is OMB No. 1885–0528 (Exp. 4/30/98). The time required to complete this information collection is estimated to average 120 hours per response, including the time to review instructions, search existing data resources, gather the data needed, and complete and review the information collection. *If you have any comments concerning the accuracy of the time estimate or suggestions for improving this form, please write to:* U.S. Department of Education, Washington, DC 20202–4651. *If you have comments or concerns regarding the status of your individual submission of this form, write directly to:* Office of Bilingual Education and Minority Languages Affairs, U.S. Department of Education, 600 Independence Avenue, SW., Washington, DC 20202–6510.

Application Instructions

Mandatory Page Limit for the Application Narrative

The narrative portion of the application must not exceed 45 pages. These pages must be double-spaced and printed on one side only. A legible font size and adequate margins should be used.

The narrative section must be paginated and should include a one-page abstract. The 45 page limit applies to the abstract, proposal narrative, charts, graphs, tables, graphics, position descriptions (and resumes, if included), and any appendices. The page limit does not apply to application forms, attachments to those forms, assurances, certifications, and the table of contents. The page limit applies only to item 14 and not to the other items in the Checklist for Applicants. *APPLICATIONS WITH A NARRATIVE SECTION THAT EXCEEDS THE PAGE LIMIT WILL NOT BE CONSIDERED FOR FUNDING.*

Abstract

The narrative section should begin with an abstract that includes a short description of the population to be served by the project, project objectives, and planned project activities.

Selection Criteria

The narrative should address fully all aspects of the selection criteria in the order listed and should give detailed information regarding each criterion. Do not simply paraphrase the criteria. Do not include resumes or curriculum vitae for project personnel; provide position descriptions instead.

Empowerment Zone/Enterprise Community Priority

Applicants that wish to be considered under the competitive priority for Empowerment Zones and Enterprise Communities, as specified in a previous section of this notice, should identify in Section D of the Project Documentation Form the applicable Zone or

Community. The application narrative should describe the extent to which the proposed project will contribute to systemic educational reform in the particular Zone or Community and be an integral part of the Zone's or Community's comprehensive revitalization strategies. A list of areas that have been designated as Empowerment Zones and Enterprise Communities is provided at the end of this notice.

Additional Guidance

Table of Contents

The application should include a table of contents listing the sections in the order required.

Budget

Budget line items must support the goals and objectives of the proposed project and must be directly related to the instructional design and all other project components.

Final Application Preparation

Use the Checklist for Applicants to verify that your application is complete. Submit three copies of the application, including an original copy containing an original signature for each form requiring the signature of the authorized representative. Do not use elaborate bindings or covers. The application package must be mailed or hand-delivered to the Application Control Center (ACC) and postmarked by the deadline date.

Submission of Application to State Educational Agency

Section 7116(a)(2) of the authorizing statute (Elementary and Secondary Education Act of 1965, as amended by the Improving America's Schools Act of 1994, Pub. L. 103–382) requires all applicants except schools funded by the Bureau of Indian Affairs to submit a copy of their application to their State educational agency (SEA) for review and comment (20 U.S.C. 7426(a)(2)). Section 75.156 of the Education Department General Administrative Regulations (EDGAR) requires these applicants to submit their application to the SEA on or before the deadline date for submitting their application to the Department of Education. This section of EDGAR also requires applicants to attach to their application a copy of their letter that requests the SEA to comment on the application (34 CFR 75.156). A copy of this letter should be attached to the Project Documentation Form contained in this application package. *APPLICANTS THAT DO NOT SUBMIT A COPY OF THEIR APPLICATION TO THEIR STATE EDUCATIONAL AGENCY IN ACCORDANCE WITH THESE STATUTORY AND REGULATORY REQUIREMENTS WILL NOT BE CONSIDERED FOR FUNDING.*

Notice to All Applicants

Thank you for your interest in this program. The purpose of this enclosure is to inform you about a new provision in the Department of Education's General Education Provisions Act (GEPA) that applies to applicants for new grant awards under Department programs. This provision is section 427 of GEPA, enacted as part of the Improving America's Schools Act of 1994 (Pub. L. 103–382).

To Whom Does This Provision Apply?

Section 427 of GEPA affects applicants for new discretionary grant awards under this program. ALL APPLICANTS FOR NEW AWARDS MUST INCLUDE INFORMATION IN THEIR APPLICATIONS TO ADDRESS THIS NEW PROVISION IN ORDER TO RECEIVE FUNDING UNDER THIS PROGRAM.

What Does This Provision Require?

Section 427 requires each applicant for funds (other than an individual person) to include in its application a description of the steps the applicant proposes to take to ensure equitable access to, and participation in, its federally assisted program for students, teachers, and other program beneficiaries with special needs.

This section allows applicants discretion in developing the required description. The statute highlights six types of barriers that can impede equitable access or participation that you may address: gender, race, national origin, color, disability, or age. Based on local circumstances, you can determine whether these or other barriers may prevent your students, teachers, etc. from equitable access or participation. Your description need not be lengthy; you may provide a clear and succinct description of how you plan to address those barriers that are applicable to your circumstances. In addition, the information may be provided in a single narrative, or, if appropriate, may be discussed in connection with related topics in the application.

Section 427 is not intended to duplicate the requirements of civil rights statutes, but rather to ensure that, in designing their projects, applicants for Federal funds address equity concerns that may affect the ability of certain potential beneficiaries to fully participate in the project and to achieve to high standards. Consistent with program requirements and its approved application, an applicant may use the Federal funds awarded to it to eliminate barriers it identifies.

What Are Examples of How an Applicant Might Satisfy the Requirement of This Provision?

The following examples may help illustrate how an applicant may comply with section 427.

(1) An applicant that proposes to carry out an adult literacy project serving, among others, adults with limited English proficiency, might describe in its application how it intends to distribute a brochure about the proposed project to such potential participants in their native language.

(2) An applicant that proposes to develop instructional materials for classroom use might describe how it will make the materials available on audio tape or in braille for students who are blind.

(3) An applicant that proposes to carry out a model science program for secondary students and is concerned that girls may be less likely than boys to enroll in the course, might indicate how it tends to conduct ''outreach'' efforts to girls, to encourage their enrollment.

We recognize that many applicants may already be implementing effective steps to ensure equity of access and participation in their grant programs, and we appreciate your cooperation in responding to the requirements of this provision.

Estimated Burden Statement

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 1801–0004 (Exp. 8/31/98). The time required to complete this information collection is estimated to vary from 1 to 3 hours per response, with an average of 1.5 hours, including the time to review instructions, search existing data resources, gather and maintain the data needed, and complete and review the information collection. If you have any comments concerning the accuracy of the time estimate(s) or suggestions for improving this form, please write to: U.S. Department of Education, Washington, DC 20202–4651.

Checklist for Applicants

The following forms and other items must be included in the application in the order listed below:

1. Application for Federal Assistance Form (SF 424).

2. Group Application Certification Form (if applicable).

3. Budget Information Form (ED Form No. 524).

4. Itemized budget for each year.

5. Student Data Form.

6. Project Documentation Form, including:

Section A—Copy of transmittal letter to SEA requesting SEA to comment on the application;

Section B—Documentation of consultation with nonprofit private school officials;

Section C—Appropriate box checked;

Section D—Empowerment Zone or Enterprise Community identified (if applicable).

7. Program Assurances Form.

8. Assurances—Non-Construction Programs Form (SF 424B).

9. Certifications Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements Form (ED 80–0013).

10. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions Form (ED 80–0014) (if applicable).

11. Disclosure of Lobbying Activities Form (SF–LLL).

12. Information that addresses section 427 of the General Education Provisions Act. (See the above section entitled ''NOTICE TO ALL APPLICANTS'' (OMB No. 1801–0004)).

13. Table of Contents.

14. Application narrative, including abstract (not to exceed 45 pages).

15. One original and two copies of the application for transmittal to the Education Department's Application Control Center.

Empowerment Zones and Enterprise Communities

Empowerment Zones

(Listed Alphabetically by State)

California: Oakland
Georgia: Atlanta
Illinois: Chicago
Kansas: Kansas City
Kentucky: Kentucky Highlands Area (Clinton, Jackson, and Wayne Counties)
Maryland: Baltimore
Massachusetts: Boston
Michigan: Detroit
Mississippi: Mid-Delta Area (Bolivar, Holmes, Humphreys, and Leflore Counties)
Missouri: Kansas City
New Jersey: Camden
New York: Harlem, Bronx
Pennsylvania: Philadelphia
Texas: Houston, Rio Grande Valley Area (Cameron, Hidalgo, Starr, and Willacy Counties)

Supplemental Empowerment Zones

(Listed Alphabetically by State)

California: Los Angeles
Ohio: Cleveland

Enterprise Communities

(Listed Alphabetically by State)

Alabama: Birmingham, Chambers County, Greene County, Sumter County
Arizona: Arizona Border Area (Cochise, Santa Cruz and Yuma Counties), Phoenix
Arkansas: East Central Area (Cross, Lee, Monroe, and St. Francis Counties), Mississippi County, Pulaski County
California: Imperial County, Los Angeles (Huntington Park), San Diego, San Francisco (Bayview, Hunter's Point), Watsonville
Colorado: Denver
Connecticut: Bridgeport, New Haven
Delaware: Wilmington
District of Columbia: Washington
Florida: Jackson County
Georgia: Central Savannah River Area (Burke, Hancock, Jefferson, McDuffie, Tallaferro, and Warren Counties), Crisp County, Dooley County
Illinois: East St. Louis, Springfield
Indiana: Indianapolis
Iowa: Des Moines
Kentucky: Louisville, McCreary County
Louisiana: Macon Ridge Area (Catahouis, Concordia, Franklin, Morehouse, and Tensas Parishes), New Orleans, Northeast Delta Area (Madison Parish), Ouachita Parish
Massachusetts: Lowell, Springfield
Michigan: Five Cap, Flint, Muskegon
Minnesota: Minneapolis, St. Paul
Mississippi: Jackson, North Delta Area (Panola, Quitman, and Tallahatchie Counties)
Missouri: East Prairie, St. Louis
Nebraska: Omaha
Nevada: Clarke County, Las Vegas
New Hampshire: Manchester
New Jersey: Newark
New Mexico: Albuquerque, Moro County, Rio Arriba County, Taos County
New York: Albany, Buffalo, Kingston, Newburgh, Rochester, Schenectady, Troy
North Carolina: Charlotte, Edgecombe County, Halifax County, Robeson County, Wilson County
Ohio: Akron, Columbus, Greater Portsmouth Area (Scioto County)
Oklahoma: Choctaw County, McCurtain County, Oklahoma City
Oregon: Josephine County, Portland
Pennsylvania: Harrisburg, Lock Haven, Pittsburgh
Rhode Island: Providence
South Carolina: Charleston, Williamsburg County
South Dakota: Beadle County, Spink County
Tennessee: Fayette County, Haywood County, Memphis, Nashville, Scott County
Texas: Dallas, El Paso, San Antonio, Waco
Utah: Ogden
Vermont: Burlington
Virginia: Accomack County, Norfolk
Washington: Lower Yakima County, Seattle, Tacoma
West Virginia: Huntington, McDowell County, West Central Area (Braxton, Clay, Fayette, Nicholas, and Roane Counties)
Wisconsin: Milwaukee

BILLING CODE 4000–01–P

OMB Approval No. 0348-0043

APPLICATION FOR FEDERAL ASSISTANCE

1. TYPE OF SUBMISSION: *Application* ☐ Construction ☐ Non-Construction; *Preapplication* ☐ Construction ☐ Non-Construction	2. DATE SUBMITTED	Applicant Identifier
	3. DATE RECEIVED BY STATE	State Application Identifier
	4. DATE RECEIVED BY FEDERAL AGENCY	Federal Identifier

5. APPLICANT INFORMATION

Legal Name:	Organizational Unit:
Address *(give city, county, state, and zip code)*:	Name and telephone number of the person to be contacted on matters involving this application *(give area code)*

6. EMPLOYER IDENTIFICATION NUMBER (EIN):

☐☐ – ☐☐☐☐☐☐☐

7. TYPE OF APPLICANT: *(enter appropriate letter in box)* ☐

A. State — H. Independent School Dist.
B. County — I. State Controlled Institution of Higher Learning
C. Municipal — J. Private University
D. Township — K. Indian Tribe
E. Interstate — L. Individual
F. Intermunicipal — M. Profit Organization
G. Special District — N. Other (Specify): _____

8. TYPE OF APPLICATION:

☒ New ☐ Continuation ☐ Revision

If Revision, enter appropriate letter(s) in box(es): ☐ ☐

A. Increase Award B. Decrease Award C. Increase Duration
D. Decrease Duration Other *(specify)*:

_____

9. NAME OF FEDERAL AGENCY:

U.S. Department of Education

10. CATALOG OF FEDERAL DOMESTIC ASSISTANCE NUMBER: 8 4 . 2 9 0U

TITLE: Bilingual Education: Comprehensive School Grants

11. DESCRIPTIVE TITLE OF APPLICANT'S PROJECT:

12. AREAS AFFECTED BY PROJECT *(cities, counties, states, etc.)*:

13. PROPOSED PROJECT:		14. CONGRESSIONAL DISTRICTS OF:	
Start Date	Ending Date	a. Applicant	b. Project

15. ESTIMATED FUNDING:		
a. Federal	$	.00
b. Applicant	$	.00
c. State	$	.00
d. Local	$	.00
e. Other	$	.00
f. Program Income	$	.00
g. TOTAL	$	.00

16. IS APPLICATION SUBJECT TO REVIEW BY STATE EXECUTIVE ORDER 12372 PROCESS?

a. YES. THIS PREAPPLICATION/APPLICATION WAS MADE AVAILABLE TO THE STATE EXECUTIVE ORDER 12372 PROCESS FOR REVIEW ON:

DATE _____

b NO. ☐ PROGRAM IS NOT COVERED BY E.O. 12372

☐ OR PROGRAM HAS NOT BEEN SELECTED BY STATE FOR REVIEW

17. IS THE APPLICANT DELINQUENT ON ANY FEDERAL DEBT?

☐ Yes If "Yes," attach an explanation. ☐ No

18. TO THE BEST OF MY KNOWLEDGE AND BELIEF, ALL DATA IN THIS APPLICATION/PREAPPLICATION ARE TRUE AND CORRECT, THE DOCUMENT HAS BEEN DULY AUTHORIZED BY THE GOVERNING BODY OF THE APPLICANT AND THE APPLICANT WILL COMPLY WITH THE ATTACHED ASSURANCES IF THE ASSISTANCE IS AWARDED

a. Typed Name of Authorized Representative	b. Title	c. Telephone number
d. Signature of Authorized Representative		e. Date Signed

Previous Editions Not Usable

Standard Form 424 (REV 4-88)
Prescribed by OMB Circular A-102

Authorized for Local Reproduction

INSTRUCTIONS FOR THE SF 424

This is a standard form used by applicants as a required facesheet for preapplications and applications submitted for Federal assistance. It will be used by Federal agencies to obtain applicant certification that States which have established a review and comment procedure in response to Executive Order 12372 and have selected the program to be included in their process, have been given an opportunity to review the applicant's submission.

Item: Entry:

1. Self-explanatory.
2. Date application submitted to Federal agency (or State if applicable) & applicant's control number (if applicable).
3. State use only (if applicable).
4. If this application is to continue or revise an existing award, enter present Federal identifier number. If for a new project, leave blank.
5. Legal name of applicant, name of primary organizational unit which will undertake the assistance activity, complete address of the applicant, and name and telephone number of the person to contact on matters related to this application.
6. Enter Employer Identification Number (EIN) as assigned by the Internal Revenue Service.
7. Enter the appropriate letter in the space provided.
8. Check appropriate box and enter appropriate letter(s) in the space(s) provided:
   - "New" means a new assistance award.
   - "Continuation" means an extension for an additional funding/budget period for a project with a projected completion date.
   - "Revision" means any change in the Federal Government's financial obligation or contingent liability from an existing obligation.
9. Name of Federal agency from which assistance is being requested with this application.
10. Use the Catalog of Federal Domestic Assistance number and title of the program under which assistance is requested.
11. Enter a brief descriptive title of the project. if more than one program is involved, you should append an explanation on a separate sheet. If appropriate (e.g., construction or real property projects), attach a map showing project location. For preapplications, use a separate sheet to provide a summary description of this project.

Item: Entry:

12. List only the largest political entities affected (e.g., State, counties, cities).
13. Self-explanatory.
14. List the applicant's Congressional District and any District(s) affected by the program or project.
15. Amount requested or to be contributed during the first funding/budget period by each contributor. Value of in-kind contributions should be included on appropriate lines as applicable. If the action will result in a dollar change to an existing award, indicate *only* the amount of the change. For decreases, enclose the amounts in parentheses. If both basic and supplemental amounts are included, show breakdown on an attached sheet. For multiple program funding, use totals and show breakdown using same categories as item 15.
16. Applicants should contact the State Single Point of Contact (SPOC) for Federal Executive Order 12372 to determine whether the application is subject to the State intergovernmental review process.
17. This question applies to the applicant organization, not the person who signs as the authorized representative. Categories of debt include delinquent audit disallowances, loans and taxes.
18. To be signed by the authorized representative of the applicant. A copy of the governing body's authorization for you to sign this application as official representative must be on file in the applicant's office. (Certain Federal agencies may require that this authorization be submitted as part of the application.)

GROUP APPLICATION CERTIFICATION

NOTE: This form must be completed by eligible parties applying as a group for a grant. This form must be accompanied by a group agreement that details the activities that each member of the group plans to perform under the grant.

(34 CFR 75.128(b)-(c)).

To the best of my knowledge and belief, all data in this application are true and correct. I agree to be bound to every statement and assurance made in this application.

Authorized Representative					
Typed Name	Title	Signature	Date Signed	Telephone Number (including Area Code)	Name of Institution/ Organization

U.S. DEPARTMENT OF EDUCATION BUDGET INFORMATION NON-CONSTRUCTION PROGRAMS	OMB Control No. 1875-0102 Expiration Date: 9/30/98
Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION A - BUDGET SUMMARY
U.S. DEPARTMENT OF EDUCATION FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

ED FORM NO. 524

Name of Institution/Organization	Applicants requesting funding for only one year should complete the column under "Project Year 1." Applicants requesting funding for multi-year grants should complete all applicable columns. Please read all instructions before completing form.

SECTION B - BUDGET SUMMARY
NON-FEDERAL FUNDS

Budget Categories	Project Year 1 (a)	Project Year 2 (b)	Project Year 3 (c)	Project Year 4 (d)	Project Year 5 (e)	**Total (f)**
1. Personnel						
2. Fringe Benefits						
3. Travel						
4. Equipment						
5. Supplies						
6. Contractual						
7. Construction						
8. Other						
9. Total Direct Costs (lines 1-8)						
10. Indirect Costs						
11. Training Stipends						
12. Total Costs (lines 9-11)						

SECTION C - OTHER BUDGET INFORMATION (see instructions)

ED FORM NO. 524

Public reporting burden for this collection of information is estimated to vary from 13 to 22 hours per response, with an average of 17.5 hours, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the U.S. Department of Education, Information Management and Compliance Division, Washington, D.C. 20202-4651; and the Office of Management and Budget, Paperwork Reduction Project 1875-0102, Washington, D.C. 20503.

INSTRUCTIONS FOR ED FORM NO. 524

General Instructions

This form is used to apply to individual U.S. Department of Education discretionary grant programs. Unless directed otherwise, provide the same budget information for each year of the multi-year funding request. Pay attention to applicable program specific instructions, if attached.

Section A - Budget Summary
U.S. Department of Education Funds

All applicants must complete Section A and provide a breakdown by the applicable budget categories shown in lines 1-11.

Lines 1-11, columns (a)-(e):
For each project year for which funding is requested, show the total amount requested for each applicable budget category.

Lines 1-11, column (f):
Show the multi-year total for each budget category. If funding is requested for only one project year, leave this column blank.

Line 12, columns (a)-(e):
Show the total budget request for each project year for which funding is requested.

Line 12, column (f):
Show the total amount requested for all project years. If funding is requested for only one year, leave this space blank.

Instructions for ED Form 524 (cont.)

Section B - Budget Summary
Non-Federal Funds

If you are required to provide or volunteer to provide matching funds or other non-Federal resources to the project, these should be shown for each applicable budget category on lines 1-11 of Section B.

Lines 1-11, columns (a)-(e):
For each project year for which matching funds or other contributions are provided, show the total contribution for each applicable budget category.

Lines 1-11, column (f):
Show the multi-year total for each budget category. If non-Federal contributions are provided for only one year, leave this column blank.

Line 12, columns (a)-(e):
Show the total matching or other contribution for each project year.

Line 12, column (f):
Show the total amount to be contributed for all years of the multi-year project. If non-Federal contributions are provided for only one year, leave this space blank.

Section C - Other Budget Information
Pay attention to applicable program specific instructions, if attached.

1. Provide an itemized budget breakdown, by project year, for each budget category listed in Sections A and B.

2. If applicable to this program, enter the type of indirect rate (provisional, predetermined, final or fixed) that will be in effect during the funding period. In addition, enter the estimated amount of the base to which the rate is applied, and the total indirect expense.

3. If applicable to this program, provide the rate and base on which fringe benefits are calculated.

4. Provide other explanations or comments you deem necessary.

STUDENT DATA	
Name of Local Educational Agency	

SECTION A

NOTE: This section must be completed by applicants under the following programs:

- **Comprehensive School Grants**
- **Systemwide Improvement Grants**

1. Total number of limited English proficient (LEP) students in the school district	
2. Total number of students in the school district	
3. Percentage of LEP students (line 1 divided by line 2)	%

SECTION B

NOTE: This section must be completed by applicants under the following program:

- **Comprehensive School Grants**

Name of project school	(1) Total number of LEP students in the school	(2) Total number of students in the school	(3) % of LEP students (Column (1) divided by column (2))
			%
			%
			%
			%
			%
			%

Name of Local Educational Agency _____

STUDENT DATA
(continued)

SECTION C

NOTE: This section must be completed by applicants under the following programs:

- **Comprehensive School Grants**
- **Systemwide Improvement Grants**

1. Circle the grade level(s) that will participate in the project: PreK K 1 2 3 4 5 6 7 8 9 10 11 12

2. Total number of language groups that will participate in the project. _____

3. List the five largest participating language groups and the approximate number of students in each group.

_____	_____
_____	_____
_____	_____
_____	_____
_____	_____

PROJECT DOCUMENTATION

NOTE: Submit the appropriate documents and information as specified below for the following programs:

- **Comprehensive School Grants**
- **Systemwide Improvement Grants**

SECTION A

A copy of applicant's transmittal letter requesting the appropriate State educational agency to comment on the application. This requirement does not apply to schools funded by the Bureau of Indian Affairs. (See 34 CFR 75.155 and 75.156 below.)

§75.155 Review procedure if State may comment on applications: Purpose of §§75.156-75.158. If the authorizing statute for a program requires that a specific State agency be given an opportunity to comment on each application, the State and the applicant shall use the procedures in §§75.156-75.158 for that purpose.

(Authority: 20 U.S.C. 1221e-3(a)(1))

Cross-Reference: See 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities) for the regulations implementing the application review procedures that States may use under E.O. 12372. (In addition to the requirement in §75.155 for review by the State educational agency, the application is subject to review by State Executive Order 12372 process. Applicants must complete item 16 of the application face sheet (Standard Form 424, Application for Federal Assistance) by either (a) specifying the date when the application was made available to the State Single Point of Contact for review or (b) indicating that the program has not been selected by the State for review.)

§75.156 When an applicant under §75.155 must submit its application to the State: proof of submission.
(a) Each applicant under a program covered by §75.155 shall submit a copy of its application to the State on or before the deadline date for submitting its application to the Department.
(b) The applicant shall attach to its application a copy of its letter that requests the State to comment on the application.

(Authority: 20 U.S.C. 1221e-3(a)(1))

PROJECT DOCUMENTATION

(continued)

SECTION B

Evidence of compliance with the Federal requirements for participation of students enrolled in nonprofit private schools. (See section 7116(h)(2) of Public Law 103-382 and 34 CFR 75.119, 76.652, and 76.656 below.)

> **Sec. 7116. Applications.** "(2) in designing the program for which application is made, the needs of children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type to those which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public school children."
>
> (Authority: 20 U.S.C. 7426(h)(2))

§75.119 Information needed if private schools participate.
If a program requires the applicant to provide an opportunity for participation of students enrolled in private schools, the application must include the information required of subgrantees under 34 CFR 76.656.

(Approved by the Office of Management and Budget under control number 1880-0513)
(Authority: 20 U.S.C. 1221e-3(a)(1))

§76.652 Consultation with representatives of private school students.
(a) An applicant for a subgrant shall consult with appropriate representatives of students enrolled in private schools during all phases of the development and design of the project covered by the application, including consideration of:
(1) Which children will receive benefits under the project;
(2) How the children's needs will be identified;
(3) What benefits will be provided;
(4) How the benefits will be provided; and
(5) How the project will be evaluated.
(b) A subgrantee shall consult with appropriate representatives of students enrolled in private schools before the subgrantee makes any decision that affects the opportunities of those students to participate in the project.

PROJECT DOCUMENTATION

(continued)

(c) The applicant or subgrantee shall give the appropriate representatives a genuine opportunity to express their views regarding each matter subject to the consultation requirements in this section.

(Authority: 20 U.S.C. 1221e-3(a)(1))

§76.656 Information in an application for a subgrant.
An applicant for a subgrant shall include the following information in its application:
(a) A description of how the applicant will meet the Federal requirements for participation of students enrolled in private schools.
(b) The number of students enrolled in private schools who have been identified as eligible to benefit under the program.
(c) The number of students enrolled in private schools who will receive benefits under the program.
(d) The basis the applicant used to select the students.
(e) The manner and extent to which the applicant complied with §76.652 (consultation).
(f) The places and times that the students will receive benefits under the program.
(g) The differences, if any, between the program benefits the applicant will provide to public and private school students, and the reasons for the differences.

(Authority: 20 U.S.C. 1221e-3(a)(1))

SECTION C

Check the appropriate box below:

- **There are no eligible nonprofit private schools in the proposed service delivery area that wish to participate in the project.** ☐
- **One or more eligible nonprofit private schools in the proposed service delivery area wish to participate in the project and are listed on the enclosed Student Data form.** ☐
- **There are no eligible nonprofit private schools in the proposed service delivery area.** ☐

SECTION D

If applicable, identify on the line at the right the Empowerment Zone, Supplemental Empowerment Zone, or Enterprise Community that the proposed project will serve. (See the competitive priority and the list of designated Empowerment Zones and Enterprise Communities in previous sections of this application package.) _____

PROGRAM ASSURANCES

NOTE: **The authorizing statute requires applicants under certain programs to provide assurances. This form must be completed for applications under the following programs:**

- **Comprehensive School Grants**
- **Systemwide Improvement Grants**

As the duly authorized representative of the applicant, I certify that the applicant:

- Will not reduce the level of State and local funds that the applicant expends for bilingual education or special alternative instructional programs if the applicant is awarded a grant under the program.
- Will employ in the proposed project teachers who are proficient in English, including written and oral communication skills.
- Will integrate the proposed project with the applicant's overall educational program.
- Has developed this application in consultation with an advisory council, the majority of whose members are parents and other representatives of the children and youth to be served in the proposed project.

(Authority: 20 U.S.C. 7426(g))

Authorized Representative		Applicant Organization
Signature	Title	
Typed Name	Date Signed	

OMB Approval No. 0348-0040

ASSURANCES — NON-CONSTRUCTION PROGRAMS

Note: Certain of these assurances may not be applicable to your project or program. If you have questions, please contact the awarding agency. Further, certain Federal awarding agencies may require applicants to certify to additional assurances. If such is the case, you will be notified.

As the duly authorized representative of the applicant I certify that the applicant:

1. Has the legal authority to apply for Federal assistance, and the institutional, managerial and financial capability (including funds sufficient to pay the non-Federal share of project costs) to ensure proper planning, management and completion of the project described in this application.

2. Will give the awarding agency, the Comptroller General of the United States, and if appropriate, the State, through any authorized representative, access to and the right to examine all records, books, papers, or documents related to the award; and will establish a proper accounting system in accordance with generally accepted accounting standards or agency directives.

3. Will establish safeguards to prohibit employees from using their positions for a purpose that constitutes or presents the appearance of personal or organizational conflict of interest, or personal gain.

4. Will initiate and complete the work within the applicable time frame after receipt of approval of the awarding agency.

5. Will comply with the Intergovernmental Personnel Act of 1970 (42 U.S.C. §§ 4728-4763) relating to prescribed standards for merit systems for programs funded under one of the nineteen statutes or regulations specified in Appendix A of OPM's Standards for a Merit System of Personnel Administration (5 C.F.R. 900, Subpart F).

6. Will comply with all Federal statutes relating to nondiscrimination. These include but are not limited to: (a) Title VI of the Civil Rights Act of 1964 (P.L. 88-352) which prohibits discrimination on the basis of race, color or national origin; (b) Title IX of the Education Amendments of 1972, as amended (20 U.S.C. §§ 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; (c) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of handicaps; (d) the Age Discrimination Act of 1975, as amended (42 U.S.C.§§ 6101-6107), which prohibits discrimination on the basis of age; (e) the Drug Abuse Office and Treatment Act of 1972 (P.L. 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; (f) the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (P.L. 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; (g) §§ 523 and 527 of the Public Health Service Act of 1912 (42 U.S.C. 290 dd-3 and 290 ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; (h) Title VIII of the Civil Rights Act of 1968 (42 U.S.C. § 3601 et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; (i) any other nondiscrimination provisions in the specific statute(s) under which application for Federal assistance is being made; and (j) the requirements of any other nondiscrimination statute(s) which may apply to the application.

7. Will comply, or has already complied, with the requirements of Titles II and III of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970 (P.L. 91-646) which provide for fair and equitable treatment of persons displaced or whose property is acquired as a result of Federal or federally assisted programs. These requirements apply to all interests in real property acquired for project purposes regardless of Federal participation in purchases.

8. Will comply with the provisions of the Hatch Act (5 U.S.C. §§ 1501-1508 and 7324-7328) which limit the political activities of employees whose principal employment activities are funded in whole or in part with Federal funds.

9. Will comply, as applicable, with the provisions of the Davis-Bacon Act (40 U.S.C. §§ 276a to 276a-7), the Copeland Act (40 U.S.C. § 276c and 18 U.S.C. §§ 874), and the Contract Work Hours and Safety Standards Act (40 U.S.C. §§ 327-333), regarding labor standards for federally assisted construction subagreements.

Standard Form 424B (4-88)
Prescribed by OMB Circular A-102

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10. Will comply, if applicable, with flood insurance purchase requirements of Section 102(a) of the Flood Disaster Protection Act of 1973 (P.L. 93-234) which requires recipients in a special flood hazard area to participate in the program andto purchase flood insurance if the total cost of insurable construction and acquisition is $10,000 or more.

11. Will comply with environmental standards which may be prescribed pursuant to the following: (a) institution of environmental quality control measures under the National Environmental Policy Act of 1969 (P.L. 91-190) and Executive Order (EO) 11514; (b) notification of violating facilities pursuant to EO 11738; (c) protection of wetlands pursuant to EO 11990; (d) evaluation of flood hazards in floodplains in accordance with EO 11988; (e) assurance of project consistency with the approved State management program developed under the Coastal Zone Management Act of 1972 (16 U.S.C. §§ 1451 et seq.); (f) conformity of Federal actions to State (Clear Air) Implementation Plans under Section 176(c) of the Clear Air Act of 1955, as amended (42 U.S.C. § 7401 et seq.); (g) protection of underground sources of drinking water under the Safe Drinking Water Act of 1974, as amended, (P.L. 93-523); and (h) protection of endangered species under the Endangered Species Act of 1973, as amended, (P.L. 93-205).

12. Will comply with the Wild and Scenic Rivers Act of 1968 (16 U.S.C. §§ 1271 et seq.) related to protecting components or potential components of the national wild and scenic rivers system.

13. Will assist the awarding agency in assuring compliance with Section 106 of the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), EO 11593 (identification and protection of historic properties), and the Archaeological and Historic Preservation Act of 1974 (16 U.S.C. 469a-1 et seq.).

14. Will comply with P.L. 93-348 regarding the protection of human subjects involved in research, development, and related activities supported by this award of assistance.

15. Will comply with the Laboratory Animal Welfare Act of 1966 (P.L. 89-544, as amended, 7 U.S.C. 2131 et seq.) pertaining to the care, handling, and treatment of warm blooded animals held for research, teaching, or other activities supported by this award of assistance.

16. Will comply with the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. §§ 4801 et seq.) which prohibits the use of lead based paint in construction or rehabilitation of residence structures.

17. Will cause to be performed the required financial and compliance audits in accordance with the Single Audit Act of 1984.

18. Will comply with all applicable requirements of all other Federal laws, executive orders, regulations and policies governing this program.

SIGNATURE OF AUTHORIZED CERTIFYING OFFICIAL	TITLE
APPLICANT ORGANIZATION	DATE SUBMITTED

CERTIFICATIONS REGARDING LOBBYING; DEBARMENT, SUSPENSION AND OTHER RESPONSIBILITY MATTERS; AND DRUG-FREE WORKPLACE REQUIREMENTS

Applicants should refer to the regulations cited below to determine the certification to which they are required to attest. Applicants should also review the instructions for certification included in the regulations before completing this form. Signature of this form provides for compliance with certification requirements under 34 CFR Part 82, "New Restrictions on Lobbying," and 34 CFR Part 85, "Government-wide Debarment and Suspension (Nonprocurement) and Government-wide Requirements for Drug-Free Workplace (Grants)." The certifications shall be treated as a material representation of fact upon which reliance will be placed when the Department of Education determines to award the covered transaction, grant, or cooperative agreement.

1. LOBBYING

As required by Section 1352, Title 31 of the U.S. Code, and implemented at 34 CFR Part 82, for persons entering into a grant or cooperative agreement over $100,000, as defined at 34 CFR Part 82, Sections 82.105 and 82.110, the applicant certifies that:

(a) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the making of any Federal grant, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal grant or cooperative agreement;

(b) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal grant or cooperative agreement, the undersigned shall complete and submit Standard Form - LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions;

(c) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subgrants, contracts under grants and cooperative agreements, and subcontracts) and that all subrecipients shall certify and disclose accordingly.

2. DEBARMENT, SUSPENSION, AND OTHER RESPONSIBILITY MATTERS

As required by Executive Order 12549, Debarment and Suspension, and implemented at 34 CFR Part 85, for prospective participants in primary covered transactions, as defined at 34 CFR Part 85, Sections 85.105 and 85.110 –

A. The applicant certifies that it and its principals:

(a) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal department or agency;

(b) Have not within a three-year period preceding this application been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;

(c) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State, or local) with commission of any of the offenses enumerated in paragraph (1)(b) of this certification; and

(d) Have not within a three-year period preceding this application had one or more public transactions (Federal, State, or local) terminated for cause or default; and

B. Where the applicant is unable to certify to any of the statements in this certification, he or she shall attach an explanation to this application.

3. DRUG-FREE WORKPLACE (GRANTEES OTHER THAN INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 –

A. The applicant certifies that it will or will continue to provide a drug-free workplace by:

(a) Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violation of such prohibition;

(b) Establishing an on-going drug-free awareness program to inform employees about–

(1) The dangers of drug abuse in the workplace;

(2) The grantee's policy of maintaining a drug-free workplace;

(3) Any available drug counseling, rehabilitation, and employee assistance programs; and

(4) The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;

(c) Making it a requirement that each employee to be engaged in the performance of the grant be given a copy of the statement required by paragraph (a);

(d) Notifying the employee in the statement required by paragraph (a) that, as a condition of employment under the grant, the employee will–

(1) Abide by the terms of the statement; and

(2) Notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction;

(e) Notifying the agency, in writing, within 10 calendar days after receiving notice under subparagraph (d)(2) from an employee or otherwise receiving actual notice of such conviction. Employers of convicted employees must provide notice, including position title, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office

Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant;

(f) Taking one of the following actions, within 30 calendar days of receiving notice under subparagraph (d)(2), with respect to any employee who is so convicted--

(1) Taking appropriate personnel action against such an employee, up to and including termination, consistent with the requirements of the Rehabilitation Act of 1973, as amended; or

(2) Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency;

(g) Making a good faith effort to continue to maintain a drug-free workplace through implementation of paragraphs (a), (b), (c), (d), (e), and (f).

B. The grantee may insert in the space provided below the site(s) for the performance of work done in connection with the specific grant:

Place of Performance (Street address, city, county, state, zip code)

_____

_____

_____

Check ☐ if there are workplaces on file that are not identified here.

DRUG-FREE WORKPLACE (GRANTEES WHO ARE INDIVIDUALS)

As required by the Drug-Free Workplace Act of 1988, and implemented at 34 CFR Part 85, Subpart F, for grantees, as defined at 34 CFR Part 85, Sections 85.605 and 85.610 --

A. As a condition of the grant, I certify that I will not engage in the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance in conducting any activity with the grant; and

B. If convicted of a criminal drug offense resulting from a violation occurring during the conduct of any grant activity, I will report the conviction, in writing, within 10 calendar days of the conviction, to: Director, Grants and Contracts Service, U.S. Department of Education, 400 Maryland Avenue, S.W. (Room 3124, GSA Regional Office Building No. 3), Washington, DC 20202-4571. Notice shall include the identification number(s) of each affected grant.

As the duly authorized representative of the applicant, I hereby certify that the applicant will comply with the above certifications.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0013

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion -- Lower Tier Covered Transactions

This certification is required by the Department of Education regulations implementing Executive Order 12549, Debarment and Suspension, 34 CFR Part 85, for all lower tier transactions meeting the threshold and tier requirements stated at Section 85.110.

Instructions for Certification

1. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.

4. The terms "covered transaction," "debarred," "suspended," "ineligible," "lower tier covered transaction," "participant," "person," "primary covered transaction," "principal," "proposal," and "voluntarily excluded," as used in this clause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion--Lower Tier Covered Transactions," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the Nonprocurement List.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification

(1) The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

(2) Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

NAME OF APPLICANT	PR/AWARD NUMBER AND/OR PROJECT NAME
PRINTED NAME AND TITLE OF AUTHORIZED REPRESENTATIVE	
SIGNATURE	DATE

ED 80-0014, 9/90 (Replaces GCS-009 (REV. 12/88), which is obsolete)

DISCLOSURE OF LOBBYING ACTIVITIES

Approved by OMB
0348-0046

Complete this form to disclose lobbying activities pursuant to 31 U.S.C 1352
(See reverse for public burden disclosure.)

1. Type of Federal Action: ☐ a. contract b. grant c. cooperative agreement d. loan e. loan guarantee f. loan insurance	2. Status of Federal Action: ☐ a. bid/offer/application b. initial award c. post-award	3. Report Type: ☐ a. initial filing b. material change For Material Change Only: year _____ quarter ____ date of last report ____
4. Name and Address of Reporting Entity: ☐ Prime ☐ Subawardee Tier ____, *if known:* Congressional District, *if known:*	5. If Reporting Entity in No.4 is Subawardee, Enter Name and Address of Prime: Congressional District, *if known:*	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, *if applicable*:	
8. Federal Action Number, *if known:*	9. Award Amount, *if known:* $	
10. a. Name and Address of Lobbying ~~Entity~~ Registrant *(if individual, last name, first name, MI):*	b. Individuals Performing Services *(including address if different from No. 10a) (last name, first name, MI):*	
~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~		
~~11. Amount of Payment *(check all that apply):*~~ ~~$ _____ ☐ actual ☐ planned~~	~~13. Type of Payment *(Check all that apply):*~~ ~~☐ a. retainer~~ ~~☐ b. one-time fee~~ ~~☐ c. commission~~ ~~☐ d. contingent fee~~ ~~☐ e. deferred~~ ~~☐ f. other; specify: _____~~	
~~12. Form of Payment *(check all that apply):*~~ ~~☐ a. cash~~ ~~☐ b. in-kind; specify: nature _____ value _____~~		
~~14. Brief Description of Services Performed or to be Performed and Date(s) of Service, including officer(s), employee(s), or Member(s) contacted, for Payment Indicated in Item 11:~~ ~~(attach Continuation Sheet(s) SF-LLL-A, if necessary)~~		
~~15. Continuation Sheet(s) SF-LLL attached: ☐ Yes ☐ No~~		
16. Information requested through this form is authorized by title 31 U.S.C. section 1352. This disclosure of lobbying activities is a material representation of fact upon which reliance was placed by the tier above when this transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to the Congress semi-annually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than $10,000 and not more than $100,000 for each such failure.	Signature: _____ Print Name: _____ Title: _____ Telephone No.: _____ Date: _____	
Federal Use Only	Authorized for Local Reproduction Standard Form - LLL	

INSTRUCTIONS FOR COMPLETION OF SF-LLL, DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, the initiation or receipt of a covered Federal action, or a material change to a previous filing, pursuant to title 31 U.S.C. section 1352. The filing of a form is required for each payment or agreement to make payment to any lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with a covered Federal action. ~~Use the SF-LLL-A Continuation Sheet for additional information if the space on the form is inadequate.~~ Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence the outcome of a covered Federal action.

2. Identify the status of the covered Federal action.

3. Identify the appropriate classification of this report. If this is a follow up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last previously submitted report by this reporting entity for this covered Federal action.

4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District, if known. Check the appropriate classification of the reporting entity that designates if it is, or expects to be, a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the 1st tier. Subawards include but are not limited to subcontracts, subgrants and conract awards under grants.

5. If the organization filing the report in item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.

6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organizational level below agency name, if known. For example, Department of Transportation, United States Coast Guard.

7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans, and loan commitments.

8. Enter the most appropriate Federal identifying number available for the Federal action identified in item 1 (e.g., Request for Proposal (RFP) number; Invitation for Bid (IFB) number, grant announcement number; the contract, grant, or loan award number; the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."

9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitment for the prime entity identified in item 4 or 5.

10. (a) Enter the full name, address, city, state, and zip code of the ~~lobbying entity~~ registrant under the Lobbying Disclosure Act of 1995 engaged by the reporting entity identified in item 4 to influence the covered Federal action.

    (b) Enter the full names of the individual(s) performing services, and include full address if different from 10(a). Enter Last Name, First Name, and Middle Initial (MI).

~~11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this a material change report, enter the cumulative amount of payment made or planned to be made.~~

~~12. Check the appropriate box(es). Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of in-kind payment.~~

~~13. Check the appropriate box(es). Check all boxes that apply. If other specify nature.~~

~~14. Provide a specific and detailed description of the services that the lobbyist has performed, or will be expected to perform, and the date(s) of any services rendered. Include all preparatory and related activity, not just time spent in actual contact with Federal officials. Identify the Federal official(s) contacted or the officer(s), employee(s), or Member(s) of Congress that were contacted.~~

~~15. Check whether or not a SF-LLL-A Continuation Sheet(s) is attached.~~

16. The certifying official shall sign and date the form, print his/her name, title, and telephone number.

[FR Doc. 97–27342 Filed 10–15–97; 8:45 am]
BILLING CODE 4000–01–C

Federal Register

Thursday
October 16, 1997

Part III

Department of Health and Human Services

National Institutes of Health

Recombinant DNA Advisory Committee; Notice of Meeting

Recombinant DNA Research; Proposed Actions Under the Guidelines; Notice

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Advisory Committee; Notice of Meeting

Pursuant to Public Law 92–463, notice is hereby given of a meeting of the Recombinant DNA Advisory Committee on December 15–16, 1997. The meeting will be held at the National Institutes of Health, Building 31C, 6th Floor, Conference Room 10, 9000 Rockville Pike, Bethesda, Maryland 20892, starting on December 15, 1997, at approximately 9 a.m., and will recess at approximately 5 p.m. The meeting will reconvene on December 16, 1997, at approximately 9:00 a.m. and will adjourn at approximately 5 p.m. The meeting will be open to the public to discuss Proposed Actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496) and other matters to be considered by the Committee. The Proposed Actions to be discussed will follow this notice of meeting. Attendance by the public will be limited to space available.

Debra W. Knorr, Acting Director, Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone (301) 496–9838, FAX (301) 496–9839, will provide summaries 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 contact Ms. Knorr in advance of the meeting.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592, June 11, 1980) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined not to be cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: October 7, 1997.

LaVerne Y. Stringfield,

Committee Management Officer, NIH.

[FR Doc. 97–27311 Filed 10–15–97; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Recombinant DNA Research: Proposed Actions Under the Guidelines

AGENCY: National Institutes of Health (NIH), PHS, DHHS.

ACTION: Notice of proposed actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines).

SUMMARY: This notice sets forth proposed actions to be taken under the NIH Guidelines for Research Involving Recombinant DNA Molecules (59 FR 34496, amended 59 FR 40170, 60 FR 20726, 61 FR 1482, 61 FR 10004, 62 FR 4782). Interested parties are invited to submit comments concerning these proposals. These proposals will be considered by the Recombinant DNA Advisory Committee (RAC) at its meeting on December 15–16, 1997. After consideration of these proposals and comments by the RAC, the NIH Director will issue decisions in accordance with the NIH Guidelines.

DATES: Interested parties are invited to submit comments concerning the proposed actions. Comments received by December 8, 1997, will be reproduced and distributed to the RAC for consideration at its December 15–16, 1997, meeting. After consideration of this proposal and comments by the RAC, the NIH Director will issue decisions in accordance with the NIH Guidelines.

ADDRESSES: Written comments and recommendations should be submitted to Debra Knorr, Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839.

All comments received in response to this notice will be considered and will be available for public inspection in the above office on weekdays between the hours of 8:30 a.m. and 5 p.m.

FOR FURTHER INFORMATION CONTACT: Background documentation and additional information can be obtained from the Office of Recombinant DNA Activities, National Institutes of Health, MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, Phone 301–496–9838, FAX 301–496–9839. The Office of Recombinant DNA Activities web site is located at http://www.nih.gov/od/orda for further information about the office.

I. Supplementary Information

The NIH will consider the following actions under the NIH Guidelines for Research Involving Recombinant DNA Molecules (NIH Guidelines):

I–A. Amendment to Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, Under the NIH Guidelines

During the June 12–13, 1997, RAC meeting, the following motions were approved by the Committee:

(1) A motion was made that Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, should be amended to require investigators to submit documentation verifying that a human gene transfer protocol has been submitted to an appropriate Institutional Biosafety Committee (IBC). Evidence of IBC notification shall be provided at the time the protocol is submitted to ORDA. The motion passed by a vote of 8 in favor, 1 opposed, and no abstentions.

(2) A motion was made to delete the requirement for submission of IBC and Institutional Review Board (IRB) approvals at the time of ORDA submission from Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, of the NIH Guidelines. The motion passed by a vote of 7 in favor, 0 opposed, and 1 abstention.

On September 10, 1997, a letter was received from the American Biological Safety Association requesting that the public comment period for the proposed actions under the NIH Guidelines published in the **Federal Register** on August 20, 1997 (62 FR 44387) be extended for an additional 60 days.

During the September 12, 1997, RAC meeting, the RAC was scheduled to vote on the proposed actions to delete prior IBC and IRB approvals from the submission requirements, and to require investigators or sponsors to provide evidence of protocol submission to IBC.

Considering the request by the American Biological Safety Association to extend the public comment period, the RAC decided to modify the language of the proposed actions and to publish the revised version in the **Federal Register** for an additional 60 days.

A motion was made by the RAC to amend the proposed actions published in the **Federal Register** on August 20, 1997, regarding the submission requirements as follows:

''The RAC recommends that final approvals from IBC and IRB should be withheld until after NIH/ORDA provides the IBC and IRB with RAC concerns (if any), and (1) NIH/ORDA notification that the protocol is exempt from full RAC review, or (2) NIH/ORDA notification that the protocol has triggered full RAC review. Human gene transfer protocols shall not be initiated prior to submission of final IBC and IRB approvals to NIH/ORDA.''

The motion passed by a vote of 10 in favor, 0 opposed, and 2 abstentions.

I–B. Amendments to Institutional Biosafety Committee (IBC) Approvals of Experiments Involving Transgenic Rodents Under Section III of the NIH Guidelines

Section III–C–4, Experiments Involving Whole Animals, of the NIH Guidelines stipulates that all transgenic animal experiments are subject to IBC approval before initiation. In a correspondence dated April 22, 1997, Dr. George Gutman, an IBC representative of the University of California, Irvine, California, inquired whether experiments involving production or use of transgenic mice under Biosafty Level 1 containment could be initiated simultaneous with IBC notification. Current requirements under the NIH Guidelines require that IBC approval be obtained prior to initiation of such experiments.

The RAC discussed this issue during its June 1997 meeting, recommending that this requirement be changed to initiation simultaneous with IBC notification. The RAC agreed that the requirement for IBC approval prior to initiation is unnecessary and recommended that the NIH Guidelines should be amended such that: (1) The generation of transgenic rodents at the Biosafety Level 1 containment (not all animals) can be initiated simultaneous with IBC notification, and (2) the purchase and use of transgenic rodents should be exempt from the NIH Guidelines. A motion was made that these proposed changes to the NIH Guidelines should be published it the **Federal Register** for consideration at the September 12, 1997, RAC meeting. The proposed action would allow: (1) The generation of transgenic rodents that require Biosafety Level 1 containment to be included under Section III–D, Experiments that Require IBC Notice Simultaneous with Initiation; and (2) the purchase and use of transgenic rodents should be exempt from the NIH Guidelines. The motion passed by a vote of 9 in favor, 0 opposed, and no abstentions.

On September 10, 1997, a letter was received from the American Biological Safety Association requesting that the public comment period for the proposed actions under the NIH Guidelines published in the **Federal Register** on August 20, 1997 (62 FR 44387) be extended for an additional 60 days.

During the September 12, 1997, RAC meeting, the RAC was scheduled to vote on the issues surrounding the amendments to IBC approvals of experiments involving transgenic rodents. Considering the request by the American Biological Safety Association to extend the public comment period, the RAC decided to modify the language of the proposed actions and to publish the revised version in the **Federal Register** for additional public comment as requested by the American Biological Safety Association. The RAC accepted the proposed actions with the deletion of two words ''and use'' from the language, ''the purchase and use of transgenic rodent * * *'' A motion was made by the RAC to accept the amendments to the NIH Guidelines with regard to: (1) The generation of transgenic rodents at the Biosafety Level 1 containment (not all animals) can be initiated simultaneously with IBC notification, and (2) the purchase of transgenic rodents should be exempt from the NIH Guidelines. The motion passed by a vote of 11 in favor, 0 opposed, and no abstentions.

II. Proposed Actions Regarding Amendments to the NIH Guidelines

The NIH will consider the following proposed actions under the NIH Guidelines:

II–A. Proposed Amendments to Section III–C–4, Experiments Involving Whole Animals

[Section III–C are experiments that require Institutional Biosafety Committee approval before initiation.]

Section III–C–4–c is proposed to be amended to read:

''Section III–C–4–c. Exceptions under Section III–C–4.

''Section III–C–4–c–(1). Experiments involving the generation of transgenic rodents that require BL1 containment are described under Section III–D–3, Experiments Involving Transgenic Rodents.

''Section III–C–4–c–(2). The purchase of transgenic rodents is exempt from the NIH Guidelines under Section III–E, Exempt Experiments (see Appendix C–VI, The Purchase of Transgenic Rodents).''

II–B. Proposed Amendments to Section III–D, Experiments That Require Institutional Biosafety Committee Notice Simultaneous With Initiation

Section III–D–3 is proposed to be amended to read:

''Section III–D–3. Experiments Involving Transgenic Rodents

''This section covers experiments involving the generation of rodents in which the animal's genome has been altered by stable introduction of recombinant DNA, or DNA derived therefrom, into the germ-line (trangenic rodents). Only experiments that require BL1 containment are covered under this section; experiments that require BL2, BL3, or BL4 containment are covered under Section III–C–4, Experiments Involving Whole Animals.''

II–C. Proposed Amendments to Appendix C, Exemptions Under Section III–E–6

A new section, Appendix C–VI, is proposed to read:

''Appendix C–VI. The Purchase of Transgenic Rodents

''The purchase of transgenic rodents for experiments that require BL1 containment are exempt from the NIH Guidelines.''

[The old Appendix C–VI, Footnotes and References of Appendix C, will be renumbered to Appendix C–VII through Appendix C–VII–E.]

II–D. Proposed Amendments to Appendix M, The Points To Consider in the Design and Submission of Protocols for the Transfer of Recombinant DNA Molecules Into the Genome of One or More Human Subjects (Points To Consider)

Appendix M–I is proposed to be amended to read:

''Appendix M–I. Submission Requirements—Human Gene Transfer Experiments

''Investigators must submit the following material to the Office of Recombinant DNA Activities, National Institutes of Health/MSC 7010, 6000 Executive Boulevard, Suite 302, Bethesda, Maryland 20892–7010, 301–496–9838 (see exemption in Appendix M–IX–A, Footnotes of Appendix M). Proposals will be submitted in the

following order: (1) Scientific abstract; (2) non-technical abstract; (3) Responses to Appendix M–II through Appendix M–V, Description of the Proposal, Informed Consent, Privacy and Confidentiality, and Special Issues (the pertinent responses can be provided in the clinical protocol or as an appendix to the clinical protocol); (4) clinical protocol (as submitted to the local IBC and IRB); (5) Informed Consent document prepared for IRB submission (see Appendix M–III, Informed Consent); (6) a letter stating that submission has been made to the IBC; (7) appendices (including tables, figures, and manuscripts); and (8) curricula vitae for each key professional person in biographical sketch format.

Note: The final approvals from IBC and IRB should be withheld until after NIH/ORDA provides IBC and IRB with RAC concerns (if any), and (1) NIH/ORDA notification that the protocol is exempt from full RAC review, or (2) NIH/ORDA notification that the protocol has triggered full RAC review. Human gene transfer protocols shall not be initiated prior to submission of final IBC and IRB approvals to NIH/ORDA.

III. Addition to Appendix D of the NIH Guidelines Regarding a Human Gene Transfer Protocol/Dr. Crystal

In a letter dated August 25, 1997, Dr. Ronald Crystal of New York Hospital-Cornell Medical Center, New York, New York, submitted a human gene transfer protocol entitled: Systemic and Respiratory Immune Response to Administration of an Adenovirus Type 5 Gene Transfer Vector ($Ad_{GV}CD.10$) (NIH Protocol 9708–209) to NIH/ORDA in accordance with Appendix M–I, Submission Requirements—Human Gene Transfer Experiments, of the NIH Guidelines. Dr. Crystal requested permission to present a brief overview of relevant data during the September 12, 1997, RAC meeting, prior to the RAC's final recommendation on the necessity for full RAC review. The RAC agreed to allow Dr. Crystal to give a brief presentation on the relevant data. Following the September 12, 1997, RAC meeting, the RAC noted that there were a significant number of issues remaining; therefore, the protocol should be discussed by the full RAC at its next scheduled meeting.

IV. Discussion on Novel Gene Transfer Technologies

The RAC will have a discussion on novel gene transfer technologies. Presentations may include herpesvirus vectors and human artificial chromosomes.

OMB's ''Mandatory Information Requirements for Federal Assistance Program Announcements'' (45 FR 39592) requires a statement concerning the official government programs contained in the Catalog of Federal Domestic Assistance. Normally NIH lists in its announcements the number and title of affected individual programs for the guidance of the public. Because the guidance in this notice covers not only virtually every NIH program but also essentially every Federal research program in which DNA recombinant molecule techniques could be used, it has been determined to be not cost effective or in the public interest to attempt to list these programs. Such a list would likely require several additional pages. In addition, NIH could not be certain that every Federal program would be included as many Federal agencies, as well as private organizations, both national and international, have elected to follow the NIH Guidelines. In lieu of the individual program listing, NIH invites readers to direct questions to the information address above about whether individual programs listed in the Catalog of Federal Domestic Assistance are affected.

Dated: October 8, 1997.

Lana R. Skirboll,

Associate Director for Science Policy, National Institutes of Health.

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Part IV

Department of Housing and Urban Development

24 CFR Part 3500

Real Estate Settlement Procedures Act (RESPA) Disclosure of Fees Paid to Mortgage Brokers; Proposed Rule and Notice of Proposed Information Collection Requirements

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 3500

[Docket No. FR 3780–P–08]

RIN 2502–AG40

Real Estate Settlement Procedures Act (RESPA) Disclosure of Fees Paid to Mortgage Brokers; Proposed Rule and Notice of Proposed Information Collection Requirements

AGENCY: Office of the Assistant Secretary for Housing-Federal Housing Commissioner, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would provide consumers with more meaningful disclosures concerning the functions and fees of mortgage brokers while protecting consumers from fees which are illegal under the Real Estate Settlement Procedures Act (RESPA). At the same time, the rule would provide mortgage brokers with greater clarity regarding the application of RESPA to their fees. Under this rule, mortgage brokers who seek clarity regarding RESPA's applicability to their fees would enter into binding contracts with borrowers prior to the borrowers' applications for mortgage loans. For each particular loan transaction the broker would explain in the contract the services the broker would provide and the broker's duties to the borrower, how the broker's compensation is derived, and the maximum amount of compensation the broker would earn (based on the loan's interest rate and points). Under the contract, the broker would also disclose the components of its compensation including the direct fees to be paid to the broker by the borrower and the potential maximum amount of indirect compensation to be received by the broker from a lender providing mortgage loan funds.

Because compensation to the broker may differ under various combinations of rates and points, the contract would also advise the borrower that the broker has information on other loans with different combinations of rates and points which the broker will display for the borrower. (HUD will facilitate the development of software to help brokers provide this information.) The broker will give the borrower a contract or a contract amendment covering each type of loan product for which the borrower may apply. The contract also requires that the broker provide its State license or other identification number in those States that require licenses.

For those transactions in which mortgage broker contracts are entered into and adhered to, and other requirements of the rule are satisfied, the direct fees received from the borrower, as well as the indirect fees paid to the broker from a lender for the transaction, will be covered by a ''qualified safe harbor'' and presumed to be legal and permissible under section 8 of RESPA. The presumption of permissibility and legality would not apply, however, if one or more of the requirements for the safe harbor is not met. Moreover, even if all of the requirements for the safe harbor are met, the presumption may be rebutted if the total compensation does not pass a test that will be established by HUD through this rulemaking and incorporated into the final rule. There are numerous possibilities for such a test that could result from this rulemaking, including defining the outer boundaries of permissible or legal total compensation in terms of ranges or amounts of dollars that could vary based on the size of a loan or other factors; a test comparing the total compensation for a loan to the total compensation for similar loans by mortgage brokers and lenders; a test establishing the parameters of permissible and impermissible compensation based upon plain and straightforward criteria; or such other test or tests that would provide a clear line between compensation presumed legal and compensation that would not enjoy such presumption. Any test established through this rulemaking will allow brokers, lenders, and consumers alike to determine with certainty whether the total compensation to a broker is or is not legal. HUD is requesting comments from the public on an appropriate test or tests. Mortgage brokers that fail to enter into and adhere to the contract, and fail to meet the other requirements in the rule, will be presumed to be in violation of section 8 of RESPA. This presumption can be overcome if the total compensation is reasonably related to the value of the goods or services provided.

DATES: Comment Due Date: Deadline for comments on this proposed rule, including comments on the proposed information collection requirements: December 15, 1997.

ADDRESSES: Interested persons are invited to submit comments regarding this proposed rule to the Rules Docket Clerk, Office of General Counsel, Room 10276, Department of Housing and Urban Development, 451 Seventh Street, SW, Washington, DC 20410–0500. Communications should refer to the above docket number and title. Facsimile (FAX) comments are *not* acceptable. A copy of each communication submitted will be available for public inspection and copying between 7:30 a.m. and 5:30 p.m. weekdays at the above address.

HUD also invites interested persons to submit comments on the proposed information collection requirements of this proposed rule. Comments should refer to the above docket number and title, and should be sent to the Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for HUD, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David R. Williamson, Director, Office of Consumer and Regulatory Affairs, Room 9146, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 708–4560; or (for legal questions) Kenneth A. Markison, Assistant General Counsel for GSE/RESPA, or Grant E. Mitchell, Senior Attorney for RESPA, Room 9262, Department of Housing and Urban Development, Washington, DC 20410; telephone (202) 708–1550. (These are not toll free numbers). Persons with hearing or speech impairments may access this number via TTY by calling the Federal Information Relay Service at (800) 877–8339, which is a toll-free number.

SUPPLEMENTARY INFORMATION:

I. Introduction

In 1974, when the Real Estate Settlement Procedures Act (RESPA) (12 U.S.C. 2601–2617) was first enacted, the housing finance delivery system was very different than it is today. Much of today's technology and many of its lending sources and financing mechanisms did not exist. The secondary market for mortgage loans was still undeveloped, the present variety of loan products were rarely available (including the ''no fee, no point'' loan), and there were few types of providers of mortgage financing. Those few that were known as mortgage brokers generally operated differently than many mortgage brokers operate today. Today, mortgage brokers reportedly arrange financing for nearly half of all home mortgages. Some brokers serve as agents and fiduciaries of borrowers and others simply serve as conduits to provide borrowers mortgage funds as do other mortgage loan providers (such as mortgage bankers, thrift institutions, credit unions, and banks).

Late in 1992, HUD codified a previous legal opinion that mortgage brokers must disclose to borrowers direct and

indirect fees that brokers received at settlement (November 2, 1992; 57 FR 49600). In 1995, as a result of concerns that this requirement placed mortgage brokers on an unequal footing with other mortgage loan providers and that information on indirect fees was confusing to borrowers, HUD issued a proposed rule (September 13, 1995; 60 FR 47650) to obtain the public's views on the disclosures of broker fees and on the legality of certain indirect fees to brokers from lenders (which were referred to in that rule as ''wholesale lenders'' and are referred to simply as lenders in this proposed rule). Shortly afterwards, HUD embarked on a negotiated rulemaking on these subjects (see notices published on October 25, 1995 (60 FR 54794) and December 8, 1995 (60 FR 63008)).

The 1995–1996 rulemaking activities on mortgage broker fees did not result in a final rule. Nonetheless, these prior efforts informed HUD and helped shape today's proposal. The earlier activities resulted in a clear consensus that there is confusion in the minds of consumers on the functions of mortgage brokers and the sources of their fees. This confusion may translate into a borrower failing to compare services and fees and thereby paying higher settlement costs. The rulemaking activities also indicated that HUD should consider which mortgage broker fees are or are not permissible, and/or consider establishing a regulatory framework for disclosure and a safe harbor for fees. Recent judicial action has further underscored the need for guidance from HUD.

For their services, mortgage brokers may receive ''indirect fees'' from lenders and/or direct fees from borrowers. Indirect fees to mortgage brokers are called a variety of terms, including ''volume based compensation,'' ''servicing release premiums,'' ''overages,'' or ''yield spread premiums (or differentials).'' This last term, ''yield spread premiums (or differentials),'' has been used to refer to that portion of the price that a lender would pay a mortgage broker for a loan at a particular rate and point combination; this type of compensation has been particularly controversial. In specific transactions, indirect fees may comprise a large part or even all of the compensation to mortgage brokers for services. Mortgage brokers indicate that various financing options and products available to borrowers, including ''no fee, no point'' loans, depend for their feasibility on the payment of indirect fees by lenders.

Several lawsuits have been brought recently seeking class action certification that are based in whole or in part on the theory that certain of the fees paid by lenders to mortgage brokers, particularly from lenders, are fees for the referral of business in violation of section 8 of RESPA. In early 1997, two Federal district courts considered cases involving mortgage broker fees and reached different conclusions. One held initially that indirect fees to mortgage brokers in the form of ''yield spread premiums'' violated section 8(a) of RESPA as referral fees.[1] The other court held that a payment for a loan above market was permissible under section 8(c) of RESPA as payment for a ''good.'' [2] In June 1997, two other Federal district courts concluded that yield spread premiums (or differentials) were not per se violations of RESPA and therefore refused to certify class actions on this issue.[3]

HUD has never taken the position that yield spread premiums or any other named class of back-funded or indirect fees are per se legal. The Illustrations of the Requirements of RESPA, contained in the 1992 RESPA rule and codified as Appendix B to 24 CFR part 3500, specifically listed ''servicing release premiums'' and ''yield spread premiums'' as fees to be itemized on the HUD–1 Settlement Statement. More recently, on June 11, 1997 (62 FR 31982), HUD issued a revised Settlement Costs Booklet. In that booklet, HUD explained to the borrower: ''Your mortgage broker may be paid by the lender, you as the borrower, or both.'' Both of these issuances recognized how settlement service business is commonly transacted, but neither provision was intended to create a presumption of per se legality of any such fees, because HUD does not view the name of the fee as the appropriate issue under RESPA. The RESPA issue is whether the total compensation to a broker in a particular covered transaction is or is not reasonably related to the value of the goods furnished or services performed. If the compensation, or a portion thereof, is not reasonably related to the goods furnished or the services performed, there is a compensated referral or an unearned fee in violation of section 8(a) or 8(b) of RESPA, whether it is a direct or indirect payment.

This proposed rule seeks to address these matters by providing a framework for furthering consumer understanding of mortgage broker functions and fees. This framework will allow brokers to continue to offer borrowers beneficial loan products, so long as the broker's compensation is consistent with RESPA's requirements. In carrying out this purpose, this proposed rule remains true to and preserves RESPA's enduring consumer protections against unearned fees. Such fees only serve to increase the costs of homeownership.

Under this proposed rule, the Secretary of HUD proposes to establish a new mortgage broker contract to provide essential information to consumers concerning the functions and compensation of mortgage brokers. This contract is to permit consumers to understand a broker's functions and fees before becoming obligated to use the broker's services. To maximize use of this contract in brokered transactions, the rule would provide that when a broker enters into the contract prescribed under the rule, and meets other criteria designed to protect the consumer, the direct fees paid by the borrower and the indirect fees paid to the broker in the transaction would be presumed to be legal and permissible under section 8 of RESPA. In such cases the fees will fall within a ''qualified safe harbor.'' The presumption of permissibility and legality will not apply, however, if one or more of the requirements for the safe harbor is not met. Moreover, even if all of the requirements for the safe harbor are met, the presumption may be rebutted if the total compensation does not pass a test to be established by HUD. The purpose of the test is to distinguish between those fees that are acceptable under section 8 of RESPA and those that are not. A major purpose of soliciting public comments under this rulemaking is to assist HUD in developing this test, which will be established in the final rule. Any test to be incorporated into the final rule must allow brokers, lenders, and consumers to determine with certainty whether total compensation to a broker in a loan transaction is or is not legal. Compensation outside of the safe harbor is presumed to violate section 8, but this presumption can be overcome if the total compensation is reasonably related to the value of the goods or services provided.

This preamble begins with a background discussion of the various roles and functions of mortgage brokers today, how mortgage brokers originate

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[1] *Mentecki* v. *Saxon Mortgage*, No. 96–1629–A, slip op. (E.D. Va. Jan. 10, 1997). However, subsequently, in an order and opinion dated July 11, 1997, the court refused to certify the class.

[2] *Culpepper* v. *Inland Mortgage Corp.*, 953 F.Supp. 367 (N.D. Ala. 1997).

[3] *Barbosa* v. *Target Mortgage*, No. 94–1938, U.S.D.C., Southern District of Florida, *Martinez* v. *Weyerhauser Mortgage*, No. 94–160, U.S.D.C., Southern District of Florida, *Monoz* v. *Crossland Mortgage Company*, Civil Action No. 96–12260, U.S.D.C. for the District of Massachusetts.

loans, how they are compensated, and how RESPA's prohibitions and disclosure requirements apply to their fees. Following this background discussion, this preamble discusses the comments and information learned through HUD's prior regulatory initiatives on this subject—the 1995 proposed rule and the 1995-1996 negotiated rulemaking—which helped shape today's proposal. Finally, this preamble describes and explains the provisions of this proposed rule.

The regulatory record, as well as recent differences in legal interpretation of these issues in the courts, exemplify that this subject involves difficult and contentious issues that are not easy to resolve. This proposed rule seeks to move beyond this controversy to a fair resolution consistent with applicable law. Any proposal on this subject will be controversial. This proposal, however, is an attempt to take a fair and balanced approach to competing interests. Public comment on this rule will be critically important to refining this approach and formulating a final rule that will be consistent with RESPA's purpose, that will be workable in the market place, and that will address the financing needs of Americans.

In crafting a final rule, the Secretary will be guided by the following principles:

1. Protect consumers while recognizing the settlement services industry is changing. Although the settlement services industry is changing, RESPA's purposes—protecting consumers against inflated, burdensome settlement costs through meaningful disclosure and its prohibition against unearned fees—are as important today as when the statute was first enacted.

2. Include meaningful and timely disclosures to consumers. Consumers must have full information on settlement services provided and fees received for these services at a time when they can make meaningful choices. Clear, concise disclosures ensure that consumers are not misled about the role settlement service providers play in mortgage transactions and encourage consumers to comparison shop.

3. Protect against illegal fees; disclosure does not make illegal fees legal. While there may be debate about RESPA's specific applicability to mortgage broker fees, HUD cannot and will not sanction fees that are illegal under RESPA. Illegal and exorbitant payments for settlement services make the dream of homeownership more difficult for families to achieve.

4. Encourage innovative products to aid homeownership. Requirements established under RESPA should not impede the availability of innovative financing products, such as ''no fee, no point'' loans. If properly understood, these products can expand choice and lessen the costs of homeownership.

5. Not impede lending to underserved areas and borrowers. Requirements established under RESPA should not impede the efforts of settlement service providers to offer beneficial, reasonably priced services to underserved areas and borrowers.

6. Involve consumer and mortgage industry groups. HUD must give utmost attention in the rulemaking process to the comments of those affected by RESPA's requirements—including representatives of consumers and regulated industries—in fashioning an effective, workable regulatory structure under the law.

7. Provide clear rules for affected industries and consumers. Rules developed to implement RESPA's requirements must provide clear and certain guidance to the settlement services industry and consumers alike. Predictability in HUD's regulation will encourage innovation and discourage violations.

II. Background

On November 2, 1992 (57 FR 49600), HUD issued a rule revising Regulation X (24 CFR part 3500), the regulations interpreting RESPA. While primarily addressing other issues, the November 2, 1992 rule also codified certain previous informal interpretations of HUD and attempted to deal with changes in the real estate settlement services business since the original RESPA rule was issued in 1976. In particular, the 1992 rule defined the term ''mortgage broker'' since, by 1992, mortgage brokers were initiating a large proportion of the mortgage loans made. The rule required the disclosure of all fees, direct and indirect, to mortgage brokers at settlement, thereby codifying a 1992 opinion of HUD's General Counsel. Under the rule, payments to other loan sources following settlement were exempt from disclosure as ''secondary market'' transactions. As indicated above, largely because of concerns expressed about this disparity, on September 13, 1995 HUD issued a proposed rule (60 FR 47650) (1995 proposed rule) offering alternative approaches to disclosure of mortgage broker fees and fees to other lenders. Subsequently, after public notice, (60 FR 54794 (October 25, 1995) and 60 FR 63008 (December 8, 1995)), HUD conducted a negotiated rulemaking on this subject from December 1995 to May 1996. Although the negotiation process did not lead to consensus on a final rule, it was particularly useful in informing HUD and other participants on the roles and functions of mortgage brokers, and clarifying compensation and disclosure issues.

A. The Varied Roles of Mortgage Brokers in Lending

Under the 1992 rule, HUD defined a mortgage broker as ''a person (not an employee of a lender) who brings a borrower and a lender together to obtain a federally-related mortgage loan,'' and who renders settlement services.[4] In its 1995 proposed rule, HUD categorized mortgage brokers as a type of ''retail lender,'' which was identified as the entity that serves as an intermediary between the consumer and the ''wholesale lender.'' 60 FR 47650–47651. The proposed rule identified the ''wholesale lender'' as the entity purchasing or servicing the loan. 60 FR 47651.[5]

Today there are two main types of mortgage brokers—those that represent the borrower and those that do not. Mortgage brokers may fill one role in one transaction and a different role in another. The first type of mortgage broker represents the borrower and generally has an agency relationship with, and a fiduciary duty to, the borrower. This type of broker has two variants: a mortgage broker that does not receive fees from any source other than the consumer, and a mortgage broker that does receive fees from a source other than the consumer, namely, the lender. An agency relationship may arise under State law or may be created by agreement between the mortgage broker and borrower. Although State law is largely undeveloped in this area, in some States mortgage brokers may be found to have a fiduciary responsibility to the borrower even in the absence of a contract provision.

The second type of mortgage broker does not represent the borrower. This type of mortgage broker makes mortgage loans available to borrowers either from one or a number of sources of funds with which the mortgage broker has a business relationship. This type of

[4] HUD issued a February 10, 1994 rule (59 FR 6506) that clarified that an ''exclusive agent of a lender'' as well as an employee of a lender were not included in the definition of mortgage broker.

[5] This proposed rule has generally abandoned the use of the terms ''retail lender'' and ''wholesale lender'' inasmuch as HUD concluded that neither created clarity for the consumer. This proposed rule uses the term ''lender'' (rather than referring to ''wholesale lender'') and ''retail lender,'' except when discussing provisions of earlier rulemakings that use the terms.

mortgage broker is not the borrower's agent; rather, brokers of this type present themselves as entities that try to sell borrowers mortgage loans as would other mortgage loan providers in the market. If this type of mortgage broker only makes mortgage loans available from one source of funds, the mortgage broker may or may not be functioning as the lender's agent.

B. Differing Methods of Mortgage Brokers in Originating Mortgage Loans

Some mortgage brokers process loans and close loans in their own names. However, at or about the time of settlement, they transfer these loans to lenders that simultaneously advance funds for the loans. This transaction is known in the lending industry as ''table funding.'' In table-funded transactions, the mortgage broker does not furnish the capital for the loans. Instead the lender provides the capital and, immediately after the loan is consummated, the mortgage broker delivers the loan package to that lender, including the promissory note, mortgage, evidence of insurance, and assignments of all rights the mortgage broker held.

In some transactions, mortgage brokers originate loans that are closed in the mortgage brokers' names, fund the loans temporarily using their own funds or a warehouse line of credit, and sell the loans after closing. These mortgage brokers function similarly to mortgage bankers, but they do not service loans.

Still other mortgage brokers function purely as intermediaries between borrowers and lending sources. They originate loans by providing loan processing and arranging for the provision of funds by lenders. The loans are closed in the names of the funding lenders.

C. Mortgage Broker Compensation

Compensation for the services of mortgage brokers frequently comes from fees paid by the borrower.

Compensation may or may not also come from ''indirect'' fees paid by the lender providing the mortgage loan funds. Frequently, mortgage brokers offer the following payment methods for the fees or points the borrower pays directly: (1) The borrower may pay from his or her own funds at closing, (2) the mortgage loan amount may be increased to finance the mortgage broker fees or points (which increases the amount the borrower borrows), or (3) some combination of (1) and (2).

Frequently, mortgage brokers offer payment options that enable the borrower to pay lower fees and points, or even no fees and/or points, in exchange for a higher interest rate, or higher points and fees for a lower interest rate. If the borrower pays lower fees and points and agrees to a higher interest rate, then the lender will pay the mortgage broker a fee that reflects the higher interest payments the lender will receive from the borrower. In other words, indirect fees paid by lenders to mortgage brokers are largely based on the interest rate of the loan entered into by the borrower and the amount of points and direct fees paid by the borrower. Typically, one or more times a day, lenders set prices that they are willing to pay to mortgage brokers for loans delivered to them. The price to be paid for a loan is generally expressed as a percentage of the loan amount. These prices are based on the interest rate of the loan arranged by the mortgage broker and the points and fees for the loan as compared to the price (a combination of an interest rate and points) that the lender would purchase the loan for that day.

The price that the lender will pay is, in turn, based on the value of the loan in the secondary mortgage market (i.e., the market price). Generally, the greater the difference between the rate a loan is entered into with the consumer and the market price for the loan, the greater the total compensation that will be paid to the broker. The price may also reflect factors such as the type of loan, the ''lock-in'' period, and the creditworthiness of the borrower. The price that the lender pays the mortgage broker, therefore, is based on the differential between the combination of rate and points that is the par or market rate for a loan at a given time, and the combination of rate and points at which the loan is entered into with the borrower. The lender may also make additional payments to the mortgage broker at or after settlement attributable to the number of loans provided over a given period. These additional payments constitute a ''volume-based discount.''

The following represents an example of the fee structure of a typical 30-year fixed rate loan involving a mortgage broker:

Rate available from lender to mortgage broker* (rate plus points)		Price charged by mortgage broker to borrower* (rate plus points)		Broker's total compensation*
Rate (percent)	Points	Rate (percent)	Points	
8.00	2.00, paid to broker	8.00	None	2.00 points.
7.75	1.00, paid to broker	7.75	1.00	2.00 points.
7.50	None	7.50	2.00	2.00 points.
7.25	1.00, paid by broker	7.25	3.00	2.00 points.

*These rates and fees are offered for illustrative purposes only, not as an indication of HUD's approval of the legality of any particular fee.

D. Views on Mortgage Broker Compensation

The legality of indirect fees to mortgage brokers from lenders has been the subject of much debate and recent litigation. Section 8(a) of RESPA prohibits compensation for the referral of settlement service business; section 8(b) prohibits unearned fees. Section 8(c)(2) of RESPA, however, provides that payment may be made for ''goods or facilities actually furnished or for services actually performed.'' [6]

Some have argued that any indirect fees paid by lenders to mortgage brokers are simply referral fees in violation of section 8(a) and 8(b) of RESPA. Others have argued that indirect fees violate section 8(a) and 8(b) and are not permitted under section 8(c)(2) except when they reflect the actual cost for the provision of such services, allowing margins for reasonable profit. Still others have argued that to the extent fees are reasonably related to the value of the goods, facilities, and services provided by mortgage brokers to lenders or borrowers, they are permitted under section 8(c)(2) of RESPA.

Those taking the position that fees are permitted if they are reasonably related to the value of the goods, facilities, and

[6] With respect to a mortgage broker that is the agent of a lender, section 8(c)(1) may also apply to the analysis. Section 8(c)(1) provides that nothing in section 8 shall be construed as prohibiting the payment of a fee by a lender to its duly appointed agent for services actually performed in the making of a loan. See also 24 CFR 3500.14(g)(1)(iii).

services have in the past disagreed on how to apply this test. Some argue that the test should include consideration of the value of the good (i.e., the mortgage loan) to the lender, subsuming or in addition to the value of the services performed and facilities provided by the broker (e.g., providing a retail outlet for the loan). Others would only allow consideration of the value of the services performed and facilities provided, arguing that the loan is not a ''good,'' or that the mortgage broker does not provide a loan, only a referral. Others would only allow consideration of the value of the services and facilities to the borrower, not their value to the lender; under this approach yield spread premiums may be permissible if they are solely for the benefit of, and are effectively regarded as owned by the borrower, e.g., when these amounts serve only to offset or decrease the borrower's closing costs. Finally, some argue that the bringing together of the borrower and the lender is a service, not a referral, and therefore may be compensated.

Among those who agree that fees are permitted under section 8(c)(2) of RESPA if they are reasonably related to the value of the goods, facilities, and services provided, there has been disagreement over how to value the goods, facilities, and services. Some suggest that the standard for determining the price of the good should be the price that the market would bear; others criticize this approach because it does not separate out any price that the market may pay for a referral from the price of goods, facilities, and services provided. Some suggest that the standard should be the actual cost for the provision of the goods, facilities, and/or services provided, allowing specific margins for reasonable profit; others criticize this approach as contrary to RESPA's legislative history, asserting that this was not intended to be a rate-setting statute. See S. Rep. No. 93–866, at 3–4 (1974), reprinted in 1974 U.S.C.C.A.N. 6546, 6548–49. Others maintain that HUD must at all times retain some degree of authority over the aggregate of payments to mortgage brokers to deter exorbitant total fees. HUD has been mindful of this debate in shaping this proposed rule.

E. Disclosure of Mortgage Broker Fees

The 1992 rule required the disclosure of all compensation paid to lenders and mortgage brokers as part of the settlement transaction. This was a codification of HUD's position under sections 4 and 5 of RESPA (12 U.S.C. 2603–2604) that all charges imposed on borrowers at settlement must be disclosed.

This meant that lenders and mortgage brokers both had to disclose direct compensation (i.e., fees and points paid by borrower). In addition, when mortgage brokers were acting as intermediaries or were using table funding, they had to disclose their indirect fees from lenders, which were shown as ''P.O.C.'' (paid outside of closing) on the HUD–1 or HUD–1A settlement statement. In contrast bankers, mortgage bankers and thrifts, as well as mortgage brokers that funded loans with their own funds or a warehouse line of credit for which they were responsible, did not have to disclose the compensation they might receive for a subsequent sale of mortgage loans in the secondary market.

The 1992 rule therefore had the effect of treating mortgage brokers serving as intermediaries or using table funding differently from brokers who used a warehouse line of credit or their own funds. The reasoning has been that mortgage brokers who used a warehouse line of credit or their own funds were acting as lenders and transferring their loans in the secondary market. A bona fide transfer of a loan obligation by them after the initial funding is a secondary market transaction exempt from RESPA. 24 CFR 3500.5(b)(7). RESPA does not require disclosure of fees paid in secondary market transactions. In determining what constitutes a bona fide transfer, HUD considers the real source of funding and the real interest of the funding lender. Id. The 1992 rule's requirements for disclosing fees on the Good Faith Estimate (GFE), HUD–1, and HUD–1A also made no distinction between those mortgage brokers that represent themselves as agents of the consumer and those that function like other retail lenders providing loans from various lending sources available to them.

III. Re-Examination of Disclosure of Mortgage Broker Fees

As indicated above, complaints about the difference in disclosure requirements for mortgage brokers serving as intermediaries or using table funding, as compared to disclosure requirements applicable to other loan providers, led HUD to re-examine whether, and if so to what extent, the disclosure of indirect fees, also known as ''back-funded fees,'' paid to mortgage brokers should continue to be required under section 4 of RESPA. For this purpose, HUD issued the 1995 proposed rule.

In the 1995 proposed rule, HUD sought comments on its requirements (reflected in the 1992 rule) that disclosure of ''all charges imposed on the borrower'' shall include fees paid to the mortgage broker by the ''wholesale'' lender, because all charges are ultimately borne by the borrower. HUD also indicated it would consider how all indirect fees should be treated under section 8 of RESPA. HUD sought comments regarding the related issue of whether ''volume-based compensation'' is legal under RESPA and whether it should be required to be disclosed.

The 1992 rule also reiterated HUD's position that ''a bona fide transfer of a loan obligation in the secondary market is not covered by RESPA and this part [24 CFR part 3500], except as set forth in section 6 of RESPA and § 3500.21 [mortgage servicing transfers].'' The 1995 proposed rule offered various alternative approaches for determining what does or does not constitute a secondary market transaction.

A. Alternative Regulatory Structures

In the 1995 proposed rule, HUD offered six alternative approaches to regulating the disclosure of fees paid to mortgage brokers (60 FR 47650, 47653–54) as follows:

Alternative 1

(1) Retaining the current RESPA regulation's approach of requiring disclosure of both direct and indirect fees at settlement for transactions not in the secondary market; (2) classifying mortgage loan sales after settlement as ''secondary market transactions'' not requiring disclosure of direct or indirect fees and exempt from RESPA, including its prohibitions against kickbacks and referral fees; (3) continuing to require disclosure of direct and indirect fees for table-funded transactions and making such transactions subject to RESPA (the loan sale is not a secondary market transaction, it is contemporaneous with and not after settlement); and (4) requiring disclosure of direct and indirect fees for loans closed in the name of the wholesale lender (not involving a sale).

Alternative 2

(1) Continuing to require disclosure of direct and indirect fees at settlement for transactions not in the secondary market; (2) classifying any mortgage loan sale—before, contemporaneous with, or after settlement—as a ''secondary market transaction''; (3) requiring disclosure of direct fees at settlement but exempting the sale at settlement of a table-funded mortgage loan from RESPA as a ''secondary market transaction,'' and making unnecessary the disclosure of ''indirect

fees'' associated with the table-funded loan sale; and (4) requiring disclosure of direct and indirect fees for loans closed in the name of the wholesale lender (not involving a sale).

Alternative 3

(1) Continuing to require disclosure of direct and indirect fees at settlement for transactions not in the secondary market; (2) classifying a sale of a mortgage loan following the date of first accrual (the date the first payment is due from the borrower) as a ''secondary market transaction''; (3) requiring disclosure of direct and indirect fees and applying other RESPA restrictions to table-funded transactions (the loan is sold at settlement, before the first accrual date); and (4) requiring disclosure of direct and indirect fees and applying other RESPA requirements to loans closed in the name of a wholesale lender (not involving a loan sale). Under Alternative 3, RESPA disclosure and other restrictions would cover more loan sales transactions (before the first accrual date) between retail lenders and wholesale lenders in addition to sales in table-funded transactions.

Alternative 4

(1) Requiring disclosure only of direct (not indirect) fees at settlement for transactions not in the secondary market (since indirect fees need not be disclosed, the secondary market exemption determines whether other RESPA prohibitions apply); (2) continuing to classify mortgage loan sales as ''secondary market transactions'' not subject to RESPA only if they occur after settlement; (3) requiring disclosure only of direct (not indirect) fees for table-funded transactions, such transactions would not be ''secondary market transactions'' and would be subject to RESPA (the loan sale is contemporaneous with and not after settlement); and (4) requiring disclosure of only direct (not indirect) fees for loans closed in the name of a wholesale lender with such transactions subject to RESPA's other restrictions.

Alternative 5

(1) Requiring disclosure only of direct (not indirect) fees at settlement; (2) classifying a mortgage loan sale, at any time, even simultaneously with loan funding (as in a table-funded transaction) as a secondary market transaction; (3) requiring disclosure of direct fees at settlement but exempting the sale at settlement of a table-funded mortgage loan from RESPA as a ''secondary market transaction''; and (4) requiring disclosure of only direct (not indirect) fees for loans closed in the name of the wholesale lender (not involving a sale) with such transactions subject to RESPA's other restrictions.

Alternative 6

(1) Requiring disclosure only of direct (not indirect) fees at settlement; and (2) classifying a loan sale as a secondary market transaction only if it occurred after the first accrual date. Under Alternative 6, RESPA disclosure and other requirements would cover more transactions than are currently covered, except that indirect fees would not have to be disclosed.

B. Overview of the Public Comments

HUD received 836 comments in response to the 1995 proposed rule. Most commenters were mortgage brokers or employees of brokerage organizations, although many were lenders. Consumer representatives also submitted comments. HUD also received comments from credit unions, banks, attorneys, or other persons and organizations in real-estate-related occupations.

Several national organizations submitted comments—including counsel for the National Association of Mortgage Brokers (NAMB), the Mortgage Bankers Association (MBA), the Real Estate Services Providers Council (RESPRO), the National Association of Realtors (NAR), the National Association of Federal Credit Unions (NAFCU), the American Bankers Association (ABA), the National Home Equity Mortgage Association, the Title I Home Improvement Lenders Association, and the Independent Bankers Association of America (IBAA). Additionally, several State associations representing mortgage brokers submitted comments. The Board of Governors of the Federal Reserve System, the Federal National Mortgage Association (Fannie Mae), and the Federal Home Loan Mortgage Corporation (Freddie Mac) also commented.

C. Summary of Public Comments on Alternative Regulatory Structures

The preponderance of commenters, primarily industry members and representatives, favored Alternative 5, requiring only disclosure of direct fees and classifying a transfer of a table-funded loan as a secondary market transaction. The NAMB characterized the fees in question as ''fees in the nature of secondary market fees (e.g., service release premiums, excess yield differentials or volume discounts).'' NAMB also argued strenuously that these fees were legitimate and earned, and that their disclosure should not be required because ''they are not fees, points, or charges collected from the mortgagor or seller.''

NAMB and individual mortgage brokers urged that fees of the kind at issue were essential to the continued competitiveness of mortgage brokerage firms, and that their elimination would stifle competition in the mortgage lending industry. While their disclosure to the affected consumer was thought by these commenters to be unnecessary, a determination of their legality was the commenters' paramount concern. Many industry commenters expressed their belief that HUD needed to declare the legitimacy of these fees under RESPA.

The Board of Governors of the Federal Reserve System expressed some concern regarding HUD's proposal to eliminate disclosure of indirect fees paid to mortgage brokers, as that might impact on its determination of coverage under section 32 of the Riegle Community Development and Regulatory Improvement Act of 1994 (Pub. L. 103–325; approved September 23, 1994). That section prescribes special rules for high cost mortgage loans, loans which have rates and fees above a certain level. The Board, however, subsequently adopted a regulation that based its calculation on direct (borrower-paid) fees only. Under this circumstance, the Board's originally expressed concern is no longer relevant.

Most, but not all, of the comments adverse to positions taken by mortgage brokers and brokers' organizations came from consumer groups. Five consumer or legal service organizations responded to the proposed rule. Commenting consumer organizations, taking a different view than mortgage brokers, favored Alternative 1, the status quo, among the offered options. Additionally, however, they asked for further strengthening of the existing regulation to require greater disclosure, to cover a larger array of transactions, and to outlaw certain lender payments. Some consumer organizations characterized certain lender payments to mortgage brokers as ''kickbacks,'' impermissible under RESPA whether or not they are disclosed. These commenters urged HUD to issue a blanket prohibition against certain lender-paid fees.

A scattering of industry commenters also supported Alternative 1, the status quo. These included: Travelers Group, New Jersey Savings League, and First Commerce Corporation. These commenters took the view that the current RESPA regulation resulted in the most informative disclosure to consumers while still allowing bona

fide secondary market transactions to proceed outside the scrutiny of consumers or others involved in the settlement.

Some other industry commenters supported Alternative 2 (continuing to require disclosure of indirect fees, but expanding the definition of ''secondary market transaction''). These included: McDonnell Douglas West Federal Credit Union, Comerica Inc., The Money Store of Sacramento, California, and the Michigan Bankers' Association.

Similarly, Alternative 4 (which required disclosure only of direct fees, but with no change in the current definition of secondary market transaction) attracted only a few commenters. Four commenters, including the MBA, opted for this structure. The MBA said it favored a ''modified'' Alternative 4. It disagreed that in a table-funded transaction a mortgage loan sale occurs at settlement. Because these sales ''effectively occur after settlement,'' MBA said, it favored Alternative 4 with the recommendation that the final rule conform to MBA's understanding of the table-funding issue.

American Federal Bank of Greenville, SC, PNC Mortgage Corporation of Vernon Hills, IL, and a PNC-affiliated company, The Home Mortgage Network, also favored Alternative 4. PNC Mortgage Corporation went on to suggest that, despite favoring the elimination of a recitation of ''indirect'' fees as the current rule requires, it would be useful for the RESPA regulation both to clarify that other forms of compensation are permitted and to require actual notice to borrowers when the retail lender is being paid ''servicing release premiums'' or ''yield spread premiums.''

There were no industry commenters that favored Alternatives 3 or 6. One consumer organization, Illinois Consumer Justice Council, Inc., supported, in essence, Alternative 3, although the commenter advocated outright prohibitions on specific forms of lender compensation to mortgage brokers.

Both Fannie Mae and Freddie Mac (Government-Sponsored Enterprises or GSEs) cautioned against the adoption, without clarifications, of Alternatives 3 or 6. At the least, Freddie Mac said, ''further elaboration of the concept'' would be necessary were HUD to adopt a definition providing that only mortgage loan sales that occur relatively long after settlement would be regarded as exempt secondary market transactions.

Similarly, Fannie Mae pointed out that narrowing the secondary market exemption could hamper the speed of mortgage financing and adversely affect mortgage lenders' ability to take advantage of technological innovations. Neither GSE registered an outright objection to a narrowing of the secondary market exemption. Each made clear that Alternatives 3 and 6 were not preferred, and, if adopted, would disrupt current practices. Neither GSE expressed a positive preference for any of the alternatives outlined in the proposed rule.

On the issue of volume-based compensation, the commenters were divided. Commercial Credit advocated permitting the payment of volume-based fees. NAMB specifically objected to HUD's questioning the ''propriety of paying volume discounts under RESPA.'' NAMB urged that such payments were a standard industry practice, that the issue should not be addressed ''piecemeal,'' but that HUD should ''articulate a simple standard of what *may* be paid.''

American Federal Bank, PNC Mortgage Corporation, and The Home Mortgage Network indicated that volume-based compensation should be permitted, but that a ''general'' form of disclosure should be required—to the effect that the retail lender ''may receive additional compensation in connection with the transaction.'' McDonnell Douglas West Federal Credit Union advocated disclosure of this form of compensation to borrowers.

Michigan Bankers Association and Comerica (in identical comments) stated that volume-based compensation could lead to loan steering. Arguing that disclosure of such compensation was too complex a matter, these commenters appeared to be suggesting that this form of compensation to brokers should be prohibited altogether. In addition, Travelers Group opposed it as being a form of kickback not tied to actual services rendered and also said that volume-based compensation almost always results in ''loan steering.''

IV. Negotiated Rulemaking

After issuing the 1995 proposed rule, HUD concluded that the issues in the rulemaking might be better understood and perhaps resolved by involving representatives of interested parties in a negotiated rulemaking process. In appropriate circumstances, this process brings together agency representatives with all parties substantially affected by the subject matter in order to negotiate the terms of a needed rule.

On October 25, 1995, HUD published a Notice of Intent to Establish a Negotiated Rulemaking Advisory Committee (60 FR 54794) to address mortgage broker fees and volume-based compensation. HUD received nine comments in response to the notice, most of which favored negotiated rulemaking.

On December 8, 1995 (60 FR 63008), HUD published a notice announcing the establishment of an Advisory Committee. HUD charged the Advisory Committee with: (1) Determining whether the amount and nature of indirect payments to mortgage brokers and certain other mortgage originators should be disclosed to the consumer; and (2) resolving whether volume-based compensation from wholesale lenders to mortgage brokers is permissible under RESPA (and implicitly, whether other payments from wholesale lenders to mortgage brokers are permissible, an issue mentioned explicitly in the October 25, 1995 notice), and whether and how the compensation should be disclosed. The notice set forth HUD's conclusion that, in view of the degree of controversy and in the interest of fashioning the best possible rule, the negotiated rulemaking process offered the best means of generating information and resolving the difficult issues involved.

The Advisory Committee was composed of parties possessing a definable interest in the outcome of a proposed rule—representatives of mortgage brokers, lenders, the Government-Sponsored Enterprises, State government, and consumer advocates. In addition to HUD, the following were members of the Advisory Committee: AARP/Legal Counsel for the Elderly, America's Community Bankers, American Association of Residential Mortgage Regulators, ABA, American Financial Services Association, Citizen Action, Freddie Mac, Fannie Mae, IBAA, the MBA, National Association of Consumer Advocates, National Association of Federal Credit Unions, NAMB, NAR, Office of the Attorney General of the State of Texas, RESPRO, and The Mortgage Capital Group.

A. Advisory Committee Activities and Approach

From December 1995 to May 1996, the Advisory Committee met for six 2-day negotiation sessions that were facilitated by HUD's Chief Administrative Law Judge, Alan W. Heifetz. The Advisory Committee began its deliberations with presentations by participants and industry experts regarding the functioning of the mortgage lending industry. The consumer representatives presented the group with their concerns and their perceptions of areas in which

consumers were in need of increased protection. The Advisory Committee then framed the points in question and engaged in substantive discussion of the issues presented.

The Advisory Committee spent a large portion of its time on the issue of the appropriate scrutiny of indirect fees under section 8. Committee members were adamant that the starting point should be resolution of the permissibility of indirect fees. In analyzing fees, the participants recognized that there were different types of fees from lenders to mortgage brokers: (1) fees reflecting payment for a loan delivered at or near the par price, and (2) payments to a mortgage broker for a loan delivered considerably above the par price.

While nearly all participants recognized that mortgage brokers perform valuable services in brokering loans for consumers, they disagreed considerably over the appropriate means of analyzing the legality of mortgage broker fees under RESPA. One representative initially argued that all indirect fees are illegal under section 8(a) and 8(b) of RESPA. Other members of the Committee agreed that the standard RESPA test would apply. As discussed above, that test provides that although fees cannot be paid for the referral of business as proscribed in section 8(a) and 8(b), if fees are reasonably related to the value of the goods, facilities, and services provided, they are permissible under section 8(c)(2) of RESPA.

The Committee attempted to find a workable formula for applying the standard RESPA test to lender payments to mortgage brokers, but it did not reach consensus on how to apply the test to those payments. Advisory Committee members conferred on the options and considered that, if the value of the services was deemed to be the appropriate point of scrutiny, then there would be a further need to define the proper method for determining the value of such services. Others focused on the facilities a mortgage broker provides (which allow lenders to function without ''bricks and mortar''), and argued the value of these facilities should be analyzed in considering whether the broker's compensation was reasonable. Each of these approaches received criticism, however, as it would require establishing a level of appropriate payment for itemized services or facilities. That task would, however, be unworkable and inconsistent with RESPA's legislative history against price-setting.

Some believed that the loan provided by a broker to a lender could be regarded as a ''good'' under section 8(c)(2) with the compensation analyzed in terms of the loan's value to the lender. That approach was criticized, however, as undermining any meaning of RESPA's section 8, since it would allow the lender to pay for the value of the referral as part of the bundled value of the good.

Some suggested defining indirect fees to mortgage brokers as fees in the secondary market outside the scope of RESPA. The Committee addressed the possibility of altering the current definition of what constitutes a secondary market transaction. Although various alternatives were proposed and considered, the group could not agree on any particular approach. Likewise, on the permissibility of particular types of lender payments to mortgage brokers, including volume-based compensation, the participants suggested differing interpretations of the statute's meaning and intent, thus causing an impasse on this issue as well.

All agreed as a general principle that exorbitant rates and points should not be extracted from consumers and that mortgage brokers should not be paid total compensation that greatly exceeds the comparable compensation for comparable borrowers and loan programs. Most agreed that it is difficult to develop a workable test for the proper amount of this compensation. They also recognized the extent of public confusion over the role of mortgage brokers, particularly where the mortgage broker receives compensation from the lender. The participants struggled with the diversity of ways mortgage brokers operate for borrowers. For example, certain mortgage brokers act as the borrower's agent arranging the most favorable loan for the borrower. Certain mortgage brokers offer various loan products in a manner similar to retail lenders. Some offer the loan products of only one lender. Consumer advocates were particularly critical of mortgage brokers who asserted their role to be to place loans with one of several lenders with which they do business, yet took advantage of the consumer's perception that they were acting as the consumer's agent, although they were not, in fact, doing so.

The diverse views of the participants as to how mortgage brokers function and what types of fees they receive resulted in diverse views of the legality of the fees mortgage brokers receive and the extent to which they should be required to disclose their fees to borrowers. Some argued that limiting a mortgage broker acting as a retail lender to a fee for services (and ignoring the value of the good delivered) effectively forced the mortgage broker to act as the borrower's agent without an indication such a step was intended by Congress in enacting RESPA. Mortgage brokers, they argued, should be able to charge consumers whatever price they can obtain for a loan in the market, even if the price is above that at which the lender would have been willing to make the loan. In a competitive market where consumers shop, they claimed, such a broker would be limited by market competition.

On the other hand, when the broker is acting as the borrower's agent, most agreed that the mortgage broker is obligated to shop around for the consumer to obtain the best deal for the consumer. This kind of mortgage broker should not be compensated by a lender based simply on the value of the loan, most agreed, without disclosing such compensation to the borrower.

Few agreed on what circumstances would require mortgage brokers to serve as the borrower's agent. Most, however, concurred on the point that a great many consumers perceive the role of a mortgage broker to be their agent, which is different from how the mortgage brokers perceive themselves.

There was consensus on one point: that a rule should clear up this confusion and require that mortgage brokers inform borrowers of the role the mortgage broker is serving early enough in the transaction to allow the consumer to shop effectively for alternatives.

B. Advisory Committee Views on a Safe Harbor

As a result of the divisions among the negotiators concerning the appropriate analysis, most of the participants endorsed creating a ''safe harbor'' that would exempt from section 8 fees to mortgage brokers in circumstances in which the participants could be confident that the consumer is adequately protected. Most of the participants concluded that creating a safe harbor for mortgage broker fees was the only reasonable means of allowing fee payments while ensuring the consumer was protected. The participants, however, differed on the specific requirements for the safe harbor. Participants suggested differing types and levels of disclosures, depending upon the interests and views of the proponent.

One participant favored a safe harbor involving the execution of a binding mortgage broker contract between the mortgage broker and the borrower. First, this mortgage broker contract would provide terms of the relationship between the borrower and the broker. Second, the broker would disclose direct fees, and the disclosure would

notify borrowers that the mortgage broker may receive additional (indirect) fees from a lender pursuant to that transaction. Third, the disclosure would notify the borrower that the broker does not distribute the products of all lenders, and that the products distributed may not represent the lowest price or the best terms available. Fourth, the mortgage broker contract would incorporate additional items that were required as a matter of State law.

One group of the participants proposed a safe harbor involving a borrower-broker contract detailing all the elements of the aforementioned proposal and adding two significant elements. First, the contract would require the broker to disclose the maximum total compensation (including indirect fees) it would receive from all sources (in terms of dollars and/or percentage of total mortgage loan amount). Second, once disclosed, this maximum amount would serve to limit the compensation paid to the broker. A variant of this option, proposed by another participant, would also require that the borrower be explicitly granted the option of paying the broker directly, either through points or from mortgage loan proceeds.

Another participant offered a proposal under which the broker would disclose only the relationship of the broker to the borrower and the broker's direct fees. Yet another participant supported establishment of a safe harbor requiring: (1) Disclosure of the relationship between the borrower and the broker, (2) a statement that the broker does not offer the products of all lenders and that the products offered do not reflect the broker's having shopped for the consumer to ensure the best price available, and (3) disclosure of the fees from the lender and the borrower. In addition, use of this safe harbor approach would only be available in a competitive mortgage market in which multiple services were not being provided by a single entity or affiliated entities. Another participant supported a similar proposal and suggested that a competitive market might be shown by such means as collecting comparable advertised prices by competitors, disclosing average national rates to the borrower, and complying with standards for ''high cost mortgages'' under section 32 of the Riegle Community Development and Regulatory Improvement Act of 1994 (section 103(aa) of the Truth in Lending Act, 15 U.S.C. 1602(aa)).[7]

On May 21, 1996, the Committee concluded its negotiations without reaching consensus on a proposed rule. On July 19, 1996, the Committee Facilitator submitted his final report on the negotiated rulemaking to HUD. That final report summarized the negotiated rulemaking proceedings and detailed the approaches discussed by the participants during the negotiations. In the report, the Facilitator observed that the numerous interests represented in the Committee conflicted and aligned along various permutations. The report noted the Committee's inability to reach consensus and stated that no party would be bound by discussions or particular positions taken during the negotiations.

Although there was a failure to reach consensus, it is significant that the Advisory Committee's deliberations resulted in almost unanimous support for the creation of a safe harbor approach to resolve issues relating to mortgage broker fees. This safe harbor would include the disclosure of the mortgage broker's relationship with the borrower and information about the mortgage broker's fees in the loan transaction. Such a safe harbor was believed to secure a level of consumer protection that would fulfill section 8's purpose. Indirect fees to mortgage brokers that complied with these specific disclosure requirements would be exempt under section 8 of RESPA. In light of the absence of consensus on any one safe harbor approach, HUD was presented with the task of creating acceptable criteria for a safe harbor, if it decided to adopt that approach.

V. This Proposed Rule

Following review of all of the comments and the results of the negotiated rulemaking, HUD is proposing a rule to encourage the use of mortgage broker contracts that will clearly establish the role of the mortgage broker, the mortgage broker's duties, and the mortgage broker's compensation. This proposed rule strives to protect consumers better by providing them the information they need to be better shoppers and by making the information disclosed to them in the mortgage broker contracts binding. This proposal seeks to discourage practices that give financial incentives to mortgage brokers that offer higher priced loans than what are generally available in the marketplace for the particular mortgage applicant.

This proposed rule is premised on the following facts and policy considerations:

1. Under current rules, there are reported cases in which exorbitant payments have been made to mortgage brokers by lenders. In these examples, the cost of the loans is significantly more than what the consumers could have obtained from other loan providers in the marketplace, and these additional costs have undoubtedly contributed to foreclosures.

2. Under the current RESPA rule, consumers are not provided sufficient information about the mortgage broker's role in the transaction. On the other hand, consumers are sometimes overloaded with more information about the home financing process than the consumers can use and receive confusing information about the mortgage brokers' fees.

3. The borrower would benefit from a useful mortgage broker contract specifying the mortgage broker's functions and compensation so that the borrower is not misled as to the role the mortgage broker plays in the transaction and does not fail to comparison shop.

4. Borrowers use interest rates, points, and closing costs to shop for mortgages. With this information, the borrower can make informed choices about loan services, provided the borrower is also aware of the mortgage broker's function and the extent and sources of its compensation.

5. The disclosure of mortgage broker fees paid by the lender on the GFE, HUD–1, and HUD–1A without further explanation is frequently confusing to borrowers. In particular, the fact that these fees are listed as ''P.O.C.'' (paid outside of closing) but are paid by the lender, rather than the borrower, is confusing.

6. Mortgage brokers should agree with borrowers by contract as to how they function, provide appropriate information about their fees, and be required to adhere to the terms of the contract.

7. The disclosure requirement in the 1992 rule may have caused mortgage brokers to establish warehouse lines of credit simply to avoid the disclosure requirement, thereby incurring unnecessary costs passed on to borrowers.

8. The industry requires certainty about the permissibility of payment practices.

9. Fees from lenders to brokers allow the borrower to have an array of choices in trading off interest rate and points,

[7] A ''high cost mortgage loan'' is an owner-occupied residential mortgage loan in which the annual percentage rate of interest (APR) will exceed by more than 10 percentage points the yield on Treasury securities of comparable maturity. A high cost mortgage loan is also a mortgage loan in which the total points and fees paid by the consumer will exceed the greater of 8 percent of the mortgage loan amount, or $400 (adjusted annually by the Federal Reserve Board—$412 in 1996), whichever is larger. 15 U.S.C. 1602(aa); Regulation Z, 12 CFR 226.32.

including ''no fee, no point'' loans. The borrower actually will pay these fees over time as reflected in the interest rate. However, if properly understood by the borrower, this pricing mechanism can expand choice and lessen the closing costs of loans to the homebuyer, making homeownership more affordable and facilitating refinancings to take advantage of lower rates.

10. Under appropriate circumstances it may be possible to recognize a class of compensation to mortgage brokers presumed to be legal. When establishing a class of compensation presumed legal, it is essential to identify any compensation that should not enjoy such a presumption.

11. Mortgage brokers reportedly originate approximately half of all mortgages. This volume of activity would not be possible if the majority of loans obtained through mortgage brokers did not have terms competitive with those of mortgages from other lending sources.

A. Department's Overall Approach to a Safe Harbor

This proposal offers a qualified safe harbor that affords limited protection for fees to mortgage brokers. The mortgage broker contracts required to qualify for the safe harbor proposed in this rule tackle two issues that are potentially controversial concerning mortgage broker fees: (1) How the role of the mortgage broker should be characterized for the consumer/borrower, and (2) how the consumer/borrower should be made aware of the total amount of compensation to the mortgage broker. The contracts proposed under this rule require the broker to specify whether or not the broker is acting as a representative of the borrower to shop for a mortgage loan, or whether the broker does not represent the borrower and serves only to arrange loans. If the broker indicates it acts as a representative, the broker must disclose whether or not it is receiving indirect fees from a lender. To qualify under the safe harbor, mortgage brokers must disclose whether the mortgage broker deals with one or more than one lender so that the consumer can understand the extent to which the broker will shop.[8]

The contract requires the broker to disclose the maximum amount of compensation the broker will receive in the loan transaction, distinguishing the fees coming from the borrower and the fees coming from the lender. Mortgage brokers also will continue to be required to disclose their direct fees as well as their indirect fees paid to them by lenders on the GFE, the HUD–1, or HUD–1A in transactions covered by the exemption.

For those transactions in which the proposed mortgage broker contracts are entered into and adhered to, and other requirements of the rule are satisfied, compensation to brokers will be regarded as having been paid within a ''qualified safe harbor'' within which fees paid to mortgage brokers from lenders will be presumed legal. This presumption of permissibility and legality would not apply, however, if one or more of the requirements for the safe harbor is not met. Moreover, even if all of the requirements for the safe harbor are met, the presumption may be rebutted if the total compensation does not pass a test to be established by HUD and incorporated in the final rule. When the fees do not pass this test, they are presumed to violate section 8 of RESPA. This presumption can be overcome if the total compensation is reasonably related to the value of the goods or services provided. By providing that the safe harbor is ''qualified,'' HUD preserves the ability to protect consumers against illegal fees, as determined by the test to be established in the final rule following public comment. A qualified safe harbor will ease the difficulty and uncertainty involved in applying section 8(a), 8(b), and 8(c)(2) to total mortgage broker fees. HUD is specifically soliciting comments on the elements of this test.

In order to establish the ''qualified safe harbor,'' HUD is proposing to exercise its exemption authority under section 19(a) of RESPA (12 U.S.C. 2617(a)) to add a new, limited exemption to RESPA's prohibition against kickbacks and unearned fees. In addition, under section 8(c)(5) of RESPA, the Secretary may create regulatory exemptions for ''such other payments or classes of payments,'' after consulting with various Federal agencies (12 U.S.C. 2607(c)(5)). The exemption proposed is limited in that it creates a presumption of legality for compensation that meets the requirements of the exemption.

Regarding lender payments of indirect fees, mortgage brokers and lenders should be aware that, in addition to RESPA, they are also subject to the requirements of the Fair Housing Act and other fair lending laws. Discretionary pricing of loans is a major fair lending concern of HUD and the Department of Justice because of the possibility of disparate treatment of similarly qualified borrowers. Yield spread premiums or servicing release fees that are consistently higher for a minority population, for example, than they are for a similarly qualified nonminority population could be unlawful under the Fair Housing Act. While mathematical precision is not required between the premiums and fees associated with borrowers grouped by racial or other categories, the larger the differences, the closer enforcement agencies will look for possible disparate treatment.

Monitoring of such fees by mortgage brokers and lenders can help preclude unlawful conduct under the Fair Housing Act and other fair lending laws. HUD itself will monitor the number and type of fair lending complaints involving such fees and premiums upon implementation of the final RESPA rule regarding payments to mortgage brokers, and will, if necessary, revisit the issue if it appears that consumers are being subjected to discrimination in this area and would benefit from additional disclosures or additional contract terms.

For mortgage brokers meeting the requirements of the qualified safe harbor, volume-based compensation would be presumed legal (subject to application of the test developed for the final rule); outside of the safe harbor, volume-based compensation will be presumed to violate section 8(a) or 8(b) of RESPA. In making the representation regarding the maximum amount of fees from the lender in the mortgage broker contract, the mortgage broker is to state an amount that reflects expected volume-based compensation for the loan.

This rule does not propose to change the secondary market line. HUD concluded that there was little benefit to shifting the line.

B. Elements of the Safe Harbor Provision

In this proposed rule, HUD would amend 24 CFR 3500.14(g)(2) to provide that lender payments to mortgage brokers are presumed legal and permissible under section 8 if the following conditions are met:

1. Mortgage Broker Contracts

The mortgage broker and the prospective borrower(s) execute a mortgage broker contract for each loan transaction. The form of the mortgage broker contract that would be used would be set forth in Appendix F to part 3500 to facilitate mortgage broker compliance with the safe harbor requirements. The instructions for completing the form would be provided with the form.

[8] A mortgage broker that does not represent the borrower and that deals with only one mortgage lender's products might operate, for example, in an affiliated business arrangement. A Federal Housing Administration (FHA) correspondent could also fall in this category.

HUD is proposing a binding mortgage broker contract rather than a simple disclosure, because a binding contract creates an enforceable remedy for the borrower and ensures that the terms indicated cannot be changed or superseded unilaterally by the mortgage broker. The mortgage broker contract would provide meaningful terms regarding the broker's functions in the transaction, its duty to the borrower (whether it does or does not represent the borrower), the potential maximum amount of compensation to be received in the transaction including the amounts paid by the borrower and by the lender, and the mortgage broker's State license number, if applicable.

The contract would clarify for the borrower the differing functions of mortgage brokers and the role of the mortgage broker in the particular transaction. The contract would describe two main types of mortgage brokers, those that represent the borrower (including the two different variants of mortgage brokers that represent the borrower—those that do and those that do not receive indirect fees), and those that do not represent the borrower. Borrowers would be told whether the mortgage broker represents them and will shop for the most favorable mortgage loan that meets the borrower's stated objectives from the lenders the broker does business with, or whether the broker does not represent the borrower and merely arranges loans. Under the contract, the broker must disclose how many sources the broker will shop from or may use for a borrower's loan.

The mortgage broker is to check the appropriate box regarding how it will function in the particular anticipated transaction. The first box is for use by a mortgage broker that represents the borrower and does not receive a fee from the source of mortgage funds. The second box is for use by a mortgage broker that represents the borrower but may receive a fee from the lender. Both the first and second box are for the type of mortgage broker that, by operation of State law, is a borrower's agent, or that represents itself as a borrower's agent in arranging a mortgage loan in the transaction. Mortgage brokers that are agents of the borrower would be allowed to represent themselves to the consumer as an entity that is required to obtain the most favorable mortgage loan for the borrower from the sources with which they do business. The disclosure of the mortgage broker's function and whether the mortgage broker is receiving fees from the lender will assist the borrower in assessing whether the mortgage broker works only for the borrower, has competing interests, or may be receiving indirect fees.

The third box is for use by a mortgage broker that does not represent the borrower and does not represent itself as a borrower's agent in arranging a mortgage loan in the transaction. This type of mortgage broker may deal with one or more than one source of funds and may receive a fee from the source of funds. This type of mortgage broker would be required under the contract clearly to inform the borrower that it is not the borrower's agent and that it arranges loans from lender(s), and to state the number of lenders with which it brokers loans. Borrowers would not be lulled into paying more than necessary to obtain the loan they want on the assumption that this type of mortgage broker is shopping for the borrower to obtain the best price available. Thus, mortgage brokers that are not the borrowers' agents would not be able to take advantage of borrower confusion over the role of the mortgage broker to obtain a price that exceeds what informed borrowers would pay. The rule is designed to help ensure that ''what the market will bear'' is not inflated by the borrower's misimpression as to the service actually being provided.

The contract then describes how brokers are compensated. It also indicates to borrowers that if a borrower would rather pay a lower interest rate, the borrower may pay higher upfront points and/or fees. The contract specifies the maximum points and other compensation and the maximum total compensation the broker will earn in the transaction for a loan up to a particular amount and at the rate offered by the broker. The contract discloses the source of the compensation—the amount of fees that are to be paid by the borrower and the fees paid by the lender.

Because the compensation may differ under various combinations of rates and points, the contract advises the borrower that the broker has alternative loan arrangements that the broker will display for the borrower. (HUD plans to develop or to facilitate the development of software for use by brokers for this purpose that will be distributed in conjunction with the final rule.)

The contract cautions that the broker's commitment to the amounts disclosed applies only if the borrower qualifies for the loan.

The back of the contract form would include a useful, preprinted summary for the borrower of his or her rights in shopping for a mortgage loan, including rights under RESPA and the mortgage broker contract.

Those mortgage brokers seeking to qualify for the safe harbor in § 3500.14(g)(2) would, at the time a consumer expresses serious interest in obtaining a loan from the broker and prior to application or before receipt of any payment (whichever is earlier), determine which of the categories fits its functions respecting the consumer in the particular transaction. The mortgage broker would, before application or before receipt of any payment, whichever is earlier, complete and execute the mortgage broker contract in Appendix F, deliver a copy to the prospective borrower(s), obtain the borrower's or borrowers' signature(s), and retain a copy of the contract. Of course, a mortgage broker could check one box on the form for one transaction and a different box in a different transaction, depending upon the mortgage broker's function in the transaction. However, a mortgage broker would only check one box and complete and execute one form per transaction. For all transactions in which the mortgage broker wishes to qualify for the safe harbor, the mortgage broker would be required to use the form provided and comply with the terms applicable to the box checked. This will ensure consistency in the mortgage broker contracts provided to consumers. If an applicant wants the mortgage broker to shop for more than one type of loan with different rates and fees, then a separate contract would be executed for each possible loan.

Mortgage brokers not wishing to qualify for the safe harbor would not be required to use the form.

2. Performance and Representations Consistent With Contract

During the course of dealings with the prospective borrower(s), the mortgage broker would have to perform in accordance with the terms of the mortgage broker contract and not make representations inconsistent with such contract. The terms of the mortgage broker contract could only be changed through mutual written agreement between the mortgage broker and the borrower. A mortgage broker who indicates on the mortgage broker contract that ''I am your agent and I will get you the most favorable mortgage loan that meets your stated objectives,'' is required to get the borrower the most favorable mortgage loan that meets the borrower's stated objectives from among the sources of funds with which the mortgage broker discloses it will shop.

3. Disclosure of Fees

In addition to the disclosures of fees in the contract, the mortgage broker

would have to disclose fees on the GFE and the HUD–1 or HUD–1A in a manner consistent with §§ 3500.7 and 3500.8 of the regulations, as do all mortgage brokers whether qualifying for the safe harbor or not.

4. Mortgage Broker Licenses

If the State in which the property for which the mortgage loan is sought has licensing or registration requirements, the mortgage broker must have a valid license or registration and identify the license or registration number on the mortgage broker contract. A large proportion of States require, or are in the process of requiring, that mortgage brokers be licensed by a State regulatory body. This provision would make the borrower aware of State regulations and might assist an aggrieved borrower in pursuing an action under State law against a mortgage broker. All of the members of the Advisory Committee supported including this information on the contract.

C. Effect on State Law

Section 18 of RESPA (12 U.S.C. 2616) preempts State law that is inconsistent with its provisions, unless such law provides greater protection to the consumer. However, the RESPA regulations in § 3500.13 provide, in part, that RESPA and the RESPA regulations do not annul, alter, affect, or exempt any person subject to their provisions from complying with the laws of any State with respect to settlement practices, except to the extent of the inconsistency. Therefore, in accordance with § 3500.13, mortgage brokers must comply with relevant State laws regarding disclosure of mortgage broker fees and related issues, except when inconsistent with RESPA or the implementing regulations. HUD, to the extent feasible, will work with interested State regulatory bodies to determine if applicable disclosure terms or requirements may be combined in a single form.

D. Definition of Mortgage Broker

HUD's current definition of ''mortgage broker'' specifically excludes an ''exclusive agent of a lender'' from the definition of ''mortgage broker.'' This rule proposes to revise the definition to include an ''exclusive agent of a lender'' and thereby enable such an entity to qualify for the safe harbor. A mortgage broker that deals with only one lender may still perform the functions of a mortgage broker, regardless of whether he or she is the lender's exclusive agent. Such a mortgage broker could take advantage of the safe harbor if all applicable criteria are met. This rule proposes a similar conforming amendment to § 3500.17(b).

E. Questions for Commenters

HUD invites comment on all aspects of today's proposal. In particular, HUD is interested in the public's view regarding the following questions:

1. As proposed, the new safe harbor may be rebutted if the total compensation does not pass a test to be established by HUD. HUD is specifically requesting comments on an appropriate test or tests to determine with certainty what, if any, portion of compensation to a mortgage broker should be impermissible under RESPA. There are numerous possibilities for such a test that could result from this rulemaking. Any test established for the final rule must allow brokers, lenders, and borrowers alike to determine with certainty whether the total compensation to a broker is or is not legal. Accordingly, commenters are requested to suggest a quantifiable or otherwise objective test or tests for examining a broker's total compensation. Suggestions may include, without limitation, defining the outer boundaries of permissible or legal total payments in terms of ranges or amounts such as a specified dollar amount that could vary based on the size of the loan or as a fixed percentage of the loan amount; if compensation exceeds a specified range or amount, the excess could rebut the presumption of legality under section 8. A test also could be based on comparing the total compensation for a broker's loan to the total compensation for similar loans by mortgage brokers and lenders to borrowers of similar credit quality in the broker's area. This could be accomplished by establishing a baseline of the average market compensation for comparable loans for an immediately preceding time period. Any compensation for a loan that exceeds the baseline average by more than a specific amount could be used to rebut the presumption of legality.

Additionally, a test could establish the parameters of permissible compensation through plain and straightforward criteria. This could be accomplished, for example, by providing that a yield spread premium is impermissible unless it is considered owned by, under the control of, and for the benefit of the borrower, or such a premium is impermissible based upon other fixed criteria. Compensation that does not meet the established criteria would rebut the presumption of legality. In this proposed rule, if the mortgage broker does not enter into the specified contract, any mortgage broker compensation is presumed to violate section 8(a) or 8(b) of RESPA. This presumption can be overcome if the total compensation is reasonably related to the value of the goods or services provided. Commenters are urged to provide any other formulations that also would provide a clear line between compensation presumed legal and compensation that would not enjoy such presumption. HUD requests commenters to provide rule language to accompany any suggested test(s).

2. As proposed, the rule offers a qualified safe harbor under which there is a presumption of legality regarding fees to ''mortgage brokers'' that use the prescribed contract. Is the definition of ''mortgage broker'' under this proposal adequate to avoid the possibility that settlement service providers or others that do not provide any real services could take advantage of the exemption to charge fees? Specifically, should this definition be changed, or should the final rule also require that a mortgage broker perform certain core services to qualify for the exemption? In a letter dated February 14, 1995 from Assistant Secretary Retsinas to the Independent Bankers Association, HUD described certain core services in connection with mortgage lending. To what, if any, extent should the substance of that letter be included in this rule? Those favoring additional requirements should provide their views on what these requirements should be.

3. As proposed, mortgage brokers wishing to qualify for the safe harbor would check a box on a form, depending upon which of the alternatives fits the mortgage broker's function in the particular transaction. HUD seeks comments on alternative approaches or alternative language for the form explaining the broker's function. Does the language proposed adequately distinguish the various categories of mortgage brokers? Would the language proposed unduly influence the consumer to prefer one type of mortgage broker over another? What revisions, if any, should be made to the form?

4. As proposed, mortgage brokers wishing to qualify for the safe harbor must complete and execute the mortgage broker contract ''before application or before receipt of any payment.'' HUD seeks comments on whether the final rule should maintain this general requirement respecting the timing of the disclosure, or whether the rule should specify a more precise time or occasion when the form should be provided. HUD also seeks comments on what, if any, requirements should be included in the rule to address a

situation in which a broker takes an application over the telephone or by other electronic means, including through the Internet. HUD believes the contract should be provided to the borrower as early in the process as possible, but recognizes that information that is provided too early can be so imprecise that it is not useful to the consumer.

5. As proposed, the safe harbor would only appear useful to mortgage brokers that are using table funding or that are acting as intermediaries; those brokers that lend their own funds or use a warehouse line of credit would still qualify for the secondary market exemption. HUD invites comments on whether it should require mortgage brokers that lend their own funds or use a warehouse line of credit to disclose their relationship with the borrower. If so, what would be the basis to impose such a requirement? Should HUD structure a safe harbor that would encourage mortgage brokers in these other circumstances and other loan providers to enter into mortgage broker contracts with borrowers? If so, how would it be structured and what would be its legal basis?

6. As proposed, mortgage brokers that make available the loan products of only one source of funds must disclose on the mortgage broker contract the name of the one lender with which it does business. Is this a fair burden to impose on such mortgage brokers as a part of qualifying for the safe harbor? Does it put such mortgage brokers at a competitive disadvantage?

7. HUD's intent is that the mortgage broker contract would be binding. HUD seeks views concerning the adequacy of consideration of each party under the contract.

8. As proposed, if the amounts of the compensation change, it is anticipated that the broker and the borrower will execute a new contract or amend the contract. HUD seeks public comments concerning the most practical methods to be incorporated into the final rule for affecting changes to the contract. HUD also seeks comments concerning what, if any, restrictions there should be on changes under the contract.

9. As proposed, the contract form provides that total compensation can be disclosed as a dollar amount or as a percentage of the loan. Would it be preferable to require for purposes of comparison that all compensation be disclosed in dollar amounts only? What if any problems would be presented by such a requirement?

10. Should either the contract or regulations address situations in which the borrower chooses not to ''lock in'' the interest rate and chooses instead to allow the rate to ''float'' until the borrower locks in? Should the contract provide that unless the particular loan is applied for by the borrower by a specified date that the broker's commitment to the fees set forth in the contract will expire? Those favoring such provisions should explain what rules, if any, should be added to address these situations. What, if any, rules would be needed to protect borrowers? For example, should the broker be required to provide a new contract detailing the terms of the loan at the lock-in rate? If the contract were to include an expiration date for the fees disclosed, can the borrower be protected from entering into an arrangement too hastily?

11. As proposed, the rule would allow mortgage brokers that represent the borrower and qualify for the safe harbor to collect fees from lenders if such compensation is disclosed and meets the other elements of the safe harbor. Should borrower's-representative mortgage brokers be permitted to receive such compensation, or should such compensation be prohibited? If such compensation were forbidden, how could such mortgage brokers offer ''no fee, no point'' loans? Does the benefit of allowing the flexibility to fund broker fees from interest rate offsets outweigh the disadvantage of creating a possible conflict of interest to the mortgage broker's fiduciary duty to the borrower?

12. As proposed, the rule obligates the mortgage broker—in those instances in which the broker checks the form to indicate that it represents the borrower—to obtain ''the most favorable mortgage loan that meets [the borrower's] stated objectives.'' The form also provides that the broker will identify how many lenders from which it will shop. Are these statements of the borrower's-representative duty to the borrower appropriate? Should the term ''most favorable'' include factors other than price, including, for example, quality or processing time of the lender, and should the rule so provide? Should the rule and the form simply obligate the borrower to obtain the lowest priced loan for the borrower from among the sources it uses?

13. While the market for purchase money loans and most first mortgage refinances is well advertised and highly competitive, this is not necessarily the case for reverse mortgages, as well as home equity, home improvement, high LTV, Alt A, and other less common types of loans. What are the arguments for or against limiting the safe harbor to purchase money and first lien refinancing loans? Should there be any different requirements for so-called B, C, and D credit?

Findings and Certifications

Paperwork Reduction Act

The proposed information collection requirements contained at § 3500.14 and Appendix F of this proposed rule have been submitted to the Office of Management and Budget (OMB) for review, under section 3507(d) of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection displays a valid control number.

The public reporting burden for each of these collections of information is estimated to include the time for reviewing and instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Information on the estimated public reporting burden is provided in the following table.

MORTGAGE BROKER CONTRACT

Information collection	Number of respondents	Responses per respondent	Total annual responses	Hours per response	Total hours	Regulatory reference
Disclosure to the borrower	10,000	400	4mil.	.033	132,000	3500.14

(b) In accordance with 5 CFR 1320.8(d)(1), HUD 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.

Interested persons are invited to submit comments regarding the information collection requirements in this proposal. Comments must be received within sixty (60) days from the date of this proposal. Comments must refer to the proposal by name and docket number (FR–3780) and must be sent to the Office of Information and Regulatory Affairs of the Office of Management and Budget (OMB), at the address provided in the **ADDRESSES** section of this preamble.

Environmental Impact

In accordance with 24 CFR 50.19(c)(1) of HUD's regulations, this proposed rule does not direct, provide for assistance or loan and mortgage insurance for, or otherwise govern or regulate property acquisition, disposition, lease, rehabilitation, alteration, demolition, or new construction, or set out or provide for standards for construction or construction materials, manufactured housing, or occupancy. Therefore, this proposed rule is categorically excluded from the requirements of the National Environmental Policy Act (42 U.S.C. 4321).

Executive Order 12866

The Office of Management and Budget (OMB) reviewed this proposed rule under Executive Order 12866, *Regulatory Planning and Review.* OMB determined that this proposed rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order. Any changes made to this proposed rule as a result of that review are clearly identified in the docket file. The docket file and the Economic Analysis prepared for this proposed rule are available for public inspection between 7:30 a.m. and 5:30 p.m. in the Office of the Rules Docket Clerk, Department of Housing and Urban Development, Room 10276, 451 Seventh Street, S.W., Washington, DC 20410.

Congressional Review of Major Rules

This proposed rule is a ''major rule'' as defined by 5 U.S.C. 804(2) of the Administrative Procedure Act, and will be reviewed by the Congress at the final rule stage.

Regulatory Flexibility Act

The Secretary, in accordance with the Regulatory Flexibility Act (5 U.S.C. 605(b)), has reviewed this proposed rule before publication and by approving it certifies that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would provide a ''safe harbor'' from scrutiny under section 8 of RESPA for certain fees paid to a mortgage broker, so long as the mortgage broker complies with the requirements of the proposed rule. HUD strives to provide flexible requirements in order to reduce any burden on small entities. Small entities are specifically invited, however, to comment on whether and how this proposed rule will significantly affect them, and to provide any alternatives for less burdensome compliance.

Executive Order 12612, Federalism

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, *Federalism,* has determined that the policies contained in this proposed rule would not have substantial direct effects on States or their political subdivisions, or the relationship between the Federal Government and the States, or on the distribution of power and responsibilities among the various levels of government. As a result, the proposed rule is not subject to review under the Order. The requirements of the proposed rule are directed toward the disclosure to borrowers of fees paid to mortgage brokers.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) (Pub. L. 104–4; approved March 22, 1995), establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments, and on the private sector. This proposed rule would not impose any Federal mandates on any State, local, or tribal governments, or on the private sector, within the meaning of the UMRA.

List of Subjects in 24 CFR Part 3500

Consumer protection, Condominiums, Housing, Mortgage servicing, Mortgages, Reporting and recordkeeping requirements.

Accordingly, for the reasons set out in the preamble, part 3500 of title 24 of the Code of Federal Regulations is proposed to be amended as follows:

1. The authority citation shall continue to read as follows:

Authority: 12 U.S.C. 2601 *et seq.*; 42 U.S.C. 3535(d).

2. In § 3500.2, paragraph (b) is amended by revising the definition of ''*Mortgage broker*'' to read as follows:

§ 3500.2 Definitions.

* * * * *

(b) * * *

Mortgage broker means a person (not an employee of a lender) who brings a borrower and lender together to obtain a federally related mortgage loan, and who renders services as described in paragraphs (1) or (2) of the definition of ''*Settlement service*'' in paragraph (b) of this section. A loan correspondent meeting the requirements of the Federal Housing Administration under § 202.2(b) or § 202.15(a) of this title is a mortgage broker for purposes of this part.

* * * * *

§ 3500.7 Amended

3. In § 3500.7, the first sentence of paragraph (b) is revised by removing the phrase ''who is not an exclusive agent of the lender''.

4. In § 3500.14, paragraphs (g)(2) and (g)(3) are redesignated as paragraphs (g)(3) and (g)(4), respectively; and a new paragraph (g)(2) is added, to read as follows:

§ 3500.14 Prohibition against kickbacks and unearned fees.

* * * * *

(g)(2)(i) A direct payment from a borrower to a mortgage broker or a payment from a lender to a mortgage broker in a particular mortgage loan transaction is presumed to be legal, provided that the following requirements are met:

(A) Prior to the time of mortgage loan application or receipt of any payment, whichever is first, the mortgage broker and the prospective borrower(s) complete and execute a mortgage broker contract, in the form of appendix F to this part, as appropriate for the particular transaction.

(B) The mortgage broker represents himself or herself to the prospective borrower(s) and acts with regard to such borrower(s) in a manner consistent with the applicable terms of the mortgage broker contract executed by the mortgage broker, and the mortgage broker makes no representations to the prospective borrower(s) that are inconsistent with, and does not act in a

manner that is inconsistent with, the terms of the mortgage broker contract. A mortgage broker that indicates on the mortgage broker contract that ''I am your agent and I will get you the most favorable mortgage loan that meets your stated objectives'' is required to get the borrower the most favorable mortgage loan that meets the borrower's stated objectives from among the sources of funds from which the broker states in the mortgage broker contract that it will shop.

(C) The mortgage broker discloses its maximum total compensation along with the amounts of fees from the borrower and the lender for the transaction in accordance with appendix A to this part 3500, §§ 3500.7 and 3500.8, and the mortgage broker contract in the form of appendix F to this part and the instructions thereto.

(D) If the State in which the property (for which the mortgage loan is to be obtained in the particular transaction) is located licenses or registers mortgage brokers, the mortgage broker has a valid license or registration.

(ii) The terms of the mortgage broker contract referred to in paragraph (g)(2)(i) of this section can only be changed through mutual agreement between the mortgage broker and the borrower(s) executed in writing.

(iii) The presumption established under paragraph (g)(2)(i) of this section may be rebutted if the total compensation does not pass the following test: [Test will be published with final rule].

(iv) If the requirements in paragraphs (g)(2)(i) and (g)(2)(ii) of this section are not satisfied, or if the presumption established under paragraph (g)(2)(i) of this section is rebutted in accordance with paragraph (g)(2)(iii) of this section, payments to a mortgage broker from a lender are presumed to violate section 8(a) or 8(b) of RESPA. This presumption can be overcome if the total compensation is reasonably related to the value of the goods or services provided.

* * * * *

5. A new Appendix F to part 3500 is added, to read as follows:

Appendix F to Part 3500—Mortgage Broker Contract

BILLING CODE 4210–27–P

U.S. Department of Housing and Urban Development

DRAFT

Mortgage Broker Contract

Notice to Borrower(s): Read this contract carefully so that you make an informed choice. You are entitled to a copy of this contract. Signing this contract does not obligate you to obtain a mortgage loan through this mortgage broker, nor does it constitute mortgage loan approval.

This contract is between:

Name(s) of borrower(s): _____, the "Borrower(s)" or "you"

and

Name of mortgage broker company: _____, located at

Address of mortgage broker company: _____, who has authorized

Name of mortgage broker: _____ to enter into this contract on its behalf. In this contract, the mortgage broker company and the mortgage broker are called "I" and the entity which will provide your mortgage loan funds is called "lender."

Whom Do I Represent?

☐ **I represent you.** I am your agent and I will get you the most favorable mortgage loan that meets your stated objectives. I will shop for your loan from among _____ lender(s). For my services, I will charge you a fee, but I will not receive any fee for your mortgage loan from a lender.

☐ **I represent you, but I may receive a fee from a lender.** I am your agent and I will get you the most favorable mortgage loan that meets your stated objectives. I will shop for your loan from among _____ lender(s). For my services, I may charge you a fee and I may also receive an additional fee for your mortgage from a lender.

☐ **I do not represent you.** I am not your agent. I arrange loans from lenders and get paid by lenders and borrowers. I make mortgage loans available from

☐ one lender (name of lender): _____; or

☐ among (number) _____ lenders.

What Will I Be Paid?

For arranging your loan of [up to] $_____ at an interest rate of _____ (% rate or reference/attach ARM program), I will receive no greater than _____ points and other compensation of $ _____, so that my total compensation will be no greater than: _____ (total compensation in $ amount and/or % of loan).

My **Total Compensation** will be made up of: _____ (Fees **You Pay** me, $ amount and/or % of loan) plus _____ (Fees a **Lender Pays** me, $ amount and/or % of loan)

If you would rather pay a lower interest rate, you may pay higher upfront fees; if you pay less up front, you may pay a higher interest rate. Before you sign this contract, I can display alternatives for you.

The amounts disclosed here apply only if you qualify for this loan.

We agree to the terms of this contract. By signing below, the mortgage broker further certifies that the information in this contract is accurate and complies with all provisions of section 8 of the Real Estate Settlement Procedures Act and 24 CFR part 3500.

Borrower(s) Signature & Date:	Mortgage Broker Signature & Date:
X _____	X _____
Borrower(s) Signature & Date:	Mortgage Broker License No: (where applicable)
X _____	_____

Borrowers: Know Your Rights!

Attention Borrower:

This may be the largest and most important loan you get during your lifetime. You should be aware of certain rights before you enter into any loan agreement.

1. You have the RIGHT to shop for the best loan for you and compare the charges of different mortgage brokers and lenders.
2. You have the RIGHT to be informed about the total cost of your loan including the interest rate, points and other fees.
3. You have the RIGHT to ask for a Good Faith Estimate of all loan and settlement charges before you agree to the loan and pay any fees.
4. You have the RIGHT to know what fees are not refundable if you decide to cancel the loan agreement.
5. You have the RIGHT to ask your mortgage broker to explain exactly what the mortgage broker will do for you.
6. You have the RIGHT to know how much the mortgage broker is getting paid by you and the lender for your loan.
7. You have the RIGHT to ask questions about charges and loan terms that you do not understand.
8. You have the RIGHT to a credit decision that is not based on your race, color, religion, national origin, sex, marital status, age, or whether any income is from public assistance.
9. You have the RIGHT to know the reason if your loan was turned down.
10. You have the RIGHT to ask for the HUD settlement costs booklet "Buying Your Home."

Buying Your Home and other helpful information is available at HUD's WEB site:
http://www.hud.gov/fha/res/respa_hm.html

For other questions call 1-800-217-6970.

Instructions to Preparer:

This contract shall be used by a mortgage broker who wishes to claim the qualified safe harbor provided in 24 CFR 3500.14(g)(2). At the top of the contract, insert the name of the prospective borrower(s), the name and address of the mortgage broker's company, and the name of the mortgage broker.

Mark the applicable box from among "*I represent you*", "*I represent you, but I may receive a fee from a lender*," or "*I do not represent you*". If "*I do not represent you*" is selected, mark the applicable box corresponding to either: (1) "*one lender*" (and insert the name of the source of funds), or (2) "*among (number)* _____ *lenders*", fill in the blank.

Under "*What Will I Be Paid,*" fill in: (1) the loan amount (which may be stated in terms of an "up to" amount) and the interest rate for the loan (in the case of ARMs, attach or reference descriptive material for the particular ARM program); (2) the points and other compensation to be received by the broker for the loan; (3) the total compensation to be paid to the mortgage broker for the loan including all points and other compensation which may be paid by the borrower and/or the lender; (4) the applicable dollar amount or percentage of mortgage loan principal amount that represents the prospective borrower(s) direct fee (including points, application and any other origination fees)(if none, put "NONE"); and (5) the maximum indirect fees that may be received from the lender in connection with providing the borrower(s) a mortgage loan (if none, put "NONE").

The prospective borrower(s) and the mortgage broker are to sign and date the contract. The preparer is to fill in the mortgage broker license number where indicated or fill in "State does not license mortgage brokers" if applicable. One copy is to be provided to the prospective borrower(s); another is to be retained in the borrower's mortgage loan file. This contract is to be in clear and conspicuous type. The heading "Appendix F to Part 3500" and these *Instructions to Preparer* should not appear on the contract.

Dated: September 17, 1997.

Nicolas P. Retsinas,

Assistant Secretary for Housing-Federal Housing Administrator.

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