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October 23, 1997

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DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Chapter II

Use of Direct Final Rulemaking

AGENCY: Food and Consumer Service, USDA.

ACTION: Policy statement.

SUMMARY: The Food and Consumer Service is implementing a new rulemaking procedure to expedite making noncontroversial changes to regulations. Rules that the agency judges to be noncontroversial and unlikely to result in adverse comments will be published as ''direct final'' rules. (''Adverse comments'' are comments that suggest that a rule should not be adopted or suggest that a change should be made to the rule.) Such direct final rules will advise the public that no adverse comments are anticipated, and that unless written adverse comments or written notices of intent to submit adverse comments are postmarked within the comment period, the revisions made by the rule will, in most instances, be effective 60 days from the date the direct final rule is published in the **Federal Register**. This new policy should expedite the promulgation of noncontroversial rules by reducing the time that would be required to develop, review, clear, and publish separate proposed and final rules.

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: In the interest of implementing needed changes in program administrative procedures in a more expeditious manner, the Food and Consumer Service (FCS) plans to improve the efficiency of its regulatory procedures by employing the rulemaking technique known as ''direct final rulemaking'' to promulgate some of its rules.

The Direct Final Rule Process

Rules that the agency judges to be noncontroversial and unlikely to result in adverse comments may be published as direct final rules. The direct final rules will specify a comment period of at least 30 days. Such direct final rules will advise the public that no adverse comments are anticipated, and that unless written adverse comments or written notices of intent to submit adverse comments are postmarked within the comment period, the revisions made by the rule will, in most instances, be effective 60 days from the date the direct final rule is published in the **Federal Register**. In instances in which a waiting period other than 60 days is established, the effective date will be specified in the rule.

''Adverse comments'' means comments that suggest that the rule should not be adopted, or that suggest that a change should be made to the rule. A comment expressing support for the rule as published would obviously not be considered adverse. Neither would a comment suggesting that requirements in the rule should, or should not, be employed by FCS in other programs or situations outside the scope of the direct final rule.

In accordance with the rulemaking provisions of the Administrative Procedure Act (5 U.S.C. 553), this procedure gives the public general notice of FCS' intent to adopt a rule, and gives interested persons an opportunity to participate in the rulemaking through submission of comments. The major feature of direct final rulemaking is that if FCS receives neither written adverse comments nor written notices of intent to submit adverse comments that are postmarked within the comment period, the rule will, in most instances, be effective 60 days from the date the direct final rule is published in the **Federal Register**.

If FCS receives timely adverse comments or notices of intent to submit such comments, a notice of withdrawal of the direct final rule will be published in the **Federal Register** and a proposed rule will be published establishing a comment period for the rulemaking action. Following the close of the comment period, the comments will be considered, and a final rule addressing the comments will be published.

As discussed above, absent timely adverse comments or notices to submit such comments, the rule will, in most instances, become effective 60 days following the rule's publication. However, FCS will publish a notice in the **Federal Register** indicating that no adverse comments were received on the direct final rule, and confirming that it is effective on the date indicated in the direct final rule.

In some instances, FCS may choose to publish a document in the proposed rules section of the same issue of the **Federal Register** proposing approval of and soliciting comments on the same provisions contained in the direct final rule. In such instances, if timely written adverse comments or written notices of intent to submit adverse comments are received in response to the direct final rule, the direct final rule will be withdrawn and the comments received will be addressed, along with comments received in response to the proposed rule, in a subsequent final rule.

Determining When To Use Direct Final Rulemaking

Not all FCS rules are good candidates for direct final rulemaking. Many FCS rules address more complex issues for which the public may have a variety of opinions to offer on the need for the rule, or alternative methods for achieving the intended results. In these cases, FCS plans to continue to publish a proposed rule, and establish a comment period to allow submission of comments, followed by a final rule addressing the comments.

FCS plans to use direct final rulemaking on a case-by-case basis when we do not anticipate adverse comments. The decision to use direct final rulemaking for a rule would be based on our experience with similar rules. If similar rules were published in the past as proposals that did not elicit adverse comments, we would consider publishing such rules in the future as direct final rules.

Dated: October 15, 1997.

Yvette S. Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 97–28062 Filed 10–22–97; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Food and Consumer Service

7 CFR Part 247

RIN 0584–AC60

Commodity Supplemental Food Program—Caseload Assignment

AGENCY: Food and Consumer Service, USDA.

ACTION: Direct final rule.

SUMMARY: This direct final rule amends provisions of the Commodity Supplemental Food Program Regulations to provide for the allocation of a single caseload to State agencies each year, instead of the allocation of two separate caseloads, one for women, infants, and children, and one for the elderly. This rule will permit State agencies, and the local agencies with which they have signed agreements, to utilize this single caseload to serve low-income women, infants, and children and elderly populations as needed, provided they give priority in service to women, infants, and children over the elderly. This rule will also streamline and simplify program management at the State and local level.

DATES: This rule will become effective on December 8, 1997, unless the Department receives written adverse comments or notices of intent to submit adverse comments postmarked on or before November 24, 1997. If adverse comments within the scope of this rulemaking are received, the Department will publish timely notification of withdrawal of this rule in the **Federal Register**.

ADDRESSES: Comments should be sent to 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. Comments in response to this rule may be inspected at 3101 Park Center Drive, Room 502, Alexandria, Virginia during normal business hours (8:30 a.m. to 5 p.m., Mondays through Fridays).

FOR FURTHER INFORMATION CONTACT: Lillie Ragan at the above address or telephone (703) 305–2662.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This direct 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 (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. While procedures in this rulemaking will affect State and local agencies that administer the Commodity Supplemental Food Program, any economic effect will not be significant.

Unfunded Mandate Reform Act of 1995

Title II of the Unfunded Mandate Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, FCS generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, or tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires FCS to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, more cost-effective or lease burdensome alternative that achieves the objectives of the rule.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, and tribal governments or the private sector of $100 million or more in any one year. Thus, this direct final rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

This program is listed in the Catalog of Federal Domestic Assistance under 10.565, and is 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

This final rule reflects no new information collection requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3507). The existing recordkeeping and reporting requirements for 7 CFR part 247, which were approved by OMB under control number 0584–0293, will not change as a result of this final rule.

Executive Order 12988

This direct 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

The primary purpose of the Commodity Supplemental Food Program (CSFP) is to provide nutritious commodities and nutrition education to low-income pregnant, postpartum, and breastfeeding women, infants, and children up to the age of six, to help meet their dietary needs at a critical life stage of growth and development. This has been the program's basic goal since the initiation of a ''supplemental food program'' for pregnant and breastfeeding women and infants in 1968, utilizing funds appropriated for child feeding programs, and its subsequent designation as the ''Commodity Supplemental Food Program'' in the Food and Agriculture Act of 1977 (Pub. L. 95–113), which added sections 4 and 5 to the Agriculture and Consumer Protection Act of 1973 (Pub. L. 93–86). However, legislation expanded the eligible population in 1981 and 1982 to include elderly persons under a pilot project. With the passage of the Food Security Act of 1985 (Pub. L. 99–198) authority to provide program benefits to the low-income elderly was extended to all State agencies that had resources remaining after providing benefits to all eligible applicant women, infants, and children. Thus, while women, infants, and children retained priority in service, the elderly were established as a second eligible population group in the program. This requirement is found

in section 5(g) of the Agriculture and Consumer Protection Act of 1983 (7U.S.C. 612c note).

The Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) also provides benefits (in the form of food vouchers) to pregnant, breastfeeding, and postpartum women, infants and children, with modest differences in categorical eligibility requirements from CSFP. In WIC, women are eligible up to six months postpartum, compared to 12 months in CSFP; and children are eligible up to five years of age in WIC, and up to six years in CSFP. WIC participation increased significantly during the period 1988–1996, from 3.6 million to approximately 7.2 million—an average increase of 450,000 per year. The increased scope of the WIC Program contributed to a decline in participation of women, infants, and children in CSFP, as persons eligible for both programs may only participate in one of them. From 1993 to 1996, participation of women, infants, and children in CSFP declined by 40 percent, while elderly participation in that period increased by 35.4 percent. By fiscal year 1996, elderly participation in CSFP averaged 219,281 per month, or 61.5 percent of total program participation.

Resources are allocated to participating State agencies in CSFP in the form of caseload, which is the monthly average number of participants a State agency is authorized to serve over a specified 12-month period (the caseload cycle). State agencies' caseload allocations each year are based on program participation from the previous year, and requests to expand the program. In implementing the authority to serve elderly pursuant to the Food Security Act of 1985, the Department provided, through program regulations, for the assignment of an elderly caseload to State agencies, separate from the assignment of the women, infants, and children caseload. While State agencies may not serve more elderly persons than their assigned elderly caseload level, they may request a conversion of caseload slots for women, infants, and children that are unutilized during the caseload cycle to service for the elderly, if State agencies have more elderly applicants seeking program benefits. As evidence that the conversion request will not restrict the participation of women, infants and children, State agencies may include evidence of outreach efforts conducted by the State and/or local agency to promote and facilitate service to eligible women, infants, and children in the service area. To further ensure that this priority group is adequately served, current regulations do not permit submission of caseload conversion requests until 90 days after the assignment of caseload.

Allocation of separate caseloads for the two population groups served in CSFP, and the caseload conversion requirement, serve the purpose of protecting program resources for women, infants, and children, while allowing unused resources to be redirected for use by the elderly. However, with the decline in participation of women, infants, and children, and the increased participation of the elderly in CSFP, the caseload restrictions, and caseload conversion requirement, have become obstacles to the efficient use of program resources to serve States' needy populations. Until caseload conversion requests can be made, and acted upon, caseload slots allocated to State agencies for women, infants, and children may remain unused. State and local agencies need more flexibility in caseload management to allow them to fill caseload slots throughout the caseload cycle.

In order to provide State agencies with greater flexibility in caseload management, this direct final rule amends regulatory requirements in part 247 to assign participating State agencies a single caseload, instead of separate women-infants-children, and elderly, caseloads. Local agencies within States may serve women, infants, and children, and the elderly, on a first-come, first-served basis, up to the single caseload limit assigned to them by the State agency, but must continue to meet the priority requirements in § 247.7(b)(2)—i.e., if eligible women, infants, and children are waiting to be served, the next available caseload slots must be utilized to serve them.

The Department will continue to transform all funds available for CSFP commodity purchases each year into caseload, and to allocate all available caseload among the State agencies. Procedures for establishing total available caseload are not governed by legislation or regulations and will be modified only to the minor extent necessary to reflect the shift from two caseloads to one. In accordance with sections 5(a) and (1) of the Agriculture and Consumer Protection Act of 1973, the Department will make 20 percent of the annual appropriation and 20 percent of any unspent food funds carried over from the previous year available to State agencies in the form of administrative funds. The Department will convert remaining funds to caseload based on estimates of the percentage of total participation to be accounted for by each subgroup—e.g., pregnant and breastfeeding women, the elderly—and projections of the average cost of foods to be taken by participants in each subgroup. These data will be used to compute a single, blended average cost of food per participant per year, and that cost will be divided into available food funds to yield total CSFP caseload.

The amendments to the regulatory requirements addressing caseload assignment and the State plan of operation are discussed in more detail below. The Department invites comments only on the regulatory amendments in this rulemaking, which establish a single caseload for the program, and not on any other sections of program regulations. The Department considers the regulatory amendments in this direct final rule to be noncontroversial and unlikely to elicit adverse comments. In order for the Department to issue CSFP caseload by the December 1, 1997 deadline, as required by § 247.10(a), this rule will be effective on December 8, 1997, rather than on a date conforming with the 60-day time period generally provided to effectuate direct final rules.

Caseload Assignment

Section 247.10 of the current regulations describes the procedures for assigning caseload to State agencies each year, the procedures and restrictions for requesting caseload conversion, and the use of elderly caseload to serve women, infants, and children. The transition to a single caseload assignment in this final rule requires the revision of paragraph (a)(2) of this section, which addresses the specific order and manner in which caseload assignments are made, and the removal of paragraphs (a)(3), (a)(4), and (a)(5) of this section, which address caseload conversion—not necessary in a single caseload system—and the use of elderly caseload slots. As part of the amendment of paragraph (a)(2), the method for assigning caseload to State agencies requesting expansion of service to women, infants, and children is revised. The present assignment of expansion caseload to State agencies based on their capacity to serve their categorically eligible women, infants, and children in WIC and CSFP is overly complicated, and no longer necessary, as the expansion of the WIC Program has resulted in a much more extensive coverage of the target population. Furthermore, reliable data on this capacity are no longer available. Hence, the Department is revising this method to bring it into conformance with the means of addressing expansion requests for the elderly.

Additionally, all references to caseload cycles beginning on specific dates are removed, since these cycles have long since passed.

In assigning caseload, the Department will continue to attach a higher priority to requests to expand service for women, infants, and children over requests to expand service for the elderly. Although State agencies will always be allocated caseload that is not designated for use by a particular population group, if they request expansion caseload to serve additional women, infants, and children, they will be expected to promote and facilitate use of such caseload for the intended purpose, for example, by assigning the caseload to areas where women, infants, and children are underserved by the WIC Program, and by intensifying outreach efforts to this population group in areas where the additional caseload is assigned. In States which currently do not operate the program, requests for initiation of program service to women, infants, and children will likewise be considered ahead of requests to initiate service to the elderly.

Below, the primary features of each of the steps in the current order of caseload assignment, as delineated in § 247.10(a)(2), are described, together with any changes that this rulemaking makes to that step. As at present, caseload assignment will proceed through as many of the steps in the process as available resources permit.

Under paragraph (a)(2)(i), State agencies receive caseload for the three elderly pilot projects in Detroit, New Orleans, and Des Moines, equal to December 1985 levels. This remains unchanged.

Under paragraph (a)(2)(ii), currently participating State agencies receive caseload, first for women, infants, and children, and then for elderly persons, based on participation in one of three time periods in the previous year, but not to exceed the caseload allocations for each of these two groups in the preceding caseload cycle. This step is revised to assign to currently participating State agencies a single caseload based on total participation of women, infants, and children, and the elderly in one of the three time periods in the previous year, but not to exceed total caseload assigned to State agencies in the preceding caseload cycle. As at present, State agencies entering their second caseload cycle of program service will receive caseload equal to the level assigned for their first cycle of program service, and not in accordance with first-year participation levels. However, the distinction between women, infants, and children, and elderly caseload will cease to be made.

Under paragraph (a)(2)(iii), requests from currently participating State agencies for expansion caseload for women, infants, and children are considered. As delineated in paragraph (a)(2)(iii)(A), a State's participation level for this group must equal 90 percent of assigned caseload for any of three time periods in the previous year in order for the State to be considered for expansion caseload. If the State meets this criterion, expansion caseload is assigned based on the State's capacity to serve its categorically eligible women, infants, and children in WIC and CSFP, and in an amount that will increase the number of this population served in the State to a specific level, as delineated in paragraphs (a)(2)(iii) (B) and (C). First, this rulemaking revises paragraph (iii) to add a new sentence stating that expansion requests to increase service to women, infants, and children will receive priority over expansion requests to increase service to the elderly, in accordance with program priorities established in § 247.7(b)(2). Second, a revised § 247.10(a)(2)(iii)(A) addresses expansion requests for either women, infants, and children, or the elderly, utilizing the 90 percent participation requirement for both populations together. Finally, paragraph (a)(2)(iii)(B) is revised to address expansion requests for service to women, infants, and children in the same manner as presently utilized for fulfilling expansion requests for the elderly: i.e., each State agency requesting expansion caseload for women, infants, and children will receive an equal share of the available caseload, or the amount that FCS determines the State agency needs and can effectively manage, whichever is less. A new paragraph (a)(2)(iii)(C) addresses the distribution of caseload for expanded service to the elderly, which is unchanged from the present procedure, as currently described in paragraph (a)(2)(iv)(B).

Under paragraph (a)(2)(iv), requests from currently participating State agencies to initiate or expand service to the elderly are considered. As delineated in paragraph (a)(2)(iv)(A), a State's participation level for this group must equal 90 percent of assigned caseload for any of three time periods in the previous year, in order to be considered for expansion caseload. If State agencies meet this criterion, expansion caseload is assigned in equal amounts to State agencies, or in amounts that FCS determines that State agencies need and can effectively manage, whichever is less, as delineated in paragraph (a)(2)(iv)(B). Paragraph (a)(2)(iv)(C) states that, if State agencies' shares exceed their approved requests, the excess amount is redistributed among State agencies whose allocations did not meet their approved requests. This rulemaking removes paragraph (a)(2)(iv), since the revised paragraph (a)(2)(iii) establishes uniform procedures which cover expansion requests for the elderly, as well as women, infants, and children.

Under paragraph (a)(2)(v), requests from State agencies to initiate service to women, infants, and children (i.e., those States not presently participating in CSFP), are considered, and caseload assigned. Paragraph (a)(2)(v)(A) utilizes the same means of determining a State agencies' capacity to serve its potentially eligible women, infants, and children, and for assigning caseload based on this determination, as described in paragraphs (a)(2)(iii) (B) and (C). State agencies may not request to serve the elderly in their initial year of service; if they wish to serve the elderly, they must wait for the following caseload cycle, as described in paragraph (a)(4) of this section, which, as previously mentioned, is removed. This rulemaking redesignates paragraph (a)(2)(v) as (a)(2)(iv), and revises it to address requests to initiate service to elderly persons, as well as women, infants, and children. A new sentence is added stating that requests to initiate service to women, infants, and children shall receive priority over requests to initiate service to the elderly, in accordance with program priorities established in § 247.7(b)(2). Section 247.10(a)(2)(v)(A) is revised to utilize the same means of caseload assignment described above in revised paragraphs (a)(2)(iii) (B) and (C).

Subparagraph (B) is removed. State agencies are no longer restricted to serving only women, infants, and children in their first year of operations.

Section 247.24, which refers to temporary caseload assignment procedures that were applied to a previous caseload cycle, is removed, as these procedures are no longer relevant.

State Plan of Operation

In accordance with § 247.5, before the beginning of the fiscal year, State agencies submit to FCS a plan describing the means by which the program will be operated and administered. Included in the information that State agencies must submit, which is detailed in this section, are caseload conversion requests, plans for caseload utilization, outreach activities, and documentation of data supporting requests to serve the elderly. Revisions to the regulatory

requirements for the submission of this information in the State plan are described below.

Currently, under § 247.5, State agency requests to convert unfilled women, infants, and children caseload slots to serve the elderly are made during the fiscal year as an amendment to the State plan, and must include documentation supporting the need for elderly service in the proposed service area, and assurances that caseload conversion may be accomplished without restricting service to women, infants, and children in the service area. The assignment of a single caseload to State agencies, in this rule, makes caseload conversion, and the attendant documentation, unnecessary. Hence, language in the introductory text of § 247.5, and paragraph (a)(16) of that section addressing caseload conversion, its timing, scope, and attendant documentation, are removed.

Section 247.5(a)(4), which addresses a description of plans for conducting outreach to reach maximum caseload, is amended to define the objective of outreach activities as ensuring that women, infants, children, and elderly persons are aware of program benefits, without the present language referring to reaching maximum caseload. Since, by this rulemaking, caseload may be utilized to serve either population group, it is important to specify the two population groups that should be targeted in outreach activities. In addition, although reaching maximum caseload is an objective that this rulemaking is designed to help State agencies achieve, it is not a regulatory requirement, as current language implies.

Section 247.5(a)(15) currently requires that State agencies wishing to serve the elderly provide documentation, as part of the State plan, describing the extent of need for elderly service in the proposed service area. Since this rule is intended to provide State agencies with the flexibility to utilize a single assigned caseload to serve their needy elderly without the need to request caseload conversion or provide attendant documentation, this section is amended to require such documentation only of State agencies wishing to initiate service to the elderly, or requesting expansion caseload to serve the elderly. Additionally, paragraph (a)(15)(i) is revised to remove the requirement that demographic statistics be included as part of the supporting documentation. Lastly, the language in paragraph (a)(15)(ii) concerning descriptions of how a State agency will meet the needs of homebound elderly is clarified, without changing its meaning.

List of Subjects in 7 CFR Part 247

Agricultural commodities, Food assistance programs, Infants and children, Maternal and child health, Public assistance programs, nutrition, women, aged.

Accordingly, 7 CFR Part 247 is amended as follows.

PART 247—COMMODITY SUPPLEMENTAL FOOD PROGRAM

1. The authority citation for part 247 is revised to read as follows:

Authority: Sec. 5, Pub.L. 93–86, 87 Stat. 249, as added by sec. 1304(b)(2), Pub.L. 95–113, 91 Stat. 980 (7 U.S.C. 612c note); sec. 1335, Pub.L. 97–98, 95 Stat. 1293 (7 U.S.C. 612c note); sec. 209, Pub.L. 98–8, 97 Stat. 35 (7 U.S.C. 612c note); sec. 2(8), Pub.L. 98–92, 97 Stat. 611 (7 U.S.C. 612c note); sec. 1562, Pub.L. 99–198, 99 Stat. 1590 (7 U.S.C. 612c note); sec. 101(k), Pub.L. 100–202; sec. 1771(a), Pub.L 101–624, 101 Stat. 3806 (7 U.S.C. 612c note); sec. 402(a), Pub.L. 104–127, 110 Stat. 1028 (7 U.S.C. 612c note).

2. In § 247.5:

a. The fifth, sixth, and seventh sentences of the introductory text of paragraph (a) are removed;

b. Paragraphs (a)(4) and (a)(15) are revised;

c. Paragraph (a)(16) is removed.

The revisions read as follows:

§ 247.5 State agency plan of program operation and administration.

(a) * * *

(4) A description of any plans for conducting outreach to ensure that all women, infants, and children, and elderly persons are aware of program benefits.

* * * * *

(15) If a State agency wishes to initiate service to the elderly, or request expansion caseload to serve the elderly, a description of plans for providing program benefits to elderly persons within the State during the caseload cycle. Such description shall include—

(i) An identification of the elderly population to be served, including documentation of the extent of need in the proposed service area; and

(ii) A description of the means by which the State agency will meet the needs of the homebound elderly.

* * * * *

3. In § 247.10:

a. Paragraph (a)(2) is revised;

b. Paragraphs (a)(3), (a)(4), and (a)(5) are removed.

The revision reads as follows:

§ 247.10. Caseload assignment and administrative funding.

(a) * * *

(2) To the extent that funds are available, FCS shall assign caseload to State agencies in the following order.

(i) State agencies for the three elderly feeding projects in Detroit, New Orleans, and Des Moines shall be assigned caseload equal to the level of participation for each project in December 1985.

(ii) Currently participating State agencies, except those entering their second cycle of program service, shall receive caseload in amounts equal to the greatest of their total participation of women, infants, and children, and elderly persons (except for caseload equal to the December 1985 level of participation at the three elderly feeding projects) during September, or monthly average participation for the period July through September, or for the prior fiscal year; provided, however, that a State agency shall not receive caseload under this paragraph in excess of caseload assigned for the preceding caseload cycle. State agencies entering their second caseload cycle of program service shall receive caseload equal to the caseload level assigned for their first cycle of program service.

(iii) Requests from currently participating State agencies to expand service to women, infants, and children, and the elderly, shall be addressed in the following manner. Expansion requests to increase service to women, infants, and children shall receive priority over expansion requests to increase service to the elderly.

(A) State agencies shall be eligible to receive expansion caseload only if, during the preceding September, the period July through September, or the prior fiscal year, their monthly average participation equaled at least 90 percent of their assigned caseload level for the preceding caseload cycle.

(B) State agencies requesting expansion caseload to increase service to women, infants, and children shall be assigned the lesser of an equal share of available caseload or the amount of expansion caseload FCS has determined that the State agency needs and can effectively manage. If any State agencies' shares exceed their approved requests, the excess caseload shall be divided equally among State agencies whose approved requests exceed their shares.

(C) State agencies requesting expansion caseload to increase service to the elderly shall be assigned the lesser of an equal share of available caseload or the amount of expansion caseload FCS has determined that the State agency needs and can effectively manage. If any State agencies' shares exceed their approved requests, the

excess caseload shall be divided equally among State agencies whose approved requests exceed their shares.

(iv) Requests from State agencies to initiate program service for women, infants, and children, and the elderly shall be addressed in the following manner. Requests to initiate service to women, infants, and children shall receive priority over requests to initiate service to the elderly.

(A) State agencies with approved State plans incorporating requests for program initiation to provide service to women, infants, and children shall be assigned caseload in the same manner described in paragraph (a)(2)(iii)(B) of this section.

(B) State agencies with approved State plans incorporating requests for program initiation to provide service to the elderly shall be assigned caseload in the same manner described in paragraph (a)(2)(iii)(C) of this section.

* * * * *

§ 247.24 [Removed]

4. Section 247.24 is removed.

Dated: October 15, 1997.

Yvette S. Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 97–28060 Filed 10–22–97; 8:45 am]

BILLING CODE 3410–30–U

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 930

[Docket No. FV97–930–1 IFR]

Tart Cherries Grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin; Assessment Rate and Establishment of Late Payment and Interest Charges on Delinquent Assessments

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Interim final rule with request for comments.

SUMMARY: This interim final rule establishes an assessment rate for the 1997–98 and subsequent fiscal periods to cover expenses incurred by the Cherry Industry Administrative Board (Board) under Marketing Order No. 930. This rule also establishes an interest rate and late payment charge on delinquent assessments owed by handlers under the tart cherry marketing order. The Board is responsible for local administration of the marketing order. Authorization to assess tart cherry handlers will enable the Board to incur expenses that are reasonable and necessary to administer the program. The interest rate and late payment charges will contribute to the efficient operation of the program by ensuring adequate funds are available to cover budgeted expenses incurred under the marketing order. The 1997–98 fiscal period covers the period July 1, through June 30.

DATES: Effective on October 24, 1997. Comments received by December 22, 1997 will be considered prior to issuance of a final rule.

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

FOR FURTHER INFORMATION CONTACT: Patricia A. Petrella, Marketing Specialist, and Kenneth G. Johnson, Regional Manager, DC Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491, Fax (202) 720–5698. Small businesses may request information on compliance with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Division, AMS, USDA, P.O. Box 96456, room 2525–S, Washington, DC 20090–6456; telephone (202) 720–2491; Fax (202) 720–5698.

SUPPLEMENTARY INFORMATION: This rule is issued under Marketing Agreement and Order No. 930 (7 CFR part 930), regulating the handling of tart cherries grown in the States of Michigan, New York, Pennsylvania, Oregon, Utah, Washington, and Wisconsin, hereinafter referred to as the ''order.'' The marketing agreement and order are effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

This rule has been reviewed under Executive Order 12988, Civil Justice Reform. Under the marketing order now in effect, tart cherry handlers are subject to assessments. Funds to administer the order are derived from such assessments. It is intended that the assessment rate as issued herein will be applicable to all assessable tart cherries beginning July 1, 1997, and continuing until amended, suspended, or terminated. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

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

The tart cherry marketing order in section 930.31 provides that one of the duties of the Board is to submit to the Secretary a budget for each fiscal period, prior to the beginning of such period, including a report explaining the items appearing therein and a recommendation as to the rates of assessments for such period. The recommendations concerning the proposed assessment rate are discussed in a public meeting. Thus, all directly affected persons have an opportunity to participate and provide input.

At its meeting on January 8 and 9, 1997, the Board unanimously recommended expenditures of $650,000, and an assessment rate of $0.0025 per pound of tart cherries handled during the 1997–1998 crop year and subsequent crop years. The recommended expenditure figure covers expenses for the 1997–98 fiscal period, as well as expenses incurred in connection with the start-up of the program beginning on January 1, 1997, when the first public meeting of the newly formed Board took place. The tart cherry marketing order became effective on September 25, 1996. The Department has approved the Board's 1997–98 budget of expenses. Until assessment income is available, the Board may obtain funds through a lending institution to fund Board operations.

The Board will begin to assess handlers as soon as possible after the effective date of this interim final rule, and all assessments will be due to the Board office by November 30, 1997, for this season only. Future assessment payments will be due to the Board office by October 1. Major expenditures recommended by the Board for the 1997–98 fiscal period, ending June 30, 1998, and expenditures for the prior six months, are $25,000 for interest, $175,000 for Board meeting expenses, $150,000 for salaries, $100,000 for administration, and $200,000 for compliance. For the six month period from January 1, 1997, through June 30, 1997, the expenses were $59,000.

The assessment rate recommended by the Board was derived by dividing anticipated expenses by expected shipments of tart cherries. Tart cherry shipments for the 1997–98 crop year were estimated at 260 million pounds and were projected to provide $650,000 in assessment income which, along with interest income, should have been adequate to cover budgeted expenses. At this time, actual production figures are available. Crop production for the 1997–98 season is now projected at 278,989,653 pounds. Assessment income, based on this crop, will be adequate to cover this year's expenses, even with the reduced assessment rate for juice, juice concentrate and puree. Funds in any reserve will be kept within the current approximately one year's operational expenses permitted by the order.

This interim final rule establishes an interest rate of 12 percent per annum and a late payment charge equal to 10 percent of the unpaid balance of the assessment amount due. The interest rate will be applied to any assessment not paid within 30 days of the October 1 due date. However, the October 1 date will be extended to November 30, 1997, for the 1997–98 crop year only. The late payment fee on the unpaid assessment balance by a handler will be assessed 90 days after the October 31 due date for this season and October 1 for future seasons.

Section 930.41(a) of the marketing order provides for the payment by handlers of a pro-rata share of the cost of administering the program under the order. The payment is in the form of a uniform assessment rate applied to each handler's cherry acquisitions. In addition, section 930.41(f) provides that assessments will be calculated on the basis of pounds handled provided that the formula adopted by the Board and approved by the Secretary for determining the rate of assessment will compensate for differences in the number of pounds of cherries utilized for various cherry products and the relative market values of such cherry products.

Section 930.41 also provides that if a handler does not pay an assessment within the time prescribed by the Board, the assessment may be subject to an interest or late payment charge, or both.

A new section 930.141, specifies that assessments be subject to an interest charge of 1 percent per month on any unpaid assessment balance beginning 30 days from the due date prescribed by the Board. The Board requires that all assessments be paid by October 1 of each crop year. However, assessments will be due on November 30, 1997, for the 1997–98 season only. The October 1 date specified herein will apply to all future seasons.

Assessments are the main source of funds to pay Board expenses. The failure of handlers to pay assessment obligations promptly results in added expense and operational problems for the Board. Authority was placed in the order to levy interest and late payment charges on delinquent assessments. The interest rate and late payment charges in this interim final rule are similar to those established under other marketing orders. To attempt to collect delinquent assessments, the Board will incur the added expense of sending out additional invoices and contacting each delinquent handler by phone, in person, or by fax. Nonpayment or late payment of assessments hampers the operation of the Board.

Handlers will have ample time to pay their assessments and avoid incurring the additional charges. Any amount paid by the handler will be credited upon receipt in the Board office.

Interest and late payment charges will provide incentive for handlers to remit assessments in a timely manner, with the intent of creating a fair and equitable process among all industry handlers. It will not impose any costs on handlers who pay their assessments on time, and will contribute to the efficient administration of the program.

In its deliberations, the Board discussed lower rates when recommending the interest rate and late payment charge but decided that prompt payment of assessments by handlers was crucial to the operation of the program. Therefore, the Board recommended an interest rate and late payment charge deemed to be sufficient to serve as an incentive to handlers to be prompt with their payment of assessments.

A proposed rule concerning this action was issued by the Department on June 27, 1997, and published in the Federal Register on Thursday, July 3, 1997 (62 FR 36020). The rule was made available through the Internet by the Office of the Federal Register. A 30-day comment period, which ended on August 4, 1997, was provided to allow interested persons to respond to the proposal.

Two comments were received during the comment period in response to the proposal. The commenters, representing a tart cherry grower—handler, and an industry organization, opposed the proposed rule.

The first commenter urged the Department to reject the proposed rule because the commenter is concerned that the Board may be improperly constituted at this time and unable to administer any program under 7 CFR part 930 in a legitimate manner. The commenter stated that some of the Board members' participation in certain sales constituencies, should be addressed. The commenter further stated that no decision recommended to the Secretary by the Board should be finalized or be allowed to be imposed upon the industry in an interim final fashion.

The Board was properly nominated in accordance with Department procedures, and selected on December 20, 1996. The Board recommended an assessment rate and late payment and interest charge at its January 1997 meeting. At that time, one of the sales constituencies in question had not yet been established. Concerns which have been raised about the constituency and questions about the eligibility of certain members to serve on the Board are currently under review by the Department.

The second commenter raised eight issues in his comment. First, the commenter stated that the public and the industry cannot respond effectively to the proposed assessment without knowing how the money will be used, and that it is impossible to determine, for example, whether the money will be spent in conformity with the marketing order. The commenter also stated that the fact that the proposed assessment rate is formulated and discussed at a public meeting and that affected persons have an opportunity to participate and provide input is irrelevant.

The proposed rule contained a description of the major expenditures recommended by the Board which is repeated here. The Board's recommendation regarding such expenditures are subject to approval by the Department. Furthermore, the Department has oversight responsibility over marketing order committees to ensure that marketing order funds,

collected through handler assessments, are spent in accordance with order provisions. The public is provided the opportunity to comment on whether the assessment rate is at an appropriate level to fund the activities of the Board. In addition, since all meetings are opened to the public, interested persons can raise concerns and such concerns can be discussed in an open forum. This allows another opportunity for public input in this rulemaking procedure.

Second, while recognizing that the assessment is subject to legal challenge and judicial review, it is the commenters view that, under the regulations, handlers should receive a refund if their challenge is successful. The commenter asked that the proposal be modified to provide for such refund and to ban interest and late payments (which the commenter called a ''tax'') while a good faith legal challenge is pending.

The Act provides that handlers regulated by marketing orders pay their pro-rata share of expenses, as the Secretary may find are reasonable and likely to be incurred during a specified period for the maintaining and functioning of the marketing order. It does not impose any requirements concerning refunds. Furthermore, late charges and interest payments are not a tax and are common in many of USDA's commodity programs.

Commenter's third point in opposition to the rule was that it cannot be made retroactive to cherries already received by handlers. The assessments imposed by the rule are consistent with provisions of the order which provide for the payment of assessments on cherries handled during a specified fiscal period to cover costs of administering the program. The order further provides that, in the event it is found that an increase in the assessment rate is needed to cover expenses, such increase would apply to all cherries handled during the period. Therefore, retroactivity is not at issue in this rulemaking.

The fourth issue raised by the commenter stated that the Department has not published sufficient rules and regulations designed to implement this new marketing order. Therefore, the industry cannot judge whether or not the program is being administered in accordance with the order so that it should be supported with assessments. It was also the commenter's view that there was ample time to develop regulations through notice and comment rulemaking and therefore interim final rules should not be used.

The Board has worked diligently in discussing and formulating rules and regulations to implement authorities under this new marketing order. It met January, February, March, June and September of 1997, and recommended rulemaking actions at various meetings. However, since this is a new program, these recommendations needed to be discussed at more than one meeting, and in some instances, modified. Therefore, there was not as much time as the commenter suggests to develop and publish the various rules necessary to administer the program.

The fifth issue raised by the commenter concerns the make-up of the Board. The commenter states that most Board members have become disqualified because of their membership in two cooperatives, and that no corrective action has been taken to resolve this matter.

The Department is aware of this issue and it is currently under review. As soon as such review is completed, the Department will take any action which is deemed necessary.

The sixth issue raised by the commenter stated that the proposal provides for assessments that will continue from season to season. The commenter stated that this is improper especially since this is a new program. The industry may not wish to fund succeeding years' budgets at this level, especially if volume controls are not used, or may wish to delete certain budget items in their entirety.

As previously stated in the proposed rule, this assessment rate established by this interim final rule will continue in effect until the Board recommends a change to the assessment rate or the Department sees a need for such a change. If volume regulations are not implemented during a crop year, the Board would be asked to consider the impact of that on its budget and whether a decrease in the assessment rate is warranted. The Department would then issue a proposed rule recommending establishment of a new assessment rate for the tart cherry industry.

Seventh, the commenter stated that the proposal improperly assumes that the Secretary will impose volume control, and includes at least $200,000 to fund such program. No such decision has been made. The commenter further states that no proposed rule regarding volume regulation has ever been placed in the **Federal Register**. The commenter asserted that the proposed assessment should be reduced to reflect the lack of any volume control during the 1997–98 season.

The Board formulated its budget in January 1997 and allocated funds for compliance if volume regulation were recommended and imposed. In the absence of volume control, appropriate adjustments can be made to the budget.

Finally, the commenter stated that the 12 percent interest rate and 10 percent late payment penalty are excessive and unreasonable. At most, the interest charged should not exceed the marginal rate charged to the Board for any actual borrowings needed to meet current needs. The commenter further stated that the final rule should include a grace period for handlers who are in good faith experiencing financial difficulty. In addition, handlers should not have to pay assessments until cherries are sold.

As previously stated, the Board reviewed the interest rate and late payment charge and decided that it had to be large enough to be a penalty and to encourage handlers to pay their assessments on time. The rates established are similar to those established under other marketing orders. Handlers will have until October 1 to pay their assessments which is adequate time for handlers to plan for such payment. Since handlers are assessed uniformly, the due date should be uniform across the industry. The Board cannot wait for payment of assessments while handlers are selling their cherries at various times.

Accordingly, no changes will be made to the proposed rule, based on the comments received. However, the Department is issuing this interim final rule to provide an additional opportunity for the public to comment on the modification discussed below.

The order provides that when an assessment rate based on the number of pounds of cherries handled is established it should provide for differences in relative market values for various cherry products. The discussion of this provision in the order promulgation record indicates that proponents testified that high value products such as frozen, canned, or dried cherries would be assessed one rate while cherries used to make low value products such as juice, juice concentrate or puree would be assessed at one half that rate. Since the $0.0025/pound assessment proposed by the Board does not reflect such differences in product value, the rule, as previously proposed, will be modified and the $0.0025/pound assessment rate will be applicable to cherries used in products other than juice, juice concentrate, or puree. The USDA is modifying this action to reflect the intent of the order by setting a rate of $0.0125 per pound for cherries used in juice, juice concentrate or puree. This rate is based on the evidence presented by the proponents of the order. Interested persons will have the opportunity to

comment on this modified rule. If it is determined the assessment rates do not generate sufficient funds to cover expenses, the order authorizes the Secretary to increase the rate any time during or after the fiscal period. The Department and the Board will continue to study this matter to see if any other products should have different assessment rates.

Data from the National Agricultural Statistics Service (NASS) states that for 1996, utilization for juice, wine or brined uses was 8.0 million pounds for all districts covered under the marketing order. The total processed amount for tart cherries for the 1996 crop year was 256.1 million pounds. Juice, wine, or brined represents about 3 percent of the total processed crop. Data for this season is not available at this time. However, based on the data from the previous season, it seems that juice, juice concentrate and puree is a very small percentage of the crop. Therefore, the modification discussed above should have an insignificant effect on the monies collected for assessments this season. As previously discussed the Board could recommend an increase in the assessment rate if such rate does not generate the funds needed for this season.

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

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

There are approximately 1,220 producers of tart cherries in the production area and approximately 40 handlers subject to regulation under the marketing order. Small agricultural producers have been defined by the Small Business Administration (13 CFR 121.601) as those having annual receipts less than $500,000, and small agricultural service firms are defined as those whose annual receipts are less than $5,000,000. The majority of tart cherry producers and handlers may be classified as small entities.

This rule establishes an assessment rate for the 1997–98 and subsequent fiscal periods to cover expenses of the Board at $0.0025 per pound of tart cherries used in the production of tart cherry products other than juice, juice concentrate and puree, and $0.0125 per pound for juice, juice concentrate and puree. The Board unanimously recommended expenditures of $650,000 for expenses incurred during the 1997–98 fiscal period as well as for those incurred during the start-up period beginning January 1, 1997. From January 1, 1997, through June 30, 1997, the expenses for this six month period was $59,000. The expenses for the 1997–98 fiscal period are projected at $591,000. Tart cherry shipments for the year were estimated at 260 million pounds, which would have provided $650,000 in assessment income (260,000,000 pounds at $0.0025 per pound) and would have been adequate to cover this year's expenses. At this time, actual production figures are available. Crop production for the 1997–98 season is 278,989,653 pounds, which, even with the reduced assessment rate for juice, juice concentrate, and puree, will provide adequate assessment income to cover this year's expenses. Funds in any reserve will be kept within the maximum permitted under the order.

The Board discussed alternatives when recommending the interest rate and late payment charge. The Board discussed lower rates, but decided that prompt payment of assessments by handlers is crucial to the operation of the program. Therefore, the Board recommended an interest rate and late payment charge deemed to be sufficient to serve as an incentive to handlers to be prompt with their payment of assessments.

Major expenditures recommended for the 18-month period ending in June 30, 1998, include $25,000 for interest, $175,000 for Board meeting expenses, $150,000 for salaries, $200,000 for program compliance. The $200,000 for compliance was deemed necessary in the event volume control regulations are implemented during the 1997–98 season. The Board discussed setting an assessment rate that would allow for sufficient operation of a volume control program for the upcoming season. With regards to alternatives, this rate may be adjusted by the Secretary, if necessary. Accordingly, the Department believes that since the assessments are necessary to make funds available to cover the initial costs of implementing the new order, including operation of a volume control program for the upcoming season, if implemented, the assessment rate will be as recommended by the Board, and modified by the Department.

This action will not impose any additional reporting or recordkeeping on either small or large tart cherry handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The new forms for the operation of the order have been approved by the Office of Management and Budget (OMB) and have been assigned OMB No. 0581–0177.

The interest and late payment charges were also discussed at a public meeting. The Board believes the interest charge is a reasonable rate. The late payment fee is high enough to discourage late payments and encourage the timely payment of assessments by handlers.

This interim final rule provides incentive for handlers to remit assessments in a timely manner, with the intent of creating a fair and equitable process among all industry handlers. It will not impose any costs on handlers who pay their assessments on time, and will contribute to the efficient administration of the program.

Handlers who do not pay their assessments on time will be able to reap the benefits of Board programs at the expense of others. In addition, they will be able to utilize funds for their own use that will otherwise be paid to the Board to finance Board programs. In effect, this will provide handlers with an interest free loan.

Implementing interest and late payment charges will provide an incentive for handlers to pay assessments on time, which will improve compliance with the order. It will minimize actions taken against handlers who fail to pay assessments on time through administrative remedies or the Federal courts. These remedies, currently the only recourse against handlers who fail to pay assessments, can be costly and time consuming. This interim final rule will remove any economic advantage gained by those handlers who do not pay on time, thus helping to ensure a program that is equitable to all. This is also consistent with standard business practices.

While this interim final rule will impose some additional costs on handlers, the costs are in the form of uniform assessments on all handlers. Some of the additional costs may be passed on to producers. However, these costs will be offset by the benefits derived by the operation of the marketing order.

This interim final rule will not impose any additional reporting or recordkeeping requirements on either small or large tart cherry handlers. As

with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies. The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this final rule. In addition, the Board's meeting was widely publicized throughout the tart cherry industry and all interested persons were invited to attend the meeting and participate in Board deliberations on all issues. Like all Board meetings, the January 8 and 9, 1997, meeting was a public meeting and all entities, both large and small, were able to express views on these issues. Finally, interested persons were invited to submit information on the regulatory and informational impacts of this final rule on small businesses, and none were received.

The assessment rate, interest rate and late payment charge established in this interim final rule will continue in effect indefinitely unless modified, suspended, or terminated by the Secretary upon recommendation and information submitted by the Board or other available information.

Although the assessment rate, interest rate and late payment charge will be effective for an indefinite period, the Board will continue to meet prior to or during each fiscal period to recommend a budget of expenses and consider recommendations for modification of the assessment and interest rates and late payment charge. The dates and times of Board meetings are available from the Board or the Department. Board meetings are open to the public and interested persons may express their views at these meetings. The Department will evaluate Board recommendations and other available information to determine whether modification of the assessment or interest rates or late payment charge is needed. Further rulemaking would be undertaken as necessary. The Board's 1997–98 budget has already been approved by the Department to allow the Board to expend funds that they have borrowed. Budgets for subsequent fiscal periods will be reviewed and, as appropriate, approved by the Department.

The Department has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

A proposed rule concerning parts of this action was issued by the Department on June 27, 1997, and published in the **Federal Register** on July 3, 1997 (62 FR 36020). Copies of the proposed rule were also mailed or sent via facsimile to all tart cherry handlers. Finally, the proposal was made available through the Internet by the Office of the Federal Register.

After consideration of all relevant material presented, including the information and recommendation submitted by the Board and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

This interim final rule invites comments on an assessment rate and establishment of late payment and interest charges on delinquent assessments. Any comments received will be considered prior to finalization of this rule.

Pursuant to 5 U.S.C. 553, it is also found and determined upon good cause that it is impracticable, unnecessary, and contrary to the public interest to give preliminary notice prior to putting this rule into effect and that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** because: (1) Handlers have received and are still receiving 1997–98 crop cherries from growers, the fiscal period began July 1, and the assessment rate applies to all cherries received during the 1997–98 and subsequent fiscal periods; (2) the Board has been operating using borrowed funds and needs revenue to repay such funds and to continue administering the program; and (3) handlers are aware of this rule, which was recommended at a public meeting.

List of Subjects in 7 CFR Part 930

Marketing agreements, Reporting and recordkeeping requirements, Tart cherries.

For the reasons set forth in the preamble, 7 CFR Part 930 is amended as follows:

PART 930—TART CHERRIES GROWN IN THE STATES OF MICHIGAN, NEW YORK, PENNSYLVANIA, OREGON, UTAH, WASHINGTON, AND WISCONSIN

1. The authority citation for 7 CFR Part 930 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. A new subpart—Administrative Rules and Regulations and a new section 930.141 are added to read as follows:

Subpart—Administrative Rules and Regulations

§ 930.141 Delinquent assessments.

(a) Pursuant to § 930.41, the Board shall impose an interest charge on any handler whose assessment payment has not been received within 30 days from the due date of October 1 of each crop year. The interest rate shall be a rate of one percent per month and shall be applied to the unpaid assessment balance for the number of days all or any part of the unpaid balance is delinquent beyond the 30-day payment period. In addition to the interest charge, the Board shall impose a late payment charge on any handler whose payment charge has not been received within 90 days from the due date of October 1. The late payment charge shall be 10 percent of the unpaid balance.

(b) *Due date for the 1997–98 fiscal period.* For the 1997–98 fiscal period, the due date for assessments shall be November 30, 1997. Any interest charge for late assessment payments shall be accrued 30 days after the November 30 due date and any late fee shall be accrued 90 days after the November 30 due date.

3. A new subpart—assessment rates and a new section 930.200 are added to read as follows:

Subpart—Assessment Rates

§ 930.200 Handler assessment rate.

On and after the effective date of this rule, the assessment rate imposed on handlers shall be $0.0025 per pound of cherries handled for tart cherries grown in the production area and utilized in the production of tart cherry products other than juice, juice concentrate, or puree. The assessment rate for juice, juice concentrate, and puree products shall be $0.0125 per pound.

Dated: October 17, 1997.

Robert C. Keeney,

Deputy Administrator, Fruit and Vegetable Programs.

[FR Doc. 97–28130 Filed 10–20–97; 2:01 pm]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Commodity Credit Corporation

7 CFR Part 1412

RIN 0560–AF25

Amendment to the Production Flexibility Contract Regulations

AGENCY: Commodity Credit Corporation, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the production flexibility contract regulations found at 7 CFR part 1412.

The amendments add a final date for producers to designate payment shares and provide supporting documentation to be eligible to earn contract payments in a fiscal year when payment shares have not been designated in such fiscal year; change the dates by which a producer or owner must inform county committee of changes in interest; add a final date for producers to request advance payments; clarify cash lease provisions; change the provisions for determining whether a lease is a cash lease or a share lease with respect to combination leases; and change the date by which all landowners, tenants, and sharecroppers failing to reach an agreement regarding the division of contract payments for a fiscal year must execute a contract to be eligible to receive the contract payment for that fiscal year.

DATES: *Effective Date:* October 23, 1997. Comments on this rule must be received on or before November 24, 1997 to be assured of consideration.

FOR FURTHER INFORMATION CONTACT: Scotty M. Abbott, Farm Service Agency, United States Department of Agriculture, STOP 0517, 1400 Independence Avenue, SW, Washington, DC 20250–0517, telephone 202–720–5422, Internet address: Sabbott@wdc.fsa.usda.gov.

SUPPLEMENTARY INFORMATION:

Executive Order 12866

This rule has been determined to be not significant and therefore was not reviewed by the Office of Management and Budget (OMB).

Regulatory Flexibility Act

It has been determined that the Regulatory Flexibility Act is not applicable because CCC is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule. Section 161(d) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7281) indicates that the Secretary is to issue regulations without respect to the notice and comment provisions of 5 U.S.C. 553 and other statutory and regulatory requirements. However, the Commodity Credit Corporation is requesting comments on the amendments to the regulations. Accordingly, this interim final rule is effective upon publication in the **Federal Register**, with 30 days for the submission of comments.

Environmental Evaluation

An Environmental Evaluation with respect to the proposed rule has been completed. It has been determined that this action will not have significant adverse effects on environmental factors such as wildlife habitat, water quality, air quality, land use, or appearance. Therefore, neither an Environmental Assessment nor an Environmental Impact Statement is needed.

Executive Order 12988

This rule has been reviewed in accordance with Executive Order 12988. The provisions of this proposed rule preempt State laws to the extent such laws are inconsistent with the provisions of this rule. The provisions of this rule are not retroactive. Before any judicial action may be brought concerning the provisions of this rule, the administrative remedies must be exhausted.

Executive Order 12372

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

Paperwork Reduction Act

The amendments to 7 CFR part 1412 set forth in this rule were previously approved under OMB Control Number 0560–0025. An information collection notice was published in the **Federal Register** (62 FR 27216) on May 19, 1997. No comments were received regarding this notice. A revised information collection package has been submitted to OMB.

Executive Order 12612

It has been determined that this rule does not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment. The provisions contained in this rule will not have a substantial direct effect on States or their political subdivisions or on the distribution of power and responsibilities among the various levels of Government.

Unfunded Mandates Reform Act of 1995

This rule contains no Federal mandates under the regulatory provisions of Title II of the Unfunded Mandates Reform Act of 1995 (UMRA) for State, local, and tribal governments or the private sector. Therefore, this rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Discussion of Changes

This rule amends the production flexibility contract regulations as follows:

Section 1412.201 Production flexibility contract.

This rule adds a final date for producers to designate payment shares and provide supporting documentation to be eligible to earn contract payments in a given fiscal year when payment shares have not been designated in such fiscal year. All producers sharing in the contract payment on a farm, whose payment shares have not been designated for such fiscal year must sign a new contract designating payment shares, and provide supporting documentation no later than August 1 of such fiscal year to be eligible to earn a contract payment in such fiscal year.

Section 1412.207 Succession-in-interest to a production flexibility contract.

This rule changes the dates a producer or owner must inform the county committee of changes in interest. A producer or owner must inform the county committee of changes in interest by August 1 of the fiscal year in which the change is made if producers on the contract remain the same but payment shares change; or no later than August 1 of such fiscal year, if a new producer is being added to the contract.

Section 1412.302 Contract payment provisions.

This rule adds a final date to request advance payments for fiscal year 1998, and each subsequent fiscal year. To receive the advance payment for fiscal year 1998, and each subsequent fiscal year, all producers sharing in the contract payment on the farm must, no later than 15 days prior to the final date to issue the advance payment:

(1) Sign the contract designating payment shares and provide supporting documentation, if applicable; and

(2) Request the advance payment.

Section 1412.303 Sharing of contract payments.

This rule clarifies that a lease is a cash lease, if the lessor receives only a guaranteed sum certain cash payment, or fixed quantity of the crop. This rule also changes provisions with respect to combination leases. Combination leases are leases that contain provisions for both a guaranteed amount such as a fixed dollar amount, or quantity and a share of a crop or crop proceeds. Combination leases include those leases that provide for the greater of a guaranteed amount, or share of the crop or crop proceeds. The amendment provides that all combination leases shall be considered share leases for fiscal year 1998, and later fiscal years.

Section 1412.304 Provisions relating to tenants and sharecroppers.

This rule changes the date by which all landowners, tenants and sharecroppers failing to reach an agreement regarding the division of contract payments for a fiscal year, must execute a contract to be eligible to receive the contract payment for such fiscal year. If the landowners, tenants and sharecroppers on a farm fail to reach an agreement regarding the division of contract payments for a fiscal year, the county committee shall make the payment at a later date if all persons eligible to receive a share of the contract payment, have executed a contract no later than August 1 of that fiscal year, and subsequently agree to the division of contract payment.

List of Subjects in 7 CFR Part 1412

Contract acreage, Contract payments, Production flexibility contract, Succession-in-interest.

Accordingly, 7 CFR part 1412 is amended as follows:

PART 1412—PRODUCTION FLEXIBILITY CONTRACTS FOR WHEAT, FEED GRAINS, RICE, AND UPLAND COTTON

1. The authority citation for part 1412 continues to read as follows:

Authority: 7 U.S.C. 7201 *et seq.*; and 15 U.S.C. 714b and 714c.

2. Section 1412.201 is amended by adding paragraph (c) to read as follows:

§ 1412.201 Production flexibility contract.

* * * * *

(c) All producers sharing in the contract payments on a farm whose payment shares have not been designated for a fiscal year, must sign the contract designating payment shares and provide supporting documentation as specified in parts 1400, 1405, and 12 of this title, no later than August 1 of the fiscal year to be eligible to earn a contract payment in that fiscal year. If all producers have not signed the contract by this deadline; no producers on the contract will be eligible for a payment for that farm for that fiscal year.

3. Section 1412.207 paragraph (d) is revised to read as follows:

§ 1412.207 Succession-in-interest to a production flexibility contract.

* * * * *

(d) A producer or owner must inform the county committee of changes in interest not later than:

(1) August 1 of the fiscal year in which the change occurs, if producers on the contract remain the same, but payment shares change; or

(2) August 1 of the fiscal year in which the change occurs , if a new producer is being added to the contract.

* * * * *

4. Section 1412.302 paragraph (b) is revised to read as follows:

§ 1412.302 Contract payment provisions.

* * * * *

(b) At the option of the producer, for fiscal year 1997 and each subsequent fiscal year, 50 percent of the annual contract payment shall be paid on December 15 or January 15, as requested by the producer. To receive the advance payment the producers on the farm must be in compliance with all requirements of the contract at the time of the advance payment. For fiscal year 1998 and each subsequent fiscal year, all producers sharing in the contract payment on the farm must, no later than 15 days prior to the final date to issue the advance payment sign the contract designating payment shares and provide supporting documentation as specified in parts 1400, 1405, and 12 of this title, if applicable; and request the advance payment. If all producers on the farm have not signed the contract designating payment shares, according to this paragraph, then no producers will be eligible for an advance payment for that farm for that fiscal year.

* * * * *

5. Section 1412.303 is amended by removing paragraph (a)(6) and revising paragraphs (a)(2) and (a)(4) to read as follows:

§ 1412.303 Sharing of contract payments.

(a) * * *

(2) A lease will be considered a cash lease if the lease provides for only a guaranteed sum certain cash payment, or a fixed quantity of the crop (for example, cash, pounds, or bushels per acre).

* * * * *

(4) A lease shall be considered a share lease if the lease provides for both a guaranteed amount such as a fixed dollar amount or quantity and a share of a crop or crop proceeds, including leases which provide for the greater of a guaranteed amount or share of the crop or crop proceeds.

* * * * *

6. Section 1412.304 paragraph (b) is revised to read as follows:

§ 1412.304 Provisions relating to tenants and sharecropper.

* * * * *

(b) Notwithstanding the provisions set forth at § 1412.302(c), if the landowners, tenants and sharecroppers on a farm fail to reach an agreement regarding the division of contract payments for a fiscal year, the county committee shall make the payment at a later date if all persons eligible to receive a share of the contract payment, have executed a contract not later than August 1 of the applicable fiscal year and subsequently agree to the division of contract payment.

Signed at Washington, DC, on October 15, 1997.

Bruce R. Weber,

Acting Executive Vice President, Commodity Credit Corporation.

[FR Doc. 97–28009 Filed 10–22–97; 8:45 am]

BILLING CODE 3410–05–P '

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

8 CFR Part 245

[EOIR No. 119 I; A.G. ORDER No. 2120–97]

RIN 1125–AA20

Executive Office for Immigration Review; Adjustment of Status to That of Person Admitted for Permanent Residence

AGENCY: Executive Office for Immigration Review, Immigration and Naturalization Service, Justice.

ACTION: Interim rule with request for comments.

SUMMARY: This interim rule amends the date by which aliens must file and pay for their applications for adjustment of status pursuant to section 245(i) of the Immigration and Nationality act. Such applications are adjudicated by the Executive Office for Immigration Review, including the Board of Immigration Appeals and the Immigration Courts, or the Immigration and Naturalization Service. This rule also clarifies the procedure for paying for such adjustment applications when filed in conjunction with motions to reopen or reconsider.

DATES: *Effective Date:* This rule is effective October 23, 1997.

Comment Date: Written comments must be received on or before December 22, 1997.

ADDRESSES: Please submit written comments to Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400, Falls Church, Virginia, 22041.

FOR FURTHER INFORMATION CONTACT: Margaret M. Philbin, General Counsel, Executive Office for Immigration Review, 5107 Leesburg Pike, Suite 2400,

Falls Church, Virginia, 22041, telephone (703) 305–0470.

SUPPLEMENTARY INFORMATION: On August 26, 1994, Congress enacted the Department of Commerce, Justice, State, and the Judiciary and Related agencies Appropriations Act of 1995, Pub. L. 103–317. Section 506(b) of this law added a new section 245(i) to the Immigration and Nationality Act (the Act) which allows certain persons already in the United States to adjust status, despite the provisions of section 245 (a) and (c) of the Act, upon payment of a fee in addition to the base filing fee for an adjustment of status application.

On July 23, 1997, the Immigration and Naturalization Service (Service) published an interim rule with request for comments (62 FR 39417) concerning adjustment of status applications filed pursuant to section 245(i) of the Act. The supplementary information to the interim rule reiterated that the provisions of section 245(i) apply only to applications filed on or after October 1, 1994, and before October 1, 1997. *See* section 506(c) of Pub. L. 103–317. However, timely filed applications may still be adjudicated after September 30, 1997. On September 30, 1997, the Executive Office for Immigration Review published a similar rule (62 FR 50999) that enabled the Executive Office for Immigration Review to complete adjudication of timely filed section 245(i) adjustment applications after September 30, 1997.

This program was due to terminate on October 1, 1997. However, on September 30, 1997, Congress extended the program until October 23, 1997. This interim rule reflects that applications filed subsequent to October 1, 1994, and prior to October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i) of the Act, will be adjudicated to completion by an officer of the service or EOIR.

This interim rule makes it clear that the Service and EOIR may consider a motion to reopen or reconsider an application for adjustment of status on the basis of section 245(i) of the Act if the applicant submitted a copy of the application for adjustment of status, a copy of Supplement A to Form I–485, and any other required documentation on or after October 1, 1994, and before October 23, 1997, or any other such date as Congress may determine in an extension of section 245(i) of the Act. However, in order to receive the benefit of a motion to reopen or reconsider that has been granted, the applicant must have remitted to the Immigration and Naturalization Service any additional sum required by section 245(i) (the additional sum is currently $1,000) before October 23, 1997, or any other such date as Congress may determine in an extension of this provision. This procedure is different from the procedures previously in effect for filing motions to reopen or reconsider with EOIR and which continue to apply to all other motions filed with EOIR. Those individuals who have properly filed motions to reopen or reconsider in order to apply for adjustment of status under section 245(i) but who have not yet paid the required fee, or those individuals whose motions have been granted in the past but who have not yet paid the required fee, must now pay that fee with the Immigration and Naturalization Service before October 23, 1997 or any other such date as Congress may determine in an extension of this provision.

The implementation of this rule as an interim rule, with immediate effect, and with provisions for post-promulgation public comment, is based upon the ''good cause'' exceptions found at 5 U.S.C. 553b (B) and (d)(3). Immediate implementation of this rule will ensure that all applicants for adjustment of status under section 245(i) are aware of the extended application period and the revised procedures for paying the application fee when submitting a motion to reopen or reconsider.

Regulatory Flexibility Act

In accordance with 5 U.S.C. 605(b), the Attorney General certifies that this rule affects only those aliens who are applying to adjust their status under section 245(i) of the Immigration and Nationality Act. Therefore, this rule does not have a significant economic impact on a substantial number of small entities.

Unfunded Mandates Reform Act of 1995

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

Small Business Regulatory Enforcement Fairness Act of 1996

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

Executive Order 12866

The Attorney General has determined that this rule is not a significant regulatory action under Executive Order No. 12866 and, accordingly, this rule has not been reviewed by the Office of Management and Budget.

Executive Order 12612

This rule has no federalism implications warranting the preparation of a Federalism Assessment in accordance with Executive Order No. 12612.

Executive Order 12988, Civil Justice Reform

The rule meets the applicable standards provided in sections 3(a) and 3(b)(2) of Executive Order No. 12988.

List of Subjects in 8 CFR Part 245

Aliens, Immigration, Reporting and recordkeeping requirements.

Accordingly, part 245 of chapter I of title 8 of the Code of Federal Regulations is amended as follows:

PART 245—ADJUSTMENT OF STATUS TO THAT OF PERSON ADMITTED FOR PERMANENT RESIDENCE

1. The authority citation for part 245 continues to read as follows:

Authority: 8 U.S.C. 1103, 1182, 1255; 8 CFR part 2.

2. In § 245.10, paragraphs (c), (d), and (f) are revised to read as set forth below:

3. In § 245.10, paragraph (e) is amended in the last sentence by removing the reference to ''October 1, 1997'' and replacing it with ''October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i)''.

§ 245.10 Adjustment of status upon payment of additional sum under Public Law 103–317.

* * * * *

(c) *Application period.* The Service or the Executive Office for Immigration Review may approve an application for adjustment of status pursuant to section 245(i) of the Act if such application was filed either on or after October 1, 1994, and before October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i). If an alien attempts to file an adjustment of status application under the provisions of section 245(i) outside

of this time period, the Service will accept the application and base filing fee, as set forth in § 103.7(b)(1) of this chapter, return the additional sum of $1,000 to the alien, and either the Service or the Executive Office for Immigration Review will adjudicate the application pursuant to section 245(a) of the Act. If the alien, in such a case, is not eligible for adjustment of status, either the Service will issue a written notice advising the alien of the denial of the application for adjustment of status, or the Executive Office for Immigration Review will deny the application for adjustment of status.

(d) *Adjustment application filed on or after October 1, 1994, dated before October 23, 1997 or any other such date as Congress may determine in an extension of this provision, without Supplement A to Form I–485 and additional sum.* An adjustment of status applicant will be allowed the opportunity to amend an adjustment of status application filed in accordance with § 103.2 of this chapter on or after October 1, 1994, and before October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i) of the Act, in order to request consideration under the provisions of section 245(i), if it appears that the alien is not otherwise ineligible for adjustment of status. If the application for adjustment of status is pending before the Service, the Service shall notify the applicant in writing of the Service's intent to deny the adjustment of status application, and any other requests for benefits that derive from the adjustment application, unless Supplement A to Form I–485 and any required additional sum is filed within 30 days of the date of the notice. If the application for adjustment of status is pending before the Executive Office for Immigration Review, the Executive Office for Immigration Review will deny the application and permit the applicant to file a motion to reopen in accordance with §§ 3.2(c) and 3.23 of this chapter along with proof of payment to the Immigration and Naturalization Service of the additional sum within 30 days of the denial.

* * * * *

(f) *Completion of processing of pending applications.* (1) An application for adjustment of status filed on or after October 1, 1994, and before October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i) of the Act, shall be adjudicated to completion by an officer of the Service or by the Executive Office for Immigration Review, regardless of whether the final decision is made after the termination of this program. The provisions of paragraph (d) of this section regarding amended applications shall apply to all such applications. The Service or the Executive Office for Immigration Review may consider a motion to open or reconsider an application for adjustment of status on the basis of section 245(i) if the applicant submitted a copy of the application for adjustment of status, a copy of Supplement A to Form I–485, and any other required documentation on or after October 1, 1994, and before October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i). However, in order to receive the benefit of a motion to reopen or reconsider that has been granted, the applicant must have remitted to the Immigration and Naturalization Service before October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i), any additional sum required by section 245(i). Even if a motion to reopen or reconsider is granted, failure to pay the additional sum to the Immigration and Naturalization Service before October 23, 1997 or any other such date as Congress may determine in an extension of 245(i) will result in the ultimate denial of the application for adjustment of status.

(2) Any application for adjustment of status submitted pursuant to section 245(i) and considered in deportation or removal proceedings must be filed between October 1, 1994, and October 23, 1997 or any other such date as Congress may determine in an extension of section 245(i).

* * * * *

Dated: October 18, 1997.

Janet Reno,

Attorney General.

[FR Doc. 97–28147 Filed 10–20–97; 4:16 pm]

BILLING CODE 4410–10–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 97–CE–80–AD; Amendment 39–10174; AD 97–22–03]

RIN 2120–AA64

Airworthiness Directives; Extra Flugzeugbau, GmbH. Model EA–300/200 Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule; request for comments.

SUMMARY: This amendment adopts a new airworthiness directive (AD) that is applicable to Extra Flugzeugbau, GmbH. (Extra) Model EA–300/200 airplanes. This action requires installing a seat belt safety cover. A recent report of an Extra Model EA–300/200 airplane seat belt falling into the rear rudder pedal controls, interfering with the rudder pedals, and causing loss of directional control prompted this action. The action specified by this AD is intended to prevent a loss of directional control caused by seat belt interference with the rear rudder pedal controls, which could cause loss of control of the airplane.

DATES: Effective November 24, 1997.

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

Comments for inclusion in the Rules Docket must be received on or before December 29, 1997.

ADDRESSES: Submit comments in triplicate to the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–80–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106.

Service information that applies to this AD may be obtained from Extra Flugzeugbau, GmbH, Schwarze Heide 21, 46569 Hünxe, Germany; telephone 49–2858–9137–0; facsimile 49–2858–9137–30. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 97–CE–80–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Karl Schletzbaum, Project Officer, Small Airplane Directorate, Aircraft Certification Service, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–3962; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Discussion

The Luftfahrt-Bundesamt (LBA), which is the airworthiness authority for Germany, recently notified the FAA that an unsafe condition could exist on Extra Model EA–300/200 airplanes. The LBA advises that the pilot's seat belt may fall into the rear rudder pedal controls, hampering rudder control and possibly causing loss of directional control. This occurred on one of the affected airplanes in Germany.

Relevant Service Information

Extra has issued Service Bulletin (SB) No. 300–1–97, Issue B, dated June 11, 1997, which specifies procedures for installing a seat belt safety cover. The LBA classified this service bulletin as mandatory and issued AD No. 97–203, dated July 3, 1997, in order to assure the continued airworthiness of these airplanes in Germany.

The FAA's Determination

After examining the circumstances and reviewing all available information related to the incidents described above including that received from the LBA, the FAA has determined that AD action should be taken in order to prevent loss of directional control caused by seat belt interference with the rear rudder pedal controls, which could cause possible loss of control of the airplane.

This airplane model is manufactured in Germany and is type certificated for operation in the United States under the provisions of section 21.29 of the Federal Aviation Regulations (14 CFR 21.29) and the applicable bilateral airworthiness agreement. Pursuant to this bilateral airworthiness agreement, the LBA has kept the FAA informed of the situation described above.

Explanation of the Provisions of This AD

Since an unsafe condition has been identified that is likely to exist or develop in other Extra Model EA–300/200 airplanes of the same type design that are registered for operation in the United States, this AD requires installing a seat belt safety cover (Extra part number (P/N) 77205.1 and P/N 77205.2 or FAA-approved equivalent part). This action is to be done in accordance with the instructions in Extra SB No. 300–1–97, Issue B, dated June 11, 1997.

Determination of the Effective Date of the AD

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

Comments Invited

Although this action is in the form of a final rule that involves requirements affecting immediate flight safety and, thus, was not preceded by notice and opportunity to comment, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the Rules Docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered, and this rule may be amended in light of the comments received. Factual information that supports the commenter's ideas and suggestions is extremely helpful in evaluating the effectiveness of the AD action and determining whether additional rulemaking action would be needed.

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

Commenters wishing the FAA to acknowledge receipt of their comments submitted in response to this rule must submit a self-addressed, stamped postcard on which the following statement is made: ''Comments to Docket No. 97–CE–80–AD.'' The postcard will be date stamped and returned to the commenter.

Regulatory Impact

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

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

97–22–03 Extra Flugzeugbau GMBH: Amendment 39–10174; Docket No. 97–CE–80–AD.

Applicability: Model EA–300/200 airplanes (serial numbers 01 through 15), certificated in any category.

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

Compliance: Required within the next 5 hours time-in-service (TIS) after the effective date of this AD, unless already accomplished.

To prevent loss of directional control caused by seat belt interference with the rear rudder pedal controls, accomplish the following:

(a) Install a seat belt safety cover (Extra part number 77205.1 and 77205.2 or FAA-approved equivalent part) in accordance with the INSTRUCTIONS in Extra Flugzeugbau GmbH. Service Bulletin (SB) No. 300–1–97, Issue B, dated June 11, 1997.

(b) Special flight permits may be issued in accordance with sections 21.197 and 21.199 of the Federal Aviation Regulations (14 CFR 21.197 and 21.199) to operate the airplane to a location where the requirements of this AD can be accomplished provided the airplane is flown single seated with the front seat belts properly stowed.

(c) An alternative method of compliance or adjustment of the compliance time that provides an equivalent level of safety may be approved by the Manager, Small Airplane Directorate, Aircraft Certification Service,

1201 Walnut, suite 900, Kansas City, Missouri 64106. The request shall be forwarded through an appropriate FAA Maintenance Inspector, who may add comments and then send it to the Manager, Small Airplane Directorate.

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

(d) The installation required by this AD shall be done in accordance with Extra Flugzeugbau, GmbH. EA–300 Service Bulletin No. 300–1–97, Issue B, dated June 11, 1997. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained from Flugzeugbau, GmbH., Schwarze Heide 21, 46569 Hünxe, Germany. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(e) This amendment (39–10174) becomes effective on November 24, 1997.

Issued in Kansas City, Missouri, on October 16, 1997.

Mary Ellen A. Schutt,

Acting Manager, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–27933 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 84–CE–18–AD; Amendment 39–10172; AD 84–23–06 R1]

RIN 2120–AA64

Airworthiness Directives; Pilatus Britten-Norman Ltd. Models BN–2, BN–2A, BN–2B, BN–2T, and BN–2A MK. 111 Series Airplanes

AGENCY: Federal Aviation Administration, DOT.

ACTION: Final rule.

SUMMARY: This amendment revises airworthiness directive (AD) 84–23–06, which currently requires repetitively inspecting the upper mounting brackets, bolts, and bushings on wing mounted engines for cracks, wear, and insufficient fit on certain Pilatus Britten-Norman Ltd. (Pilatus) Models BN–2, BN–2A, BN–2B, BN–2T, and BN–2A MK. 111 series airplanes, and replacing any cracked, worn, or ill-fitting part. This action retains the same action required in AD 84–23–06, except the action is only applicable to the BN–2A MK. 111 series airplanes. This action is the result of a terminating modification, now available to the Pilatus Models BN–2, BN–2A, BN–2B, BN–2T airplanes, which removes them from the applicability of AD 84–23–06. The actions specified by this AD are intended to prevent failure of the upper mounting brackets on wing mounted engines, which could possibly cause structural failure of the airplane.

DATES: Effective November 24, 1997.

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

ADDRESSES: Service information that applies to this AD may be obtained from Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR; telephone 44–19–83–872511; facsimile 44–19–83–873246. This information may also be examined at the Federal Aviation Administration (FAA), Central Region, Office of the Regional Counsel, Attention: Rules Docket 84–CE–18–AD, Room 1558, 601 E. 12th Street, Kansas City, Missouri 64106; or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

FOR FURTHER INFORMATION CONTACT: Mr. S. M. Nagarajan, Project Officer, Small Airplane Directorate, Aircraft Certification Service, FAA, 1201 Walnut, suite 900, Kansas City, Missouri 64106; telephone (816) 426–6932; facsimile (816) 426–2169.

SUPPLEMENTARY INFORMATION:

Events Leading to the Issuance of This AD

A proposal to amend part 39 of the Federal Aviation Regulations (14 CFR part 39) to include an AD that would apply to Pilatus BN–2, BN–2A, BN–2B, BN–2T, and BN–2A MK. 111 series was published in the **Federal Register** on March 10, 1997 (62 FR 10756). The proposed AD would revise AD 84–23–06 by deleting the Pilatus BN–2, BN–2A, BN–2B, BN–2T series airplanes from the AD, and by retaining the following for the Pilatus BN–2A MK. 111 series airplanes:

(1) Visually inspecting the upper engine mounting bracket lugs for cracks extending radially from the bolt holes in the doubler;

(2) Inspecting for elongation of the bolt holes, distortion, delamination, cracks, flaking, and corrosion;

(3) Inspecting the bolts for correct bearing length, and loose and fretted bushings; and

(4) Correcting any discrepancies found.

Accomplishment of this action will be in accordance with Pilatus Britten-Norman Ltd. Service Bulletin (SB) BN–2/SB.61, Issue 5, dated December 9, 1981, which is also referenced in the Notice of Proposed Rulemaking (NPRM) Docket 96–CE–17–AD for a terminating action applicable to the Pilatus BN–2, BN–2A, BN–2B and BN–2T series airplanes.

Interested persons have been afforded an opportunity to participate in the making of this amendment. No comments were received on the proposed rule or the FAA's determination of the cost to the public.

The FAA's Determination

After careful review of all available information related to the subject presented above, the FAA has determined that air safety and the public interest require the adoption of the rule as proposed except for minor editorial corrections. The FAA has determined that these minor corrections will not change the meaning of the AD and will not add any additional burden upon the public than was already proposed.

Cost Impact

The FAA estimates that 9 airplanes in the U.S. registry will be affected by this AD, that it will take approximately 2 workhours per airplane to accomplish this action and the average labor rate is approximately $60 an hour. There are no parts required for the initial inspection. Based on these figures, the total cost impact for the initial inspection of this AD on U.S. operators is estimated to be $1,080 or $120 per airplane. This figure is based on the initial inspection cost and does not include workhours for repetitive inspections because the FAA does not have the information to determine the number of repetitive inspections that would be incurred over the life of the airplane.

Regulatory Impact

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

For the reasons discussed above, I certify that this action (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§39.13 [Amended]

2. Section 39.13 is amended by removing Airworthiness Directive (AD) 84–23–06, Amendment 39–4942, (49 FR 43621, October 31, 1984), and adding a new AD to read as follows:

84–23–06 R1. Pilatus Britten-Norman LTD.: Amendment 39–10172; Docket No. 84–CE–18–AD; Revises AD 84–23–06, Amendment 39–4942.

Applicability: BN–2A MK. 111 Series Airplanes (all serial numbers), certificated in any category.

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

Note 2: The paragraph structure of this AD is as follows:

Level 1: (a), (b), (c), etc.
Level 2: (1), (2), (3), etc.
Level 3: (i), (ii), (iii), etc.

Level 2 and Level 3 structures are designations of the Level 1 paragraph they immediately follow.

Compliance: Required initially upon the accumulation of 500 hours time-in-service (TIS) or within the next 50 hours TIS after the effective date of this AD, whichever occurs later, unless already accomplished (compliance with AD 84–23–06), and thereafter at intervals not to exceed 500 hours TIS.

To prevent failure of the upper mounting brackets on both wing mounted engines, which could possibly cause structural failure of the airplane, accomplish the following:

(a) Visually inspect the following areas in accordance with paragraphs 1 through 6 of the ''Inspection'' section of the Pilatus Britten-Norman (Pilatus) Service Bulletin (SB) No. BN–2/SB.61, Issue 5, dated December 9, 1981:

(1) The upper engine to wing mounting brackets for:

(i) Minimum lug bolt hole-to-edge distance, elongation of the bolt holes, distortion, delamination, cracks, flaking, and corrosion;

(ii) The bolts for correct bearing length; and

(iii) Loose and fretted bushings.

(2) Prior to further flight, correct defects in accordance with the following:

(i) If the lug bolt hole-to-edge distance is less than the specified minimum (0.2625-inches), correct in accordance with paragraph 3 of the ''Rectification/Modification'' section of Pilatus SB No. BN–2/SB.61, Issue 5, dated December 9, 1981;

(ii) If the bolt holes are elongated, or if any bushings are loose or fretted, modify and correct in accordance with paragraph 4 of the ''Rectification/Modification'' section of Pilatus SB No. BN–2/SB.61, Issue 5, dated December 9, 1981;

(iii) If any mounting bracket is cracked, modify both brackets on the same engine installation (left side engine or right side engine) concurrently (even if only one bracket is defective) in accordance with paragraph 1 of the ''Rectification/Modification'' section of Pilatus SB No. BN–2/SB.61, Issue 5, dated December 9, 1981;

(iv) If any lug is distorted or delaminated, replace the deficient part in accordance with paragraphs 1 and 2 of the ''Rectification/Modification'' section of Pilatus SB No. BN–2/SB.61, Issue 5, dated December 9, 1981;

(v) If any inspected part is corroded or flaking, replace the part in accordance paragraph 1 with the ''Rectification/Modification'' section of Pilatus SB No. BN–2/SB.61, Issue 5, dated December 9, 1981; and

(vi) If any of the bolts are of incorrect length or damaged, replace with new units of the correct length in accordance with paragraphs 1 and 2 of the ''Rectification/Modification'' section of Pilatus SB No. BN–2/SB.61, Issue 5, dated December 9, 1981.

(b) The intervals between the repetitive inspections required by this AD may be adjusted up to 10 percent of the specified interval to allow for accomplishing these inspections concurrent with the other scheduled maintenance of the airplane.

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

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

Note 3: Information concerning the existence of approved alternative methods of compliance with this AD, if any, may be obtained from the Small Airplane Directorate.

(e) The inspections, modifications, and replacements, required by this AD shall be done in accordance with Pilatus Britten-Norman Service Bulletin No. BN–2/SB.61, Issue: 5, Date: December 9, 1981. This incorporation by reference was approved by the Director of the Federal Register in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Copies may be obtained Pilatus Britten-Norman Limited, Bembridge, Isle of Wight, United Kingdom PO35 5PR. Copies may be inspected at the FAA, Central Region, Office of the Regional Counsel, Room 1558, 601 E. 12th Street, Kansas City, Missouri, or at the Office of the Federal Register, 800 North Capitol Street, NW., suite 700, Washington, DC.

(f) This amendment (39–10172) becomes effective on November 24, 1997.

Issued in Kansas City, Missouri, on October 16, 1997.

Mary Ellen A. Schutt,

Acting Manger, Small Airplane Directorate, Aircraft Certification Service.

[FR Doc. 97–27931 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–AWP–23]

Amendment of Class E Airspace; Flagstaff, AZ

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the Class E airspace areas at Flagstaff, AZ. The development of a Global Positioning System (GPS) Standard Instrument Approach Procedure (SIAP) to Runway (RWY) 3 has made this action necessary. The intended effect of this action is to provide adequate additional controlled airspace extending upward from 700 feet or more above the surface for Instrument Flight Rules (IFR) operations at Flagstaff Pulliam Airport, Flagstaff, AZ.

EFFECTIVE DATE: 0901 UTC January 01, 1998.

FOR FURTHER INFORMATION CONTACT: Larry Tonish, Airspace Specialist, Airspace Branch, AWP–520, Air Traffic Division, Western-Pacific Region, Federal Aviation Administration, 15000 Aviation Boulevard, Lawndale, California, 90261, telephone (310) 725–6531.

SUPPLEMENTARY INFORMATION:

History

On August 11, 1997, the FAA proposed to amend part 71 of the Federal Aviation Regulations (14 CFR part 71) by amending the Class E airspace areas at Flagstaff, AZ (62 FR 42955). The development of a GPS SIAP at Flagstaff Pulliam Airport has made this action necessary. The intended effect of this action is to provide additional controlled airspace extending 700 feet or more above the surface for aircraft executing the GPS RWY 3 SIAP to Flagstaff Pulliam Airport, Flagstaff, AZ.

Interested parties were invited to participate in this rulemaking proceeding by submitting written comments on the proposal to the FAA. No comments objecting to the proposal were received. Class E airspace designations are published in paragraphs 6004 and 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. Class E airspace designations 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) amends the Class E airspace areas at Flagstaff, AZ. The development of a GPS SIAP at Flagstaff Pulliam Airport has made this action necessary. The intended effect of this action is to provide additional controlled airspace extending 700 feet or more above the surface for aircraft executing the GPS RWY 3 SIAP at Flagstaff Pulliam Airport, Flagstaff, AZ.

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. Therefore, this regulation—(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—[AMENDED]

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

* * * * *

AWP AZ E4 Flagstaff, AZ [Revised]

Flagstaff Pulliam Airport, AZ.
(Lat. 35°08′18″ N, long. 111°40′16″ W)
Flagstaff VOR/DME
(Lat. 35°08′50″ N, long. 111°40′27″ W)

That airspace extending upward from the surface beginning where a line 1.8 miles northwest of and parallel to the Flagstaff VOR/DME 057° radial intercepts the 6.1-mile radius of the Flagstaff Pulliam Airport, thence clockwise to intercept a line 1.8 miles northwest of and parallel to the Flagstaff VOR/DME 218° radial, thence northeastbound on a line 1.8 miles west of and parallel to the Flagstaff VOR/DME 218° radial to intercept the 3-mile arc of the Flagstaff Pulliam Airport clockwise to intercept the line 1.8 miles northwest of and parallel to the Flagstaff VOR/DME 057° radial and thence to the point of beginning and within 1.8 miles each side of the Flagstaff VOR/DME 127° radial, extending from the 6.1-mile radius to 8.6 miles southeast of the VOR/DME. 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 Airport/Facility Directory.

* * * * *

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

* * * * *

AWP AZ E5 Flagstaff, AZ [Revised]

Flagstaff Pulliam Airport, AZ
(Lat. 35°08′18″ N, long. 111°40′16″ W)
Flagstaff VOR/DME
(Lat. 35°08′50″ N, long. 111°40′27″ W)

That airspace extending upward from 700 feet above the surface within a 3.6-mile radius of the Flagstaff Pulliam Airport and within a 10-mile radius of the Flagstaff VOR beginning at a line 1.8-miles northwest of parallel to the Flagstaff VOR 043° radial extending clockwise to a point beginning at lat. 34°59′20″ N, long. 111°36′35″ W; to lat. 34°44′00″ N, long. 111°50′00″ W; to lat. 34°45′00″ N, long. 112°01′00″ W; to lat. 34°54′00″ N, long. 112°05′00″ W; to lat. 35°08′00″ N, long. 111°52′00″ W, thence eastbound along the Flagstaff VOR 265° radial to intercept the 3.6-mile radius of the Flagstaff Pulliam Airport, thence clockwise to the point of beginning. That airspace extending upward from 1,200 feet above the surface within 8.3 miles each side of the Flagstaff VOR 127° and 307° radials, extending from 7 miles northwest to 16.5 miles southeast of the Flagstaff VOR and that airspace bounded by a line beginning at lat. 35°13′32″ N, long. 111°04′31″ W; to lat. 35°17′17″ N, long. 111°02′35″ W; to lat. 35°22′00″ N, long. 111°16′43″ W; to lat. 35°24′00″ N, long. 111°26′16″ W; to lat. 35°18′00″ N, long. 111°25′33″ W, thence clockwise via a 10-mile radius of the Flagstaff VOR to lat. 35°16′34″ N, long. 111°32′42″ W; to lat. 35°19′58″ N, long. 111°24′10″ W, thence to the point of beginning and that airspace bounded by a line beginning at lat. 35°02′56″ N, long. 111°20′38″ W; to lat. 35°02′00″ N, long. 111°15′00″ W; to lat. 35°00′56″ N, long. 111°22′28″ W, thence to the point of beginning, excluding the Sedona, AZ, Class E airspace area.

* * * * *

Issued in Los Angeles, California, on October 16, 1997.

Thomas L. Parks,

Acting Manager, Air Traffic Division Western-Pacific Region.

[FR Doc. 97–28103 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510 and 520

Animal Drugs, Feeds, and Related Products; Selegiline Hydrochloride Tablets; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a

final rule that appeared in the **Federal Register** of June 27, 1997 (62 FR 34631). The document amended the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Deprenyl Animal Health, Inc. The NADA provides for oral use of selegiline hydrochloride tables for dogs for the control of clinical signs associated with uncomplicated pituitary-dependent hyperadrenocorticism. The approved use in dogs was inadvertently omitted from the document. This document corrects that error.

EFFECTIVE DATE: June 27, 1997.

FOR FURTHER INFORMATION CONTACT: David L. Gordon, Center for Veterinary Medicine (HFV–6), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1739.

In FR Doc. 97–16791, appearing on page 34631 in the **Federal Register** of Friday, June 27, 1997, the following corrections are made:

1. On page 34631, in the first column, in the heading ''*Tablet*'' is corrected to read ''*Tablets*''.

§ 520.2098 [Corrected]

2. On page 34632, in the first column, in § 520.2098 *Selegiline hydrochloride tablets*, in paragraph (d), the heading ''(d) *Conditions of use—*'' is corrected to read ''(d) *Conditions of use—Dogs—*''; and in paragraph (d)(2), in the 4th line, ''hyperadrenocorticism.'' is corrected to read ''hyperadrenocorticism in dogs.''

Dated: September 8, 1997.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 97–28017 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 510, 520, and 558

New Animal Drugs and Related Products; Change of Sponsor

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect a change of sponsor for three new animal drug applications (NADA's) and three abbreviated new animal drug applications (ANADA's) from Wade-Jones Co., Inc., and its manufacturing subsidiary Arkansas Micro Specialties, Inc., to Alpharma Inc. The agency is also correcting a final rule that appeared in the **Federal Register** of June 20, 1996 (61 FR 31398).

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Thomas J. McKay, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0213.

SUPPLEMENTARY INFORMATION: Wade-Jones Co., Inc., 409 North Bloomington, Lowell, AR 72745, and its manufacturing subsidiary Arkansas Micro Specialties, Inc., P.O. Box 308, Highway 71 North, Lowell, AR 72745, has informed FDA that it has transferred ownership of, and all rights and interests in, the following approved NADA's and ANADA's to Alpharma Inc., One Executive Dr., Fort Lee, NJ 07024.

NADA/ANADA	Ingredient
065–140	Tetracycline Hcl Soluble Powder
140–443	Hygromycin B Type A Medicated Articles
140–578	Tetracycline Hcl Soluble Powder
200–122	Penicillin G Potassium Soluble Powder
200–130	Neomycin Sulfate Soluble Powder
200–233	Lincomycin Hcl Soluble Powder

The agency is amending parts 510, 520, and 558 (21 CFR parts 510, 520 and 558) to reflect the change of sponsor. The agency is amending § 510.600(c)(1) and (c)(2) to remove the sponsor name for Wade-Jones Co., Inc., and Arkansas Micro Specialties, Inc., because the firm no longer is the holder of any approved NADA's.

The agency is also correcting a final rule that appeared in the **Federal Register** of June 20, 1996 (61 FR 31398). This document amended the animal drug regulations to reflect approval of a supplemental NADA filed by The Upjohn Co., and two supplemental ANADA's, one filed by Pfizer, Inc., and the other filed by Rhone Merieux, Inc, respectively. In § 520.1484(c)(3), the drug labeler code (047864) for Wade-Jones Co., Inc., was inadvertently omitted from the document. After that document published, Wade-Jones Co., Inc., transferred ownership of and all rights and interest to Alpharma Inc. Accordingly, this document adds a drug labeler code for Alpharma Inc. and, thereby, corrects the error in the final rule (61 FR 31398).

List of Subjects

21 CFR Part 510

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

21 CFR Part 520

Animal drugs.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 510, 520, and 558 are amended as follows:

PART 510—NEW ANIMAL DRUGS

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

Authority: 21 U.S.C. 321, 331, 351, 352, 353, 360b, 371, 379e.

§ 510.600 [Amended]

2. Section 510.600 *Names, addresses, and drug labeler codes of sponsors of approved applications* is amended in the table in paragraph (c)(1) by removing the entries for ''Arkansas Micro Specialties, Inc.''and ''Wade-Jones'' and in the table in paragraph (c)(2) by removing the entries ''047863'' and ''047864''.

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

3. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1484 [Amended]

4. Section 520.1484 *Neomycin sulfate soluble powder* is amended in paragraph (b) by removing ''047864'' and adding in its place ''046573'' and in paragraph (c)(3) by revising the words in the last sentence ''for sponsors 000009, 000069, 050604'' to read as ''for sponsors 000009, 000069, 046573, 050604''.

§ 520.1696b [Amended]

5. Section 520.1696b *Penicillin G potassium in drinking water* is amended in paragraph (b) by removing ''047864, and'' and adding in its place ''046573,''.

§ 520.2345d [Amended]

6. Section 520.2345d *Tetracycline hydrochloride soluble powder* is amended in paragraphs (a)(1), (d)(1)(iii), and (d)(2)(iii) by removing ''047864'', and adding in its place ''046573'' and in paragraph (a)(4) by removing ''047863'' and adding in its place ''046573''.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

7. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.274 [Amended]

8. Section 558.274 *Hygromycin B* is amended in paragraph (a)(8) by removing ''047863'' and in the table in paragraphs (c)(1)(i) and (c)(1)(ii), under the ''sponsor'' column, by removing ''047863'' and numerically adding ''046573''.

Dated: September 9, 1997.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 97–28011 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Parts 520, 524, 556, and 558

Animal Drugs, Feeds, and Related Products; Famphur

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to specify the tolerance for residues of famphur in cattle products. The residue tolerances were originally issued in FDA's regulations under tolerances and exemptions from tolerances for pesticide chemicals in or on raw agricultural commodities, and subsequently moved to the Environmental Protection Agency's (EPA's) regulations for residues of pesticides. Subsequent FDA new animal drug approvals with the same tolerances, instead of stating the tolerances, cross-referenced EPA's regulations. This action is being taken because EPA has removed the tolerance from its regulations.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1623.

SUPPLEMENTARY INFORMATION: FDA has several approved new animal drug applications (NADA's) providing for use of various famphur products. Three NADA's sponsored by Mallinckrodt Veterinary, Inc., Mundelein, IL 60060, are:

NADA 34–266: Famix Famphur Type A article (for Type C cattle feed).

NADA 34–697: Warbex Famphur Cattle Pour-On/Bo-Anna Famphur Cattle Insecticide.

NADA 139–858: Tramisol-X-Tra (Famphur/Levamisole) Cattle Anthelmintic and Ectoparasite Paste.

One NADA sponsored by PM Resources, Inc., 13001 St. Charles Rock Rd., Bridgeton, MO 63044, is:

NADA 43–215: Purina Grub-Kill (Famphur).

Tolerances for residues of famphur including its oxygen analog in or on the raw agricultural commodities meat, fat, and meat byproducts of cattle had been established under 21 CFR 120.233 (33 FR 2935, February 14, 1968). Those provisions were subsequently transferred to EPA and redesignated as 40 CFR 180.233 (36 FR 424, January 13, 1971, interim rule; and 36 FR 22369 at 22564, November 25, 1971, final rule) at 0.1 part per million. FDA, in its approvals of famphur as a new animal drug, established the same tolerance for residues of the drug. Instead of specifying the tolerance in the regulations reflecting the new animal drug approvals, the regulations cross-referenced to 40 CFR 180.233. EPA has revoked the tolerance for residues of famphur in or on certain raw agricultural commodities because the pesticide no longer was covered by EPA's food use registrations (59 FR 17754, April 14, 1994, proposed rule; and 60 FR 49798, September 27, 1995, final rule). Because EPA has removed 40 CFR 180.233, FDA is amending its regulations in 21 CFR 556.273 to establish the tolerances for residues of famphur including its oxygen analog.

In addition, the tolerance citations in 21 CFR 520.1242g(e), 524.900(e), and 558.254(c) are amended to replace the cross-reference to 40 CFR 180.233 with a reference to the residue tolerance specified in 21 CFR part 556.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects

21 CFR Part 520

Animal drugs.

21 CFR Part 524

Animal drugs.

21 CFR Part 556

Animal drugs, Food, Residues.

21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR parts 520, 524, 556, and 558 are amended as follows:

PART 520—ORAL DOSAGE FORM NEW ANIMAL DRUGS

1. The authority citation for 21 CFR part 520 continues to read as follows:

Authority: 21 U.S.C. 360b.

§ 520.1242g [Amended]

2. Section 520.1242g *Levamisole resinate and famphur paste* is amended in paragraph (e) by removing ''40 CFR 180.233 (under the chemical name)'' and adding in its place ''§ 556.273 of this chapter.''

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: 21 U.S.C. 360b.

§ 524.900 [Amended]

4. Section 524.900 *Famphur* is amended in paragraph (e) by removing ''40 CFR 180.233 under the chemical name'' and adding in its place ''§ 556.273 of this chapter.''

PART 556—TOLERANCES FOR RESIDUES OF NEW ANIMAL DRUGS IN FOOD

5. The authority citation for 21 CFR part 556 continues to read as follows:

Authority: 21 U.S.C. 342, 360b, 371.

6. Section 556.273 is added to subpart B to read as follows:

§ 556.273 Famphur.

Tolerances are established for residues of famphur including its oxygen analog in or on meat, fat, or meat byproducts of cattle at 0.1 part per million.

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

7. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

§ 558.254 [Amended]

8. Section 558.254 *Famphur* is amended in paragraph (c) by removing ''40 CFR 180.233'' and adding in its place ''§ 556.273 of this chapter.''

Dated: September 9, 1997.

Robert C. Livingston,

Director, Office of New Animal Drug Evaluation, Center for Veterinary Medicine.

[FR Doc. 97–28016 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 524

Ophthalmic and Topical Dosage Form New Animal Drugs; Miconazole Nitrate Lotion and Spray

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of an abbreviated new animal drug application (ANADA) filed by Med-Pharmex, Inc. The ANADA provides for use of miconazole nitrate lotion and spray as topical antifungal agents to treat certain infections of dogs and cats.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Lonnie W. Luther, Center for Veterinary Medicine (HFV–102), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–827–0209.

SUPPLEMENTARY INFORMATION: Med-Pharmex, Inc., 2727 Thompson Creek Rd., Pomona, CA 91767, filed ANADA 200–196, which provides for use of miconazole nitrate lotion 1 percent and miconazole nitrate spray 1 percent as antifungal agents for topical treatment of infections in dogs and cats caused by *Microsporum canis*, *M. gypseum*, and *Trichophyton mentagrophytes*.

Med-Pharmex's ANADA 200–196 is approved as a generic copy of Mallinckrodt Veterinary's Conofite® miconazole nitrate 1 percent lotion and spray, NADA 95–184. ANADA 200–196 is approved as of August 4, 1997, and the regulations are amended in 21 CFR 524.1443(b) to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33 that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 524

Animal drugs.

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

PART 524—OPHTHALMIC AND TOPICAL DOSAGE FORM NEW ANIMAL DRUGS

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

Authority: 21 U.S.C. 360b.

2. Section 524.1443 is amended by revising paragraph (b) to read as follows:

§ 524.1443 Miconazole nitrate cream; miconazole nitrate lotion; miconazole nitrate spray.

* * * * *

(b) *Sponsor.* See No. 011716 in § 510.600(c) of this chapter for use of cream, lotion, and spray; see No. 051259 in § 510.600(c) of this chapter for use of lotion and spray.

* * * * *

Dated: September 10, 1997.

Michael J. Blackwell,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. 97–28014 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 558

New Animal Drugs for Use in Animal Feeds; Bacitracin Zinc

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a hybrid abbreviated new animal drug application (ANADA) filed by ALPHARMA, Inc. The hybrid ANADA provides for the use of bacitracin zinc Type A medicated articles to make Type C medicated feeds for cattle, broiler chickens, turkeys, pheasants, growing quail, and growing and finishing swine, for increased rate of weight gain and improved feed efficiency, and for laying chickens for improved feed efficiency and increased egg production.

EFFECTIVE DATE: October 15, 1997.

FOR FURTHER INFORMATION CONTACT: Jack Caldwell, Center for Veterinary Medicine (HFV–126), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 301–594–1638.

SUPPLEMENTARY INFORMATION: ALPHARMA, Inc., One Executive Dr., P.O. Box 1399, Fort Lee, NJ 07024, is sponsor of hybrid ANADA 200–223 that provides for use of bacitracin zinc Type A medicated articles (bacitracin zinc equivalent to 50 grams (g) of bacitracin per pound) to make Type C medicated feeds for cattle when fed at 35 to 70 milligrams per head per day, for growing broiler chickens, turkeys, and pheasants fed at 4 to 50 g per ton (g/t), for growing quail up to 5 weeks of age fed at 5 to 20 g/t, for growing and finishing swine fed at 10 to 50 g/t, for increased rate of weight gain and improved feed efficiency, and for laying chickens fed at 10 to 25 g/t for improved

feed efficiency and increased egg production.

The data submitted in support of this hybrid ANADA satisfy the requirements of section 512(b)(1) and (b)(2) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360b(b)(1) and (b)(2)) and the regulations in 21 CFR part 514. The hybrid ANADA has been defined in the Center's Seventh Generic Animal Drug Policy letter dated March 20, 1991. The hybrid ANADA relies on the approval of a listed (pioneer) animal drug and contains additional data needed to support the change in the generic product. The hybrid ANADA is thus relying on the approval of the listed animal drug to the extent that such reliance is allowed under section 512(n) of the act, to establish the safety and effectiveness of the underlying animal drug. An application that relies in part on the approval of a listed animal drug for this purpose is considered an application described in section 512(b)(2) of the act.

ALPHARMA, Inc.'s, hybrid ANADA 200–223 for bacitracin zinc is approved as a generic copy of Hoffmann-LaRoche's NADA 46–920. The hybrid ANADA is approved as of August 20, 1997, and the regulations are amended in 21 CFR 558.78 by revising paragraph (a)(1) to indicate additional approvals and in paragraph (d)(1) by removing the footnote to the table to reflect the approval. The basis of approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of 21 CFR part 20 and 514.11(e)(2)(ii), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA–305), Food and Drug Administration, 12420 Parklawn Dr., rm. 1–23, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.33(a)(1) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 558

Animal drugs, Animal feeds.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 558 is amended as follows:

PART 558—NEW ANIMAL DRUGS FOR USE IN ANIMAL FEEDS

1. The authority citation for 21 CFR part 558 continues to read as follows:

Authority: 21 U.S.C. 360b, 371.

2. Section 558.78 is amended by revising paragraph (a), and in paragraph (d)(1) by removing the footnote to the table to read as follows:

§ 558.78 Bacitracin zinc.

(a) *Approvals.* To sponsors listed in § 510.600(c) of this chapter for use as in paragraph (d) of this section as follows:

(1) To 046573: 50 grams per pound as in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(iii), (d)(1)(iv), and (d)(2) of this section.

(2) To 000004: 10, 25, 40, and 50 grams per pound as in paragraphs (d)(1)(i), (d)(1)(ii), (d)(1)(v), (d)(1)(vi), (d)(2), and (d)(3) of this section.

(3) To 000010: 5 and 50 grams per pound as in paragraph (d)(1)(i) of this section.

* * * * *

Dated: September 19, 1997.

Stephen F. Sundlof,

Director, Center for Veterinary Medicine.

[FR Doc. 97–28015 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–01–F

NATIONAL LABOR RELATIONS BOARD

29 CFR Part 102

Procedural Rules Governing Debt-Collection Procedures for Administrative Offset and Federal Income Tax Refund Offset

AGENCY: National Labor Relations Board.

ACTION: Final rule.

SUMMARY: The Debt Collection Act of 1982 (Pub. L. 97–365) amended the Federal Claims Collection Act of 1966 to authorize the federal government to employ various debt collection techniques commonly available to the private sector, including administrative offset and Federal income tax refund offset. In 1992 the Congress passed and the President signed into law the Cash Management Improvement Act Amendments of 1992 which requires federal agencies to participate in the Internal Revenue Service (IRS) income tax refund offset program for the collection of delinquent debts by offset from a federal income tax refund that may be due the delinquent debtor. This final rule establishes the procedures which the Board will follow in utilizing the debt collection procedures authorized by the above legislation.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: John J. Toner, Executive Secretary, National Labor Relations Board, 1099 14th Street, NW, Room 11600, Washington, DC 20570. Telephone: (202) 273–1940.

SUPPLEMENTARY INFORMATION: The Debt Collection Act of 1982 (Pub. L. 97–365) amended the Federal Claims Collection Act of 1966 to authorize the Federal Government to employ various debt collection techniques commonly available to the private sector, including administrative offset and Federal income tax refund offset. In 1992 the Congress passed and the President signed into law the Cash Management Improvement Act Amendments of 1992 which requires federal agencies to participate in the Internal Revenue Service (IRS) income tax refund offset program in which federal agencies refer delinquent debt to the IRS for collection by offset from a federal income tax refund that may be due the delinquent debtor. On July 24, 1996, the National Labor Relations Board (Board) implemented interim regulations, set forth as new Subparts U (administrative offset), and V (Federal income tax refund offset), to part 102 of the Board's Rules and Regulations, Series 8, (published at 61 FR 38371 and 61 FR 38373, respectively), to enable the Board to utilize these debt collection procedures that have proven to be cost effective mechanisms for collection of delinquent debt.

These final rules establish the current interim rules as the means by which the Board will pursue debt collection permitted under the above statutes, with one minor change involving the clarification of a phrase appearing in § 102.160 of Subpart U, as discussed below.

When the Board published the interim rules on July 24, 1996, it determined that, because these rules merely implement a definite statutory scheme and its concomitant regulations, and relate to Agency procedure and practice, public comment on the rules was unnecessary. Nevertheless, the Board undertook to consider any public comments submitted to it on or before September 29, 1996, before issuing any final rules. The Board did receive comments from one organization which raised questions falling broadly within two categories: (1) Whether the regulations were needed, and (2) whether the application of the regulations was appropriate. We consider these comments seriatim.

Questions Regarding the Need for the Regulations

The organization questioned why these procedures are necessary and being implemented now, and why they single out federal contractors. In brief, the regulations regarding administrative offset procedures implement a statutory scheme that specifically addresses collections of delinquent debt from federal contractors, a decision made in the enabling legislation, not by the Board in these regulations. Moreover, while these procedures doubtless could have been implemented earlier, that is no reason not to implement them now that the Board has become aware of their utility. As Justice Frankfurter once observed in a different context: ''Wisdom too often never comes, and so one ought not to reject it merely because it comes late.'' *Henslee* v. *Union Planters Bank,* 335 U.S. 595, 600 (1949) (dissenting opinion).

The organization questioned whether the Board would be required to follow the provisions of Executive Order 12866 before implementing these regulations, specifically, the principles of regulation set forth in Section 1(b) of that Executive Order. However, independent regulatory agencies are specifically excluded from coverage of Section 1. Further, even assuming the NLRB is covered by Section 1, these regulations are consistent with the regulatory principles set forth in that section since they implement a statutory scheme already found desirable by Congress.

The organization inquired whether the Board had given any consideration to how the new regulations will benefit the Board. As noted in the Supplementary Information section accompanying publication of the interim rules, 61 FR 38368, the Board is entitled to utilize these offset provisions because debts owed pursuant to Board orders are in fact debts owed to the United States, the Board being the public agent chosen by Congress to vindicate the public policies embodied in the National Labor Relations Act.

Finally, the organization expressed the opinion that, before these regulations could be put into effect, the Federal Acquisition Regulations and Defense Acquisition Regulations should be amended. However, amending these regulations is not something within the purview of the Board and, therefore, no reason not to proceed with appropriate debt collection methods that have been entrusted to the Board.

Questions Regarding the Application of the Regulations

The organization notes that the regulations provide that the Agency ''may give due consideration to the debtor's financial condition * * *,'' § 102.160(c), and questions whether this consideration should be mandated. Specifically, the organization proposes that, at a minimum, the regulations mandate consideration of a debtor's financial condition, mandate that the negative impact on the debtor be minimized, and require notification to the debtor to solicit information on its financial viability if offset should occur.

In fact, the regulations already provide that the Agency ''shall send written notice to the debtor,'' § 102.161(b), and that this notice shall notify the debtor of the ''opportunity to enter into a written agreement with the Agency to repay the debt.'' § 102.161(b)(7). Moreover, the ''Agency shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the Agency * * *.'' § 102.163(a).

These mandatory provisions provide more than ample opportunity for the debtor to raise, and the Agency to consider, the debtor's financial condition, as well as the impact of any administrative offset, prior to initiating an administrative offset. Providing further mandates with respect to the Agency's obligation to consider the debtor's financial condition could mire the Agency in disputes with the debtor over whether a particular repayment plan is adequate, thereby risking nonfulfillment of the Agency's responsibility to vindicate the policies embodied in the National Labor Relations Act.

The organization questioned whether the regulations should address more specifically when administrative offset will be used. However, the head of the Agency already is required by 31 U.S.C. 3711 to attempt to collect delinquent claims, and our regulations specifically provide that ''Administrative offset shall be considered by the Agency only after attempting to collect a claim under 31 U.S.C. 3711(a).'' § 102.160(d). Finally, a claim ''will not be referred for tax refund offset where administrative offset potential is found to exist.'' § 102.173(c).

The organization argues that the regulations should specifically mandate consideration of the effect of administrative offset on any third-party contractors whose work depends on performance by the debtor. We are not aware of any requirement that the Agency take this factor into consideration. However, as a matter of sound practice, if such information is presented to the Board it will, as with any relevent information, be duly considered.

The organization objects to the provision in § 102.164(c) that allows the Agency to ''effect an administrative offset * * * prior to the completion of the due process procedures required by this subpart, if failure to take the offset would substantially prejudice the Agency's ability to collect the debt.'' Specifically, the organization proposes that the rules should specify the circumstances in which this procedure is permitted and require identification of alternative sources of funds which should be pursued before due process procedures are suspended. We conclude that it would be impossible to enumerate all of the circumstances in which this procedure might be triggered. However, by way of example, it could be triggered if a debtor were winding down its business, was coming to the last payment on its last contract, and if the Agency did not prevent those funds from being disbursed, it might never be able to collect the debt. Even in such situations, however, the debtor is not without recourse. For, this is akin to seeking a protective order, a proceeding in which the debtor will have recourse to administrative or judicial review. Thus, although funds might be temporarily frozen, the debtor ultimately will receive full due process before the funds are finally taken.

Finally, the organization questioned whether the Regulatory Flexibility Act requires an impact analysis or a flexibility analysis. However, for the reasons set forth in the publication of the interim rules, and again below, we are persuaded that the Regulatory Flexibility Act does not apply here.

Notwithstanding all of the foregoing, the Board has determined that one minor change in the regulations is appropriate to clarify the meaning of a phrase appearing in § 102.160 of Subpart U. Thus, in § 102.160(c), the phrase ''an available source of funds'' is changed to read ''another readily available source of funds.'' In all other respects, the final rules that the Board now publishes are the same as the interim rules presently outstanding.

Executive Order 12866

As noted above, the regulatory review provisions of Executive Order 12866 do not apply to independent regulatory agencies. However, even if they did, these rules would not be classified as ''significant rules'' under Section 6 of Executive Order 12866, because they will not result in (1) an annual effect on the economy of $100 million or more;

(2) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or foreign markets. Accordingly, no regulatory impact assessment is required.

Regulatory Flexibility Act

Because no notice of proposed rule-making is required for procedural rules, the requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) pertaining to regulatory flexibility analysis do not apply to these rules. However, even if the Regulatory Flexibility Act were to apply, the NLRB certifies that these rules will not have a significant economic impact on a substantial number of small business entities as they merely set forth procedures to be followed by the Agency in attempting to collect outstanding debts.

Paperwork Reduction Act

These rules are not subject to Section 3504(h) of the Paperwork Reduction Act (44 U.S.C. 3501) since they do not contain any new information collection requirements.

Small Business Regulatory Enforcement Fairness Act

Because these rules relate to Agency procedure and practice and merely implement a definitive statutory scheme and the requirements contained in regulations promulgated by the Department of Justice, the General Accounting Office, the Internal Revenue Service, and the Treasury Department, the Board has determined that the Congressional review provisions of the Small Business Regulatory Enforcement Fairness Act (5 U.S.C. 801) do not apply.

List of Subjects in 29 CFR Part 102

Administrative practice and procedure, Labor management relations.

To enable the Agency to collect delinquent debts by way of administrative offset and Federal income tax refund offset, the Board amends 29 CFR part 102 as follows:

PART 102—RULES AND REGULATIONS, SERIES 8

1. The authority citation for 29 CFR part 102 continues to read as follows:

Authority: Section 6, National Labor Relations Act, as amended (29 U.S.C. 151, 156). Section 102.117(c) also issued under Section 552(a)(4)(A) of the Freedom of Information Act, as amended (5 U.S.C. 552(a)(4)(A)). Sections 102.143 through 102.155 also issued under Section 504(c)(1) of the Equal Access to Justice Act, as amended (5 U.S.C. 504(c)(1)).

2. Subparts U and V to part 102 are revised to read as follows:

Subpart U—Debt-Collection Procedures by Administrative Offset

Sec.

102.156 Administrative offset; purpose and scope.
102.157 Definitions.
102.158 Agency requests for administrative offsets and cooperation with other Federal agencies.
102.159 Exclusions.
102.160 Agency responsibilities.
102.161 Notification
102.162 Examination and copying of records related to the claim; opportunity for full explanation of the claim.
102.163 Opportunity for repayment.
102.164 Review of the obligation.
102.165 Cost shifting.
102.166 Additional administrative collection action.
102.167 Prior provision of rights with respect to debt.

§ 102.156 Administrative offset; purpose and scope.

The regulations in this subpart specify the Agency procedures that will be followed to implement the administrative offset procedures set forth in the Debt Collection Act of 1982 (Pub. L. 97–365), 31 U.S.C. 3716.

§ 102.157 Definitions.

(a) The term *administrative offset* means the withholding of money payable by the United States to, or held by the United States on behalf of, a person to satisfy a debt owed the United States by that person.

(b) The term *debtor* is any person against whom the Board has a claim.

(c) The term *person* does not include any agency of the United States, or any state or local government.

(d) The terms *claim* and *debt* are synonymous and interchangeable. They refer to an amount of money or property which has been determined by an appropriate Agency official to be owed to the United States from any person, organization, or entity, except another federal agency.

(e) A debt is considered *delinquent* if it has not been paid by the date specified in the Agency's initial demand letter (§ 102.161), unless satisfactory payment arrangements have been made by that date, or if, at any time thereafter, the debtor fails to satisfy his obligations under a payment agreement with the Agency.

§ 102.158 Agency requests for administrative offsets and cooperation with other Federal agencies.

Unless otherwise prohibited by law, the Agency may request that monies due and payable to a debtor by another Federal agency be administratively offset in order to collect debts owed the Agency by the debtor. In requesting an administrative offset, the Agency will provide the other Federal agency holding funds of the debtor with written certification stating:

(a) That the debtor owes the Board a debt (including the amount of debt); and

(b) That the Agency has complied with the applicable Federal Claims Collection Standards, including any hearing or review.

§ 102.159 Exclusions.

(a) (1) The Agency is not authorized by the Debt Collection Act of 1982 (31 U.S.C. 3716) to use administrative offset with respect to:

(i) Debts owed by any State or local government;

(ii) Debts arising under or payments made under the Social Security Act, the Internal Revenue Code of 1954, or the tariff laws of the United States; or

(iii) When a statute explicitly provides for or prohibits using administrative offset to collect the claim or type of claim involved.

(2) No claim that has been outstanding for more than 10 years after the Board's right to collect the debt first accrued may be collected by means of administrative offset, unless facts material to the right to collect the debt were not known and could not reasonably have been known by the official of the Agency who was charged with the responsibility to discover and collect such debts until within 10 years of the initiation of the collection action. A determination of when the debt first accrued should be made according to existing laws regarding the accrual of debts, such as under 28 U.S.C. 2415. Unless otherwise provided by contract or law, debts or payments owed the Board which are not subject to administrative offset under 31 U.S.C. 3716 may be collected by administrative offset under the common law or other applicable statutory authority, pursuant to this paragraph or Board regulations established pursuant to such other statutory authority.

(b) Collection by offset against a judgment obtained by a debtor against the United States shall be accomplished in accordance with 31 U.S.C. 3728.

§ 102.160 Agency responsibilities.

(a) The Agency shall provide appropriate written or other guidance to

Agency officials in carrying out this subpart, including the issuance of guidelines and instructions, which may be deemed appropriate. The Agency shall also take such administrative steps as may be appropriate to carry out the purposes and ensure the effective implementation of this subpart.

(b) Before collecting a claim by means of administrative offset, the Agency must ensure that administrative offset is feasible, allowable and appropriate, and must notify the debtor of the Agency's policies for collecting a claim by means of administrative offset.

(c) Whether collection by administrative offset is feasible is a determination to be made by the Agency on a case-by-case basis, in the exercise of sound discretion. The Agency shall consider not only whether administrative offset can be accomplished, both practically and legally, but also whether administrative offset will further and protect the best interests of the United States Government. In appropriate circumstances, the Agency may give due consideration to the debtor's financial condition, and it is not expected that administrative offset will be used in every available instance, particularly where there is another readily available source of funds. The Agency may also consider whether administrative offset would substantially interfere with or defeat the purposes of the program authorizing the payments against which offset is contemplated.

(d) Administrative offset shall be considered by the Agency only after attempting to collect a claim under 31 U.S.C. 3711(a).

§ 102.161 Notification.

(a) The Agency shall send a written demand to the debtor in terms which inform the debtor of the consequences of failure to cooperate. In the demand letter, the Agency shall provide the name of an Agency employee who can provide a full explanation of the claim. When the Agency deems it appropriate to protect the Government's interests (for example, to prevent the statute of limitations, 28 U.S.C. 2415, from expiring), written demand may be preceded by other appropriate actions.

(b) In accordance with guidelines established by the Agency, the Agency official responsible for collection of the debt shall send written notice to the debtor, informing such debtor as appropriate:

(1) Of the nature and amount of the Board's claim;

(2) Of the date by which payment is to be made (which normally should be not more than 30 days from the date that the initial notification was mailed or hand delivered);

(3) Of the Agency's intention to collect by administrative offset and of the debtor's rights in conjunction with such an offset;

(4) That the Agency intends to collect, as appropriate, interest, penalties, administrative costs and attorneys fees;

(5) Of the rights of such debtor to a full explanation of the claim, of the opportunity to inspect and copy Agency records with respect to the claim and to dispute any information in the Agency's records concerning the claim;

(6) Of the debtor's right to administrative appeal or review within the Agency concerning the Agency's claim and how such review shall be obtained;

(7) Of the debtor's opportunity to enter into a written agreement with the Agency to repay the debt; and

(8) Of the date on which, or after which, an administrative offset will begin.

§ 102.162 Examination and copying of records related to the claim; opportunity for full explanation of the claim.

Following receipt of the demand letter specified in § 102.161, and in conformity with Agency guidelines governing such requests, the debtor may request to examine and copy publicly available records pertaining to the debt, and may request a full explanation of the Agency's claim.

§ 102.163 Opportunity for repayment.

(a) The Agency shall afford the debtor the opportunity to repay the debt or enter into a repayment plan which is agreeable to the Agency and is in a written form signed by such debtor. The Agency may deem a repayment plan to be abrogated if the debtor should, after the repayment plan is signed, fail to comply with the terms of the plan.

(b) The Agency has discretion and should exercise sound judgment in determining whether to accept a repayment agreement in lieu of administrative offset.

§ 102.164 Review of the obligation.

(a) The debtor shall have the opportunity to obtain review by the Agency of the determination concerning the existence or amount of the debt as set forth in the notice. In cases where the amount of the debt has been fully liquidated, the review is limited to ensuring that the liquidated amount is correctly represented in the notice.

(b) The debtor seeking review shall make the request in writing to the Agency, not more than 15 days from the date the demand letter was received by the debtor. The request for review shall state the basis for challenging the determination. If the debtor alleges that the Agency's information relating to the debt is not accurate, timely, relevant or complete, the debtor shall provide information or documentation to support this allegation.

(c) The Agency may effect an administrative offset against a payment to be made to a debtor prior to the completion of the due process procedures required by this subpart, if failure to take the offset would substantially prejudice the Agency's ability to collect the debt; for example, if the time before the payment is to be made would not reasonably permit the completion of due process procedures. Administrative offset effected prior to completion of due process procedures must be promptly followed by the completion of those procedures. Amounts recovered by administrative offset, but later found not owed to the Agency, will be promptly refunded.

(d) Upon completion of the review, the Agency's reviewing official shall transmit to the debtor the Agency's decision. If appropriate, this decision shall inform the debtor of the scheduled date on or after which administrative offset will begin. The decision shall also, if appropriate, indicate any changes in information to the extent such information differs from that provided in the initial notification to the debtor under 102.161.

(e) Nothing in this subpart shall preclude the Agency from sua sponte reviewing the obligation of the debtor, including a reconsideration of the Agency's determination concerning the debt, and the accuracy, timeliness, relevance, and completeness of the information on which the debt is based.

§ 102.165 Cost shifting.

Costs incurred by the Agency in connection with referral of debts for administrative offset will be added to the debt and thus increase the amount of the offset. Such costs may include administrative costs and attorneys fees.

§ 102.166 Additional administrative collection action.

Nothing contained in this subpart is intended to preclude the Agency from utilizing any other administrative or legal remedy which may be available.

§ 102.167 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided for under some other statutory or regulatory authority, the Agency is not required to

duplicate those efforts before effecting administrative offset.

Subpart V—Debt Collection Procedures by Federal Income Tax Refund Offset

102.168 Federal income tax refund offset; purpose and scope.
102.169 Definitions.
102.170 Agency referral to IRS for tax referral effect; Agency responsibilities.
102.171 Cost shifting.
102.172 Minimum referral amount.
102.173 Relation to other collection efforts.
102.174 Debtor notification.
102.175 Agency review of the obligation.
102.176 Prior provision of rights with respect to debt.

§ 102.168 Federal income tax refund offset; purpose and scope.

The regulations in this subpart specify the Agency procedures that will be followed in order to implement the federal income tax refund offset procedures set forth in 26 U.S.C. 6402(d) of the Internal Revenue Code (Code), 31 U.S.C. 3720A, and 301.6402–6 of the Treasury Regulations on Procedure and Administration (26 CFR 301.6402–6). This statute and the implementing regulations of the Internal Revenue Service (IRS) at 26 CFR 301.6402–6 authorize the IRS to reduce a tax refund by the amount of a past-due legally enforceable debt owed to the United States. The regulations apply to past-due legally enforceable debts owed to the Agency by individuals and business entities. The regulations are not intended to limit or restrict debtor access to any judicial remedies to which he or she may otherwise be entitled.

§ 102.169 Definitions.

(a) *Tax refund offset* refers to the IRS income tax refund offset program operated under authority of 31 U.S.C. 3720A.

(b) *Past-due legally enforceable debt* is a delinquent debt administratively determined to be valid, whereon no more than 10 years have lapsed since the date of delinquency (unless reduced to judgment), and which is not discharged under a bankruptcy proceeding or subject to an automatic stay under 11 U.S.C. 362.

(c) *Individual* refers to a taxpayer identified by a social security number (SSN).

(d) *Business entity* refers to an entity identified by an employer identification number (EIN).

(e) *Taxpayer mailing address* refers to the debtor's current mailing address as obtained from IRS.

(f) *Memorandum of understanding* refers to the agreement between the Agency and IRS outlining the duties and responsibilities of the respective parties for participation in the tax refund offset program.

§ 102.170 Agency referral to IRS for tax referral effect; Agency responsibilities.

(a) As authorized and required by law, the Agency may refer past-due legally enforceable debts to the Internal Revenue Service (IRS) for collection by offset from any overpayment of income tax that may otherwise be due to be refunded to the taxpayer. By the date and in the manner prescribed by the IRS, the Agency may refer for tax refund offset past-due legally enforceable debts. Such referrals shall include the following information:

(1) Whether the debtor is an individual or a business entity;

(2) The name and taxpayer identification number (SSN or EIN) of the debtor who is responsible for the debt;

(3) The amount of the debt;

(4) A designation that the Agency is referring the debt and (as appropriate) Agency account identifiers.

(b) The Agency will ensure the confidentiality of taxpayer information as required by IRS in its Tax Information Security Guidelines.

(c) As necessary, the Agency will submit updated information at the times and in the manner prescribed by IRS to reflect changes in the status of debts or debtors referred for tax refund offset.

(d) Amounts erroneously offset will be refunded by the Agency or IRS in accordance with the Memorandum of Understanding.

§ 102.171 Cost shifting.

Costs incurred by the Agency in connection with referral of debts for tax refund offset will be added to the debt and thus increase the amount of the offset. Such costs may include administrative costs and attorneys fees.

§ 102.172 Minimum referral amount.

The minimum amount of a debt otherwise eligible for Agency referral to the IRS is $25 for individual debtors and $100 for business debtors. The amount referred may include the principal portion of the debt, as well as any accrued interest, penalties, administrative cost charges, and attorney fees.

§ 102.173 Relation to other collection efforts.

(a) Tax refund offset is intended to be an administrative collection remedy to be utilized consistent with IRS requirements for participation in the program, and the costs and benefits of pursuing alternative remedies when the tax refund offset program is readily available. To the extent practical, the requirements of the program will be met by merging IRS requirements into the Agency's overall requirements for delinquent debt collection.

(b) As appropriate, debts of an individual debtor of $100 or more will be reported to a consumer or commercial credit reporting agency before referral for tax refund offset.

(c) Debts owed by individuals will be screened for administrative offset potential using the most current information reasonably available to the Agency, and will not be referred for tax refund offset where administrative offset potential is found to exist.

§ 102.174 Debtor notification.

(a) The Agency shall send appropriate written demand to the debtor in terms which inform the debtor of the consequences of failure to repay debts or claims owed the Board.

(b) Before the Agency refers a debt to IRS for tax refund offset, it will make a reasonable attempt to notify the debtor that:

(1) The debt is past-due;

(2) Unless the debt is repaid or a satisfactory repayment agreement is established within 60 days thereafter, the debt will be referred to IRS for offset from any overpayment of tax remaining after taxpayer liabilities of greater priority have been satisfied; and

(3) The debtor will have a minimum of 60 days from the date of notification to present evidence that all or part of the debt is not past due or legally enforceable, and the Agency will consider this evidence in a review of its determination that the debt is past due and legally enforceable. The debtor will be advised where and to whom evidence is to be submitted.

(c) The Agency will make a reasonable attempt to notify the debtor by using the most recent address information available to the Agency or obtained from the IRS, unless written notification to the Agency is received from the debtor stating that notices from the Agency are to be sent to a different address.

(d) The notification required by paragraph (b) of this section and sent to the address specified in paragraph (c) of this section may, at the option of the Agency, be incorporated into demand letters required by paragraph (a) of this section.

§ 102.175 Agency review of the obligation.

(a) The Agency official responsible for collection of the debt will consider any evidence submitted by the debtor as a result of the notification required by § 102.174 and notify the debtor of the

result. If appropriate, the debtor will also be advised where and to whom to request a review of any unresolved dispute.

(b) The debtor will be granted 30 days from the date of the notification required by paragraph (a) of this section to request a review of the determination of the Agency official responsible for collection of the debt on any unresolved dispute. The debtor will be advised of the result.

§ 102.176 Prior provision of rights with respect to debt.

To the extent that the rights of the debtor in relation to the same debt have been previously provided under some other statutory or regulatory authority, including administrative offset procedures set forth in Subpart U, the Agency is not required to duplicate those efforts before referring a debt for tax refund offset.

By Direction of the Board.

John J. Toner,

Executive Secretary, National Labor Relations Board.

[FR Doc. 97–28092 Filed 10–22–97; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Parts 110 and 165

[CGD 05–97–076]

RIN 2115–AA98

Delaware River Safety Zone and Anchorage Regulations

AGENCY: Coast Guard, DOT.

ACTION: Temporary final rule.

SUMMARY: The Army Corps of Engineers has begun dredging parts of the Delaware River including the Marcus Hook Range Ship Channel. Because of the dredging operations, temporary additional requirements will be imposed in Marcus Hook Anchorage (Anchorage 7), the Deepwater Point Anchorage (Anchorage 6), and the Mantua Creek Anchorage (Anchorage 9). The Coast Guard is also establishing a temporary moving safety zone around the dredge vessel *Essex* that will be working in the Marcus Hook Range Ship Channel adjacent to Anchorage 7.

EFFECTIVE DATES: Paragraph (b)(11) in 33 CFR 110.157 is effective from October 2, 1997 until 6 a.m. on December 20, 1997. Section 165.T05–076 is effective from October 2, 1997 until 6 a.m. on December 20, 1997.

FOR FURTHER INFORMATION CONTACT: LT S.A. Budka, Project Officer, U.S. Coast Guard Captain of the Port, 1 Washington Ave., Philadelphia, PA 19147–4395, Phone: (215) 271–4889.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553(b)(3) and 5 U.S.C. 553(d), a Notice of Proposed Rule Making (NPRM) was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. The Coast Guard was informed by U.S. Army Corps of Engineers, Philadelphia District on September 26, 1997 that dredging operations would commence on October 2, 1997. Publishing a NPRM and delaying its effective date would be contrary to the public interest, since immediate action is needed to protect mariners from potential hazards associated with the dredging operations in the Marcus Hook Range Ship Channel and to modify the anchorage regulations to facilitate vessel traffic.

Background and Purpose

The U.S. Army Corps of Engineers (ACOE) notified the Coast Guard that it needed to conduct dredging operations on the Delaware River, in the vicinity of the Marcus Hook Range Ship Channel. The dredging is needed to maintain the project depth of the channel. Similar dredging was conducted in 1995 and 1996. This period of dredging began October 2, 1997 and is anticipated to end on December 20, 1997.

To reduce the hazards associated with dredging the channel, vessel traffic that would normally transit through the Marcus Hook Range Ship Channel will be diverted through part of Anchorage 7, reducing available anchorage space by approximately one half. Vessels will continue to be allowed to anchor in available parts of Anchorage 7 during the dredging operations; however, permission to anchor must be obtained from the Captain of the Port, who will identify those parts of Anchorage 7 that are expected to be available.

For the protection of mariners transiting in the vicinity of dredging operations, the Coast Guard is also establishing a moving safety zone around the dredging vessel *Essex*. The safety zone will ensure that mariners remain a safe distance from the dredging equipment that could potentially be dangerous.

Discussion of the Regulation

Section 110.157(b)(2) allows vessels to anchor for up to 48 hours in the anchorages listed in 110.157(a), which includes Anchorage 7. However, because of the limited anchorage space available in Anchorage 7, the Coast Guard is adding a temporary paragraph 33 CFR 110.157(b)(11) to provide additional requirements and restrictions on vessels utilizing Anchorage 7. During the effective period, vessels desiring to use Marcus Hook Anchorage (Anchorage 7) must obtain permission from the Captain of the Port, Philadelphia at least 24 hours in advance. The Captain of the Port will permit only one vessel at a time to anchor in Anchorage 7 and will grant permission on a ''first come, first serve'' basis. A vessel will be directed to a location within Anchorage 7 where it may anchor, and will not be permitted to remain in Anchorage 7 for more than 12 hours.

The Coast Guard expects that vessels normally permitted to anchor in Anchorage 7 will use Anchorage 6 off Deepwater Point or Anchorage 9 near the entrance to Mantua Creek, because they are the closest anchorages to Anchorage 7. To control access to Anchorage 7, the Coast Guard is requiring a vessel desiring to anchor in Anchorage 7 obtain advance permission from the Captain of the Port. To control access to Anchorages 6 and 9, the Coast Guard is requiring any vessel 700 feet or greater in length obtain advance permission from the Captain of the Port before anchoring. The Coast Guard is also concerned that the holding ground in Anchorages 6 and 9 is not as good as in Anchorage 7. Therefore, a vessel 700 to 750 feet in length is required to have one tug standing alongside while at anchor, and a vessel of over 750 feet in length must have two tugs standing alongside. The tug(s) must have sufficient horsepower to prevent a vessel from swinging into the channel if necessary.

The Coast Guard is also establishing a moving safety zone within a 150 yard radius of the dredging operations being conducted in the Marcus Hook Range Ship Channel in the vicinity of Anchorage 7 by the dredge vessel *Essex*. The safety zone will protect mariners transiting the area from the potential hazards associated with dredging operations. Vessels transiting the Marcus Hook Range Ship Channel are required to divert from the main ship channel through Anchorage 7, and must operate at the minimum safe speed necessary to maintain steerage and reduce wake. No vessel may enter the safety zone unless it receives permission from the Captain of the Port.

Regulatory Evaluation

This 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.

Although this regulation requires certain vessels to have at least one tug alongside while at anchor, the requirement only applies to vessels 700 feet or greater in length, that are anchored in Anchorages 6 and 9. Vessels anchoring in Anchorage 7 are not required to have assist tugs alongside. Alternate anchorages, such as Anchorage A (Breakwater) and Anchorage 1 (Big Stone) in Delaware Bay, are also reasonably close and generally available. Vessels anchoring in Anchorages A and 1 are typically not required to have tugs alongside. Furthermore, few vessels 700 feet or greater are expected to enter the port during the effective period. The majority of vessels expected are less than 700 feet and thus will not be required to have tugs alongside. The Captain of the Port, Philadelphia will direct anchoring of vessels so as not to significantly impede traffic flow in the vicinity of the dredging operations.

Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e. of Commandant Instruction M16475.1B (as revised by 59 FR 38654; July 29, 1994), this rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

Federalism Assessment

This action has been analyzed in accordance with the principles and criteria contained in Executive Order 12612, and it has been determined that it does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects

33 CFR Part 110

Anchorage grounds.

33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, the Coast Guard amends 33 CFR 110 and 33 CFR 165 as follows:

PART 110—[AMENDED]

1. The authority citation for Part 110 continues to read as follows:

Authority: 33 U.S.C. 471, 2030, 2035, and 2071; 49 CFR 1.46 and 33 CFR 1.05–1(g). Section 110.1a and each section listed in 110.1a is also issued under 33 U.S.C. 1223 and 1231.

2. In § 110.157, a new temporary paragraph (b)(11) is added to read as follows:

§ 110.157 Delaware Bay and River.

* * * * *

(b) * * *

(11) In addition to the requirements and restrictions of paragraph (b)(2), the provisions of this paragraph apply to the anchorages in paragraphs (a)(7), (a)(8), and (a)(10).

(i) Prior to anchoring in Anchorage 7 off Marcus Hook, as described in paragraph (a)(8) of this section, a vessel must first obtain permission from the Captain of the Port, Philadelphia, at least 24 hours on advance of arrival. Permission to anchor will be granted on a ''first-come, first-serve'' basis. The Captain of the Port will allow only one vessel at a time to anchor in Anchorage 7 and will direct the vessel to a location in which the vessel may anchor. No vessel may remain within Anchorage 7 for more than 12 hours.

(ii) For Anchorage 6 as described in paragraph (a)(7) of this section, and Anchorage 9 as described in paragraph (a)(10) of this section:

(A) Any vessel 700 feet or greater in length requesting anchorage shall obtain permission from the Captain of the Port, Philadelphia, PA at least 24 hours in advance.

(B) Any vessel from 700 to 750 feet in length shall have one tug alongside at all times while the vessel is at anchor.

(C) Any vessel greater than 750 feet in length shall have two tugs alongside at all times while the vessel is at anchor.

(D) The master, owner or operator of a vessel at anchor shall ensure that a tug(s) required by this section is of sufficient horsepower to assist with necessary maneuvers to keep the vessel clear of the navigation channel.

(iii) *Definitions: Captain of the Port or COTP* means the Captain of the Port, Philadelphia, Pennsylvania or any Coast Guard commissioned, warrant, or petty officer authorized to act on his behalf.

(iv) *Effective Dates:* This paragraph is effective from October 2, 1997 until 6 a.m. on December 20, 1997.

PART 165—[AMENDED]

3. The authority citation for Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 33 CFR 1.05–1(g), 6.04–1, 6.04–6, and 160.5; 49 CFR 1.46.

4. A new Section 165.T05–076 is added to read as follows:

§ 165.T05–076 Safety Zone: Delaware River, Marcus Hook Range Ship channel.

(a) *Location:* The following area is a safety zone: All waters within a 150 yard radius of the dredging vessel *Essex* operating in or near the Marcus Hook Range Ship Channel in the vicinity of Anchorage 7.

(b) *Effective Dates:* This regulation is effective from October 2, 1997 until 6 a.m. on December 20, 1997.

(c) *Regulations:* The following regulations shall apply within the safety zone.

(1) In accordance with the general regulations in Section 165.23, entry into this safety zone is prohibited unless authorized by the Captain of the Port. The general requirements of sections 165.23 also apply to this regulation.

(i) Vessels transiting the Marcus Hook Range Ship Channel shall divert from the main ship channel through Anchorage 7, remain at least 150 yards from the dredging operations, and operate at a minimum safety speed necessary to maintain steerageway and reduce wake.

(2) The operator of any vessel in the safety zone shall proceed as directed by the Captain of the Port.

(3) The Coast Guard vessel enforcing the safety zone may be contacted on channel 13 and 16 VHF–FM. The Captain of the Port, Philadelphia may be contacted at telephone number (215) 271–4940.

(d) *Definitions: Captain of the Port or COTP* means the Captain of the Port, Philadelphia, Pennsylvania or any Coast Guard commissioned, warrant, or petty officer authorized to act on his behalf.

Dated: October 1, 1997.

Roger T. Rufe,

Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.

[FR Doc. 97–28101 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AI86

Board of Veterans' Appeals: Rules of Practice—Death of Appellant During Pendency of Appeal

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document amends the Rules of Practice of the Board of Veterans' Appeals (Board)—part of the Department of Veterans Affairs (VA)—relating to circumstances which arise when an appellant dies while an appeal is pending before the Board. These amendments provide that when an appellant dies while an appeal is pending, the appeal will be dismissed, and eliminate a provision which permitted a deceased appellant's representative to continue to act with respect to any appeal pending upon the death of the appellant. These changes are necessary because of a ruling made by the United States Court of Veterans Appeals.

DATES: Effective Date: These changes are effective June 13, 1997, the date of the court decision which requires the changes.

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: The Board is an administrative body that decides appeals from denials of claims for veterans' benefits.

Death of appellant during pendency of appeal. Previously, Rule 1302 (38 CFR 20.1302) provided that, when an appeal is pending before the Board at the time of the appellant's death, the Board could complete its action on the issues properly before it without application from the survivors. In *Smith (Irma)* v. *Brown*, No. 95–898 (Vet. App. June 13, 1997), the U.S. Court of Veterans Appeals ruled that this regulation is invalid because, pursuant to its ruling in *Landicho* v. *Brown*, 7 Vet. App. 42, 47 (1994), a pending claim for compensation benefits under chapter 11 of title 38, United States Code, does not survive the claimant's death. Thus, when an appellant dies prior to the promulgation of the Board's decision with regard to a compensation claim, the Board no longer has jurisdiction of the appeal, and the appeal must be dismissed.

While it is clear that Rule 1302 is no longer applicable to claims for disability compensation, we have concluded that, for purposes of that rule, there is no meaningful distinction between disability compensation and other claims which might come before the Board.

The Court's ruling in *Landicho* that compensation claims do not survive the claimant was based in part upon the fact that payments of disability compensation cease the last day of the month before the veteran's death. 38 U.S.C. 5112(b)(1). We note that the same statute applies to payments of pension (38 U.S.C. ch. 15) and dependency and indemnity compensation (38 U.S.C. ch. 13) in the case of a payee. Similarly, 38 U.S.C. 5113(a) provides that, in the case of educational benefits (38 U.S.C. ch. 30, 31, 32, 34 and 35 and 10 U.S.C. ch. 106), effective dates—including discontinuances based on a payee's death—are to correspond, to the extent feasible, to those for disability compensation.

The court in *Landicho* also found that Congress established a procedure, under the ''accrued benefits'' provisions of 38 U.S.C. 5121, for a qualified survivor to carry on, to a limited extent, a deceased veteran's disability compensation claim by submitting an application for accrued benefits within one year after the veterans' death. *Landicho*, 7 Vet. App. at 47. Similarly, we note that the law provides these same ''accrued benefit'' rights to the same qualified survivors of all payees who die entitled to periodic benefits which remain unpaid.

Finally, we note the general rule that a cause of action created by statute generally does not survive unless its survival is specifically provided for in the statute itself or in another statute. 1 Am. Jur. 2d *Abatement, Survival and Revival* § 62 (1994). There is no survival statute other than section 5121 for any veterans' benefit which would come before the Board.

In sum, we can find no meaningful distinction between claims for disability compensation and claims for other benefits which would reach the Board with respect to survivability. Accordingly, we have amended Rule 1302 to provide that an appeal pending before the Board of Veterans' Appeals when the appellant dies will be dismissed.

Continuation of representation following death of a claimant or appellant. Previously, Rule 611 (38 CFR 20.611) provided in part that an appellant's representative may continue to act with respect to any appeal pending upon the death of the claimant or appellant until such time as a final decision has been promulgated by the Board of Veterans' Appeals. In *Smith (Irma)* v. *Brown*, the Court of Veterans Appeals ruled that this portion of Rule 611 is invalid because a pending compensation claim does not survive the claimant's death and the Board has no jurisdiction to decide a defunct claim.

While the Court's ruling—as with its ruling with respect to Rule 1302—is technically limited to claims for disability compensation, we conclude, for the reasons stated above, that the ruling should apply to all matters which come before the Board. Accordingly, we have amended Rule 611 to delete the invalid sentence.

We have also modified the ''authority'' citations in each rule to include a reference to the court decision. 38 U.S.C. 501(b).

This final rule concerns an interpretive rule and also concerns agency policy, procedure or practice. Consequently, pursuant to 5 U.S.C. 553, the final rule is exempt from notice and comment requirements.

The Secretary hereby certifies that this final rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will affect only claims processing by VA and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this final rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604. In addition, since no notice of proposed rule making is required in connection with the adoption of this final rule, no regulatory flexibility analysis is required under the Regulatory Flexibility Act.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: October 8, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

Subpart G—Representation

2. In subpart G, § 20.611 is revised to read as follows:

§ 20.611 Rule 611. Continuation of representation following death of a claimant or appellant.

A recognized organization, attorney, agent, or person properly designated to represent a claimant or appellant will be recognized as the representative of his or her survivors for a period of one year following the death of the claimant or appellant. The provisions of this section do not apply to any survivor who has appointed another representative in accordance with these rules or who has indicated in writing that he or she does not wish to be represented by the claimant's or appellant's representative. Written notice that a survivor does not wish to be represented by the claimant's or appellant's representative will be effective when received by the agency of original jurisdiction or, if the case has been certified to the Board for appellate review, by the Board of Veterans' Appeals.

(Authority: 38 U.S.C. 5902–5904)

Subpart N—Miscellaneous

3. In subpart N, § 20.1302 is revised to read as follows:

§ 20.1302 Rule 1302. Death of appellant during pendency of appeal.

An appeal pending before the Board of Veterans' Appeals when the appellant dies will be dismissed.

(Authority: 38 U.S.C. 7104(a))

[FR Doc. 97–28059 Filed 10–22–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[MN54–01–7279a; FRL–5913–3]

Approval and Promulgation of Implementation Plan: Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: The United States Environmental Protection Agency (EPA) approves Minnesota's 1993 periodic carbon monoxide (CO) emission inventory. The inventory was submitted by the State of Minnesota to satisfy a Federal requirement that those States containing CO nonattainment areas (NAA's) classified moderate and serious submit a revised emission inventory (i.e., from the 1990 base year inventory) at the end of each 3 year period thereafter, until the area is redesignated to attainment. It is an inventory of actual CO season emissions from all sources, in accordance with EPA guidance.

The geographic area covered in the 1993 periodic CO emission inventory includes counties of the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), and Wright County. The rationale for this approval is set forth in this final rule; additional information is available at the address indicated below in the supporting Technical Support Document (TSD). Elsewhere in this **Federal Register**, EPA is proposing approval and soliciting comment on this action; if adverse comments are received, EPA will withdraw the direct final rulemaking and address the comments received in a new final rule; otherwise no further rulemaking will occur on this action.

DATES: This final rule will be effective Decmeber 22, 1997 unless substantive adverse comments not previously addressed by the State or USEPA are received by Novmeber 24, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments may be mailed to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Copies of the material submitted by the Minnesota Pollution Control Agency may be examined during normal business hours at the same location.

FOR FURTHER INFORMATION CONTACT: Charles Hatten at (312) 886–6031.

SUPPLEMENTARY INFORMATION:

Background

Under the Clean Air Act as amended (including the 1990 Amendments)(the Act), States have the responsibility to inventory emissions contributing to the National Ambient Air Quality Standards nonattainment, to track these emissions over time, and to ensure that control strategies are being implemented that reduce emissions and move areas towards attainment. The Act required States with moderate and serious CO nonattainment areas to initially submit a base year CO inventory that represented actual emissions during the peak CO season by November 15, 1992. This base year inventory was for calendar year 1990. Moderate and serious CO nonattainment areas were also required to submit a revised emissions inventory periodically. The submittal of the first periodic emissions inventory is required no later than September 30, 1995, and every 3 years thereafter until the area is redesignated to attainment. The 1990 base year inventory is the primary inventory from which the periodic inventories are derived. Further information on these inventories and their purpose can be found in the document ''Emission Inventory Requirements for Carbon Monoxide State Implementation Plans,'' U.S. Environmental Protection Agency, Office of Air Quality Planning and Standards, Research Triangle Park, NC, March 1991.

The air quality planning requirements for CO nonattainment areas are set out in section 187 of Title I of Clean Air Act (the Act). Under section 187(a)(5) of the Act, for those States containing areas designated nonattainment for CO, and classified moderate or serious, a revised emission inventory (i.e., from the 1990 base year inventory) must be submitted at the end of each 3 year period thereafter, until the area is redesignated to attainment. The State's submittal must include a comprehensive, accurate, and current inventory of actual CO season emissions from all sources. Stationary point, area, and on-road and off-road mobile sources are to be included in the inventory. This first periodic inventory is for calendar year 1993. The periodic inventory is to address actual CO emissions for the area during the peak CO season. The peak CO season should reflect the months when peaks CO air quality concentrations occur. For many, but not all areas of the country, the peak CO season will be in the winter-time months. For areas where winter is the peak CO season, the 1993 periodic inventory will include the winter months that begin in 1992 and extend into 1993 (e.g., December 1992 through January-February 1993). Available guidance for preparing emission inventories is provided in the General Preamble (57 FR 13498, April 16, 1992).

Emission inventories are first reviewed under the completeness criteria established under section 110(k)(C) of the Act (56 FR 42216, August 26, 1991). According to section 110(k)(1)(C) if a submittal does not meet the completeness criteria, ''the State shall be treated as not having made the submission.'' Under section 179(a)(1) and 110(c)(1), a finding by EPA that a submittal is incomplete is one of the actions that initiates the sanctions and Federal Implementation Plan.

Review of State 1993 CO Periodic Emission Inventory (PEI)

I. Procedural Background

The approach to developing the 1993 PEI should be to require a rigorous

inventory, similar to that for the 1990 base year emission inventory, that would be suitable for regulatory purposes; i.e., milestone compliance demonstration or maintenance plan tracking. However, if EPA determines that the 1993 PEI will not be used to support a regulatory purpose, a less rigorous approach may be appropriate.[1] After a preliminary review of the May 25, 1995, draft submittal of the 1993 PEI, EPA notified the State of Minnesota Pollution Control Agency (MPCA) in a letter with its determination that the inventory was being prepared in accordance with EPA guidance, and recommended that the MPCA complete the quality assurance checks on the draft inventory. EPA also recognized at this time a less rigorous approach to developing the 1993 CO PEI would satisfy the requirements of section 187(a)(5) of the Act, since it would not have any impact for regulatory purposes.

The final 1993 CO PEI was submitted on September 28, 1995, from the MPCA to EPA. The EPA reviewed the inventory and is satisfied that all Agency guidance requirements have been met.

The 1993 CO PEI inventory contained summary tables for stationary point and area sources, and mobile source (both on-road and nonroad) CO emissions in tons per year and pounds per winter day. A detailed breakdown of these source categories, for the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), by county, and Wright County is given in summary tables 1.4.1, 1.4.2, 1.4.3, and 1.4.4. Summary tables 1.4.5, 1.4.6, 1.4.7, and 1.4.8 for the 1993 PEI provide CO emissions in the Twin Cities seven county metropolitan area, by county and Wright County; seven and eight county totals *as a percent of total CO emissions* in tons per year and pounds per winter day, by major source category.

The plan submittal also included a comparison of the 1993 PEI and the 1990 base year inventory for stationary point and area sources, and mobile source (both on-road and nonroad) CO emissions in tons per year and pounds per winter day. A detailed breakdown of these source categories, for the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), by county, and Wright County is given in summary tables 1.4.9, 1.4.10, 1.4.11, and 1.4.12. Summary tables 1.4.13, 1.4.14, 1.4.15, and 1.4.16 provide a comparison of the 1993 PEI and the 1990 base year inventory CO in the Twin Cities seven county metropolitan area, by county and Wright county; seven and eight county totals emissions *as a percent of total CO emissions* in tons per year and pounds per winter day, by major source category are also provided.

The CO nonattainment boundaries for these areas are described in 56 FR 56694 (November 6, 1991), and classified as moderate. The geographic area covered is classified as a moderate CO nonattainment area because the area has a design value of 11.40 parts per million.

II. Final Rulemaking Action

EPA is approving the Minnesota's 1993 CO periodic emission inventory as meeting the requirements of section 187(a)(5) of the Act as a revision to the CO state implementation plan for all areas designated as nonattainment, classified moderate and serious. These areas included the counties of the Twin Cities seven county metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), and Wright County.

Because EPA considers this action noncontroversial and routine, we are approving it without prior proposal. However, in a separate document in this **Federal Register** publication, EPA is proposing to approve this part 52 action should adverse or critical comments be filed. This action will be effective December 22, 1997 unless, by November 24, 1997 adverse or critical comments are received.

If EPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 22, 1997.

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

III. Administrative Requirements

A. Executive Order (E.O.) 12866

This action has been classified as a Table 3 action for signature by the Regional Administrators under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214–2225), as revised by a July 10, 1995 memorandum from Mary D. Nichols, Assistant Administrator for Air and Radiation. The Office of Management and Budget (OMB) has exempted this regulatory action from E.O. 12866 review.

B. Regulatory Flexibility Act

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

Extension of an area's attainment date under the Act does not impose any new requirements on small entities. Extension of an attainment date is an action that affects a geographical area and does not impose any regulatory requirements on sources. EPA certifies that the approval of the attainment date extension will not affect a substantial number of small entities.

C. Unfunded Mandates

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

EPA has determined that the approval action promulgated does not include a Federal mandate that may result in estimated costs of $100 million or more

[1] Reference the September 30, 1994, memorandum from David Mobley, ''1993 Periodic Emission Inventory Guidance,'' it presented suggestions on the guidance preparation of the 1993 periodic emission inventory and reporting requirements.

to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Carbon monoxide, Intergovernmental relations, Reporting and record-keeping requirements.

Dated: October 9, 1997.

David A. Ullrich,

Acting Regional Administrator.

Parts 52 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Y—Minnesota

2. Section 52.1237 is amended by adding paragraph (b) to read as follows:

§ 52.1237 Control strategy: Carbon monoxide.

* * * * *

(b) Approval—The 1993 carbon monoxide periodic emission inventory requirement of section 187(a)(5) of the Clean Air Act, as amended in 1990, has been satisfied for the following areas: the counties of the Twin cities seven county Metropolitan area (Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington), and Wright.

[FR Doc. 97–28138 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[IA 016–1016; FRL–5912–6]

Approval and Promulgation of Implementation Plans and Approval Under Section 112(l); State of Iowa

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: The EPA is taking final action on a proposed rulemaking published July 29, 1996 (61 FR 39375). This final action includes provisions related to open burning, new source review requirements in nonattainment areas, and test method and definition updates.

DATES: This rule is effective on November 24, 1997.

ADDRESSES: Copies of the documents relevant to this action are available for public inspection during normal business hours at the: Environmental Protection Agency, Air Planning and Development Branch, 726 Minnesota Avenue, Kansas City, Kansas 66101; and the EPA Air & Radiation Docket and Information Center, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Christopher D. Hess at (913) 551–7213.

SUPPLEMENTARY INFORMATION: During the public comment period of the proposed rulemaking published July 29, 1996 (61 FR 39375), and closing August 28, 1996, the EPA did not receive any comments. However, a notice reopening the public comment period was published on September 17, 1996 (61 FR 48873), requested by interested persons who desired more time to address the construction permit exemption provisions contained in the original July 29, 1996, proposed rulemaking. During the reopened public comment period, the EPA received one comment from the state of Iowa. The nature of this comment was to request an additional revision to the State Implementation Plan (SIP) concerning the construction permit exemptions. In correspondence dated September 27, 1996, the Director of the Iowa Department of Natural Resources, Larry J. Wilson, requested a revision to the SIP that would allow retroactive application of the construction permit exemptions proposed for approval in the July 29, 1996, notice.

After careful analysis, the EPA has elected to address approval of the minor source construction permit exemptions and the request for retroactive approval in a separate rulemaking at a later date. The EPA has analyzed this rule to determine that it has no impact on the other rule revisions that were proposed for approval in the July 29, 1996, proposal. Therefore, the EPA can take action on the other rule revisions at this time, and take a separate action on the exemption rule.

In this final rulemaking, the EPA is approving those portions of the original proposal that include amendments to the Iowa open burning rule, a permit by rule provision for spray booths, revisions to Iowa's major new source permit rule for nonattainment areas, a revised definition of ''volatile organic compounds,'' and updates to Iowa's compliance sampling test methods. The EPA's rationale for approval of these revisions is contained in the July 29, 1996, notice previously described, and no comments were received on the proposed approval of these revisions.

Furthermore, the EPA has determined that the permit by rule for spray booths contained in IAC 567–22.8(1) meets the requirements regarding limitations on potential to emit (PTE) under section 112(l). Therefore, insofar as the rule applies to hazardous air pollutants, it is approved under section 112(l) as well as section 110 of the Act. The EPA is also approving IAC rule 567–22.3(6) which limits PTE for new sources under section 112(l).

I. Final Action

The EPA is taking final action on the revisions described in the July 29, 1996, proposed rulemaking regarding the permit by rule provision for spray booths, open burning, new source review requirements in nonattainment areas, and definition and test method updates.

The permit by rule for spray booths is approved under both section 110 for criteria pollutants as well as under section 112(l) as it relates to hazardous air pollutants. The EPA is also approving the IAC rule 567–22.3(6) which limits PTE for new sources under 112(l).

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

factors, and in relation to relevant statutory and regulatory requirements.

II. Administrative Requirements

A. Executive Order 12866

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

B. Unfunded Mandates

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

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

C. Regulatory Flexibility Act

SIP approvals under section 110 and subchapter I, Part D of the Clean Air Act (CAA) do not create any new requirements but simply approve requirements that the state is already imposing. Therefore, because the Federal SIP approval does not impose any new requirements, the Administrator certifies that it does not have a significant impact on any small entities affected. Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of a regulatory flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids the EPA to base its actions concerning SIPs on such grounds (*Union Electric Co.* v. *U.S. E.P.A.*, 427 U.S. 246, 256–66 (S.Ct. 1976); 42 U.S.C. 7410(a)(2)).

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review, nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: September 25, 1997.

Dennis Grams, P.E.,

Regional Administrator.

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

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart Q—Iowa

2. Section 52.820 is amended by adding paragraph (c)(64) to read as follows:

§ 52.820 Identification of plan.

* * * * *

(c) * * *

(64) In correspondence dated February 16, 1996, February 19, 1996, and February 27, 1996, the Director of the Iowa Department of Natural Resources (IDNR) submitted revisions to the State Implementation Plan concerning open burning, new source review (NSR) requirements for nonattainment areas, test method and definition updates.

(i) Incorporation by reference.

(A) ''Iowa Administrative Code,'' section 567–22.8(1), effective July 12, 1995, containing a permit by rule for spray booths.

(B) ''Iowa Administrative Code,'' sections 567–23.2(3); 23.2(4), effective April 19, 1995, addressing open burning.

(C) ''Iowa Administrative Code,'' sections 567–22.5 (2)–(6), (8)–(10), effective March 20, 1996. These rules address NSR requirements in nonattainment areas.

(D) ''Iowa Administrative Code,'' sections 567–20.2; 22.4(1); and 25.1(9), effective July 12, 1995. These rules address test method and definition updates.

(E) ''Iowa Administrative Code,'' section 567–31.1, effective February 22, 1995. This rule addresses permit requirements relating to nonattainment areas.

(ii) Additional material.

(A) Letter dated July 11, 1997, from Pete Hamlin, IDNR, to Wayne Leidwanger, EPA, requesting approval under 112(l).

[FR Doc. 97–28144 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[KY95–9722a; IN82a–1; FRL–5901–2]

Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Kentucky; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Direct final rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is extending the attainment date for the Louisville interstate moderate ozone nonattainment area from November 15, 1996, to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. Accordingly, USEPA is revising the table in the Code of Federal Regulations concerning ozone attainment dates in this area. In this action, USEPA is approving the States' request through a ''direct final'' rulemaking; the rationale for this

approval is set forth. Elsewhere in this **Federal Register**, USEPA is proposing approval and soliciting written comment on this action; if adverse written comments are received, USEPA will withdraw the direct final rule and address the comments received in a new final rule; otherwise no further rulemaking will occur on this attainment date extension request.

DATES: This action is effective December 22, 1997 unless substantive written adverse comments not previously addressed by the State or USEPA are received by November 24, 1997. If the effective date is delayed, timely notice will be published in the **Federal Register**.

ADDRESSES: Written comments may be mailed to Joey LeVasseur at the USEPA Region 4 address listed below or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Region 5 at the address listed below. Copies of the material submitted by the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC) may be examined during normal business hours at the following locations:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street S.W., Atlanta, Georgia 30303–3104.

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Copies of the materials submitted by the Indiana Department of Environmental Management (IDEM) may be examined during normal business hours at the following locations:

Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60604.

FOR FURTHER INFORMATION CONTACT: Joey LeVasseur at (404) 562–9035 or Randolph O. Cano at (312) 886–6036.

SUPPLEMENTARY INFORMATION:

Request for Attainment Date Extension for the Louisville Moderate Ozone Nonattainment Area

On January 8, 1996, KNREPC requested a one-year attainment date extension for the Kentucky portion of the Louisville moderate ozone nonattainment area which consists of Jefferson, Bullitt, and Oldham Counties in Kentucky. Similarly, on November 15, 1996, Indiana requested a one-year attainment date extension for the Indiana portion of the Louisville moderate ozone nonattainment area which consists of Clark and Floyd Counties. Since this area is classified as a moderate ozone nonattainment area, the statutory ozone attainment date prescribed by section 181(a) of the Clean Air Act (CAA) is November 15, 1996. The State submittals request that the attainment date be extended to November 15, 1997.

CAA Requirements and USEPA Actions Concerning Designation and Classification

Section 107(d)(4) of the CAA requires the States and USEPA to designate areas as attainment, nonattainment, or unclassifiable for ozone as well as other pollutants for which national ambient air quality standards (NAAQS) have been set. Section 181(a)(1) requires that ozone nonattainment areas be classified as marginal, moderate, serious, severe, or extreme, depending on their air quality. In a series of **Federal Register** documents, USEPA completed this process by designating and classifying all areas of the country for ozone. See, e.g., 56 FR 58694 (Nov. 6, 1991); 57 FR 56762 (Nov. 30, 1992).

Areas designated nonattainment for ozone are required to meet attainment dates specified under the CAA. The Louisville ozone nonattainment area was designated nonattainment and classified moderate for ozone pursuant to 56 FR 58694 (November 6, 1991). By this classification, its attainment date became November 15, 1996. A discussion of the attainment dates is found in 57 FR 13498 (April 16, 1992) (the General Preamble).

CAA Requirements Concerning Meeting the Attainment Date

Section 181(b)(2)(A) requires the Administrator, within six months of the attainment date, to determine whether ozone nonattainment areas had attained the NAAQS. For ozone, USEPA determines attainment status on the basis of the expected number of exceedances of the NAAQS over the most recent three-year period. See General Preamble, 57 FR 13506. In the case of moderate ozone nonattainment areas, the three-year period is 1994–1996.

A review of the actual ambient air quality ozone data from the USEPA Aerometric Information Retrieval System (AIRS) shows that five air quality monitors located in the Louisville ozone nonattainment area recorded exceedances of the NAAQS for ozone during the three year period from 1994 to 1996. The exceedances at the Clark County, Indiana, monitor averaged more than 1.0 over the three year period, which constitutes a violation of the ozone NAAQS for the Louisville area during this three-year period. Thus, the area did not meet the November 15, 1996 attainment date. (See Table 1.)

TABLE 1.—EXCEEDANCES OF THE OZONE AIR QUALITY STANDARD IN THE LOUISVILLE AREA 1994 TO 1996

Site	County/State	Year	Exceedances measured	Expected exceedances
Charlestown	Clark, IN	1994	3	3.0
Charlestown	Clark, IN	1995	2	2.1
Charlestown	Clark, IN	1996	0	0.0
New Albany	Floyd, IN	[1] 1994		
New Albany	Floyd, IN	1995	1	1.0
New Albany	Floyd, IN	1996	1	1.0
Shepherdsville	Bullitt, KY	1994	0	0.0
Shepherdsville	Bullitt, KY	1995	0	0.0
Shepherdsville	Bullitt, KY	1996	0	0.0
Bates Elementary	Jefferson, KY	1994	0	0.0
Bates Elementary	Jefferson, KY	1995	1	1.0
Bates Elementary	Jefferson, KY	1996	0	0.0
Watson Lane	Jefferson, KY	1994	1	1.0
Watson Lane	Jefferson, KY	1995	1	1.0
Watson Lane	Jefferson, KY	1996	1	1.0
WLKY TV	Jefferson, KY	1994	0	0.0
WLKY TV	Jefferson, KY	1995	0	0.0

TABLE 1.—EXCEEDANCES OF THE OZONE AIR QUALITY STANDARD IN THE LOUISVILLE AREA 1994 TO 1996—Continued

Site	County/State	Year	Exceedances measured	Expected exceedances
WLKY TV	Jefferson, KY	1996	1	1.1
Buckner	Oldham, KY	1994	0	0.0
Buckner	Oldham, KY	1995	0	0.0
Buckner	Oldham, KY	1996	0	0.0

[1] The New Albany ozone monitor began operation in 1977, but stopped collecting ozone data in 1980. Ozone monitoring at this site resumed on April 1, 1995.

CAA section 181(b)(2)(A) further states that, for areas classified as marginal, moderate, or serious, if the Administrator determines that the area did not attain the standard by its attainment date, the area must be reclassified to the next higher classification. However, CAA section 181(a)(5) provides an exemption from this reclassification requirement. Under this exemption, USEPA may grant up to two, one-year extensions of the attainment date under specified conditions:

Section 181(a)(5) states that upon application by any State, the Administrator may extend [the attainment date] for one additional year (referred to as the ''Extension Year'') if:

(A) The State has complied with all requirements and commitments pertaining to the area in the applicable implementation plan, and

(B) No more than one exceedance of the national ambient air quality standard level for ozone has occurred in the area in the year preceding the Extension Year.

The USEPA interprets this provision to authorize the granting of a one-year extension upon request by a State, under the following minimum conditions.

(1) The State has complied with or is taking significant steps to comply with all requirements and commitments in the USEPA approved ozone State Implementation Plan (SIP) for the area, and

(2) The area has no more than one measured exceedance of the ozone NAAQS at each monitor in the area during the year that includes the attainment date (or the subsequent year, if a second one-year extension is being requested).

Compliance With State Implementation Plans

Indiana and Kentucky have complied with the CAA SIP revision requirements for moderate ozone nonattainment areas. Both States certified they are implementing their ozone SIPs for the Louisville area. Therefore, the implementation plan criterion for the attainment date extension is satisfied. All of the states' SIP submittals may be examined during regular business hours at the EPA Regional offices listed above in the addresses section of this notice.

Compliance With Air Quality Monitoring Criteria

In the extension requests, Kentucky and Indiana indicated that no monitor in the Louisville area had more than one exceedance each during 1996. The 1996 monitoring data has been quality controlled and quality assured, as has the data for 1994 and 1995. These data are summarized in Table 1. Three of the seven ozone monitors in the Louisville area recorded one exceedance each during 1996, but none recorded more than one exceedance in 1996. This satisfies the air quality data criterion for the attainment date extension.

USEPA has reviewed the States' formal extension requests, and has determined that the requirements for a one-year extension of the attainment date have been fulfilled. USEPA is therefore approving the Kentucky and Indiana attainment date extension requests for the Louisville ozone nonattainment area. As a result, the Kentucky Control Strategy for Ozone which is codified at 40 CFR 52.930 and the Indiana Control Strategy for Photochemical Oxidants (hydrocarbons) which is codified at 40 CFR 52.777 are being amended to record these attainment date extensions. The chart in 40 CFR 81.318 entitled ''Kentucky-Ozone'' is being modified to reflect USEPA's approval of Kentucky's attainment date extension request. The chart in 40 CFR 81.315 entitled ''Indiana-Ozone'' is also being modified to reflect USEPA's approval of Indiana's attainment date extension request.

Final Action

USEPA is approving the attainment date extension requests submitted by Kentucky and Indiana to extend the Louisville moderate ozone nonattainment area attainment date from November 15, 1996 to November 15, 1997 without prior proposal because the Agency views this as a noncontroversial amendment and anticipates no adverse comments. However, in a separate document in this **Federal Register** publication, USEPA is proposing to approve this part 52 and part 81 action should written adverse or critical comments be filed. This action will be effective December 22, 1997 unless, by November 24, 1997 written adverse or critical comments are received.

If the USEPA receives such comments, this action will be withdrawn before the effective date by publishing a subsequent document that will withdraw the final action. All written public comments received will then be addressed in a subsequent final rule based on this action serving as a proposed rule. USEPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time. If no such comments are received, the public is advised that this action will be effective on December 22, 1997.

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

Administrative Requirements

A. Executive Order 12866

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

B. Regulatory Flexibility Act

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

entities with jurisdiction over populations of less than 50,000.

Extension of an area's attainment date under the CAA does not impose any new requirements on small entities. Extension of an attainment date is an action that affects a geographic area and does not impose any regulatory requirements on sources. USEPA certifies that the approval of the attainment date extension will not affect a substantial number of small entities.

C. Unfunded Mandates

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

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

D. Submission to Congress and the General Accounting Office

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

E. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by December 22, 1997. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects

40 CFR Part 52

Environmental protection, Air pollution control, Ozone.

40 CFR Part 81

Environmental protection, Air pollution control, National parks, Wilderness areas.

Dated: August 20, 1997.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Dated: August 19, 1997.

Michelle D. Jordan,

Acting Regional Administrator, Region 5.

Parts 52 and 81 of chapter I, title 40 of the Code of Federal Regulations are amended as follows:

PART 52—[AMENDED]

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

Authority: 42 U.S.C. 7401–7671q.

Subpart S—Kentucky

2. Section 52.930 is amended by adding paragraph (e) to read as follows:

§ 52.930 Control strategy: Ozone.

* * * * *

(e) Kentucky's November 15, 1996, request for a one-year attainment date extension for the Kentucky portion of the Louisville moderate ozone nonattainment area which consists of Jefferson County and parts of Bullitt and Oldham Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

Subpart P—Indiana

3. Section 52.777 is amended by adding paragraph (q) to read as follows:

§ 52.777 Control strategy: Photochemical oxidants (hydrocarbons).

* * * * *

(q) Indiana's November 15, 1996, request for a one-year attainment date extension for the Indiana portion of the Louisville moderate ozone nonattainment area which consists of Clark and Floyd Counties is approved. The date for attaining the ozone standard in these counties is November 15, 1997.

PART 81—[AMENDED]

1. The authority citation for part 81 continues to read as follows:

Authority: 42 U.S.C. 7401–7671q.

2. In § 81.318, the ''Kentucky—Ozone'' table is amended by revising the entry for the ''Louisville Area'' and adding footnote 2 to read as follows:

§ 81.318 Kentucky.

* * * * *

KENTUCKY-OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Louisville Area:				
Bullitt County (part): The area boundary is as follows: Beginning at the intersection of Ky 1020 and the Jefferson-Bullitt County Line proceeding to the east along the county line to the intersection of county road 567 and the Jefferson-Bullitt County Line; proceeding south on county road 567 to the junction with Ky 1116 (also known as Zoneton Road); proceeding to the south on Ky 1116 to the junction with Hebron Lane; proceeding to the south on Hebron Lane to Cedar Creek; proceeding south on Cedar Creek to the confluence of Floyds Fork turning southeast along a creek that meets Ky 44 at Stallings Cemetery; proceeding west along Ky 44 to the eastern most point in the Shepherdsville city limits; proceeding south along the Shepherdsville city limits to the Salt River and west to a point across the river from Mooney Lane; proceeding south along Mooney Lane to the junction of Ky 480; proceeding west on Ky 480 to the junction with Ky 2237; proceeding south on Ky 2237 to the junction with Ky 61 and proceeding north on Ky 61 to the junction with Ky 1494; proceeding south on Ky 1494 to the junction with the perimeter of the Fort Knox Military Reservation; proceeding north along the military reservation perimeter to Castleman Branch Road; proceeding north on Castleman Branch Road to Ky 44; proceeding a very short distance west on Ky 44 to a junction with Ky 2723; proceeding north on Ky 2723 to the junction of Chillicoop Road; proceeding northeast on Chillicoop Road to the junction of KY 2673; proceeding north on KY 2673 to the junction of KY 1020; proceeding north on KY 1020 to the beginning; unless a road or intersection of two or more roads defines the nonattainment boundary, the area shall extend outward 750 feet from the center of the road or intersection.		Nonattainment		Moderate.[2]
Jefferson County		Nonattainment		Moderate.[2]
Oldham County (part): The area boundary is as follows: Beginning at the intersection of the Oldham-Jefferson County Line with the southbound lane of Interstate 71; proceeding to the northeast along the southbound lane of Interstate 71 to the intersection of Ky 329 and the southbound lane of Interstate 71; proceeding to the northwest on Ky 329 to the intersection of Zaring Road and Ky 329; proceeding to the east-northeast on Zaring Road to the junction of Cedar Point Road and Zaring Road; proceeding to the north-northeast on Cedar Point Road to the junction of Ky 393 and Cedar Point Road; proceeding to the south-southeast on Ky 393 to the junction of (the access road on the north side of Reformatory Lake and the Reformatory); proceeding to the east-northeast on the access road to the junction with Dawkins Lane and the access road; proceeding to follow an electric power line east-northeast across from the junction of county road 746 and Dawkins Lane to the east-northeast across Ky 53 on to the La Grange Water Filtration Plant; proceeding on to the east-southeast along the power line then south across Fort Pickens Road to a power substation on Ky 146; proceeding along the power line south across Ky 146 and the Seaboard System Railroad track to adjoin the incorporated city limits of La Grange; then proceeding east then south along the La Grange city limits to a point abutting the north side of Ky 712; proceeding east-southeast on Ky 712 to the junction of Massie School Road and Ky 712; proceeding to the south-southwest on Massie School Road to the intersection of Massie School Road and Zale Smith Road; proceeding northeast on Zale Smith Road to the junction of				

KENTUCKY-OZONE—CONTINUED

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
KY 53 and Zale Smith Road; proceeding on Ky 53 to the north-northwest to the junction of New Moody Lane and Ky 53; proceeding on New Moody Lane to the south-southwest until meeting the city limits of La Grange; then briefly proceeding north following the La Grange city limits to the intersection of the northbound lane of Interstate 71 and the La Grange city limits; proceeding southwest on the northbound lane of Interstate 71 until inter-secting with the North Fork of Currys Fork; proceeding south-southwest beyond the con-fluence of Currys Fork to the south-southwest beyond the confluence of Floyds Fork continuing on to the Oldham-Jefferson County Line; proceeding northwest along the Oldham-Jefferson County Line to the beginning; unless a road or intersection of two or more roads defines the nonattainment boundary, the area shall extend outward 750 feet from the center of the road or intersection.		Nonattainment		Moderate.[2]
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

* * * * *

3. In § 81.315, the ''Indiana—Ozone'' table is amended by revising the entry for the ''Louisville Area'' and adding footnote 2 to read as follows:

§ 81.315 Indiana.

* * * * *

INDIANA-OZONE

Designated area	Designation		Classification	
	Date [1]	Type	Date [1]	Type
* * *	*	*	*	*
Louisville Area:				
Clark County	Nonattainment	Moderate [2]		
Floyd County	Nonattainment	Moderate [2]		
* * *	*	*	*	*

[1] This date is November 15, 1990, unless otherwise noted.
[2] Attainment date extended to November 15, 1997.

* * * * *

[FR Doc. 97–28141 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL–65912–5]

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

AGENCY: Environmental Protection Agency.

ACTION: Notice of deletion of the LaGrand Sanitary Landfill Superfund Site from the National Priorities List (NPL).

SUMMARY: The Environmental Protection Agency (EPA) announces the deletion of the LaGrand Sanitary Landfill Superfund Site in Minnesota from the National Priorities List (NPL). The NPL is Appendix B of 40 CFR part 300 which is the National Oil and Hazardous Substances Contingency Plan (NCP), which EPA promulgated pursuant to Section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. This action is being taken by EPA and the State of Minnesota, because it has been determined that all appropriate Fund-financed response actions under CERCLA have been implemented and that no further response by responsible parties is appropriate. Moreover, EPA and the State of Minnesota have determined that remedial actions conducted at the site to date remain protective of public health, welfare, and the environment.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Gladys Beard at (312) 886–7253 (SR–6J), Associate Remedial Project Manager, Superfund Division, U.S. EPA—Region V, 77 West Jackson Blvd., Chicago, IL 60604. Information on the site is available at the local information repository located at: The Alexandria Public Library, Seventh and Fillmore, Alexandria, MN 56308. Requests for comprehensive copies of documents should be directed formally to the Regional Docket Office. The contact for the Regional Docket Office is Jan Pfundheller (H–7J), U.S. EPA, Region V, 77 W. Jackson Blvd., Chicago, IL 60604, (312) 353–5821.

SUPPLEMENTARY INFORMATION: The site to be deleted from the NPL is: LaGrand Sanitary landfill Superfund Site located in Douglas County, Minnesota. A notice of intent to delete for this site was published September 5, 1997 (62 FR 46938). The closing date for comments on the Notice of Intent to Delete was October 4, 1997. EPA received no comments and therefore no Responsiveness Summary was prepared.

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

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: October 9, 1997.

David Ullrich,

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

40 CFR part 300 is amended as follows:

PART 300—[AMENDED]

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

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp.; p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp.; p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the Site ''LaGrande Sanitary Landfill, LaGrand Township, Minnesota''.

[FR Doc. 97–27847 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 52

[CC Docket No. 92–237, CC Docket No. 95–155; FCC 97–372]

Administration of the North American Numbering Plan; Toll Free Service Access Codes

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On October 9, 1997, the Commission released a Third Report and Order in CC Docket No. 92–237 adopting various measures related to numbering administration for telecommunications service and to billing and collection to support numbering administration activities. The Third Report and Order is intended to ensure the impartial allocation and administration of numbering resources. The Commission also released a Third Report and Order in CC Docket No. 95–155 adopting measures related to numbering administration for toll free numbers. The Third Report and Order is intended to ensure the impartial allocation and administration of toll free numbering resources.

EFFECTIVE DATE: November 24, 1997.

FOR FURTHER INFORMATION CONTACT: Marian Gordon or Erin Duffy, Network Services Division, Common Carrier Bureau, (202) 418–2320.

SUPPLEMENTARY INFORMATION: This summarizes the Commission's Third Report and Order in CC Docket No. 92–237, In the Matter of Administration of the North American Numbering Plan, FCC 97–372, adopted October 9, 1997, and released October 9, 1997. The Commission concurrently released a Third Report and Order in CC Docket No. 95–155, In the Matter of Toll Free Service Access Codes. The file is available for inspection and copying during the weekday hours of 9 a.m. to 4:30 p.m. in the Commission's Reference Center, room 239, 1919 M St., N.W., Washington D.C., or copies may be purchased from the Commission's duplicating contractor, ITS, Inc. 2100 M St., N.W., Suite 140, Washington, D.C. 20037, phone (202) 857–3800.

Analysis of Proceeding

1. In the *Third Report and Order* in CC Docket No. 92–237, the Commission takes several actions to ensure the impartial administration and allocation of numbering resources. The Commission accepts the recommendation of the North American Numbering Council (NANC) and selects Lockheed IMS as the North American Numbering Plan Administrator (NANPA). The Commission accepts the NANC's recommendation and selects the National Exchange Carriers Association (NECA) as the NANPA Billing and Collection Agent (B&C Agent), subject to a specific neutrality cure. The Commission accepts NANC's proposed rules for governance of the NANPA and the B&C Agent, with minor modifications. In order to provide solutions to numbering disputes when time is critical, the Commission streamlines its administrative processes of review of NANC's initial resolution of numbering disputes.

2. The Commission imposes two conditions, recommended by the NANC, that Lockheed must follow. First, Lockheed must perform the numbering administration functions currently performed by Bellcore, and the central office code administration functions currently performed by the eleven central office code administrators, at the price agreed to at the time of its selection. The new NANPA may request from the NANC, with approval by the Commission, an adjustment in this price if the actual number of central office code assignments made per year, the number of area codes requiring relief per year, or the number of area code relief meetings per area code exceeds 120% of Lockheed's stated assumptions at the time of its selection. Second, Lockheed must make available any and all intellectual property and associated hardware resulting from its activities as numbering administrator including, but not limited to, systems and the data contained therein, software, interface specifications and supporting documentation, and make such property available to whomever the NANC directs free of charge.

3. In the *Third Report and Order* in CC Docket No. 95–155, the Commission takes action to ensure the impartial administration and allocation of toll free numbering resources. The Commission concludes that toll free numbering administration, as currently structured, is inconsistent with section 251(e) of the Communications Act. The Commission directs the NANC to examine the issue of toll free numbering administration and make a recommendation to the Commission regarding what entity would be an appropriate administrator for the toll free database within 120 days of the effective date of the NANP Order.

4. It is ordered, pursuant to Sections 1, 4(i), 201–205, 218, and 251 of the Communications Act of 1934, as amended, 47 U.S.C. Sections 151, 154(i),

201–205, 218, and 251, that the Third Report and Order in CC Docket No. 92–237 and the Third Report and Order in CC Docket No. 95–155 are hereby adopted.

5. It is further ordered that all policies, rules, and requirements of this document are effective on November 24, 1997.

List of Subjects 47 CFR Part 52

Local exchange carrier, Numbering, Telecommunications.

Federal Communications Commission.

Shirley Suggs,

Chief, Publications Branch.

Rule Changes

Part 52 of Title 47 of the Code of Federal Regulations is amended to read as follows:

PART 52—NUMBERING

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

Authority: Sections 1, 2, 4, 5, 48 Stat. 1066, as amended; 47 U.S.C. 151, 152, 154, 155 unless otherwise noted. Interpret or apply secs. 3, 4, 201–05, 207–09, 218, 225–7, 251–2, 271 and 332, 48 Stat. 1070, as amended, 1077; 47 U.S.C. 153, 154, 201–05, 207–09, 218, 225–7, 271 and 332 unless otherwise noted.

2. Amend § 52.7 to revise paragraph (b) and adding paragraph (f) to read as follows:

§ 52.7 Definitions.

* * * * *

(b) *Area code relief.* The term ''area code relief'' refers to the process by which central office codes are made available when there are few or no unassigned central office codes remaining in an existing area code and a new area code is introduced. Area code relief includes planning for area code ''jeopardy,'' which is a situation where central office codes may become exhausted before an area code relief plan can be implemented.

* * * * *

(f) *Billing and Collection Agent.* The term ''Billing & Collection Agent'' (''B&C Agent'') refers to the entity responsible for the collection of funds to support numbering administration for telecommunications services from the United States telecommunications industry and NANP member countries.

3. Amend § 52.11 to revise paragraphs (c) and (g) and to add paragraphs (h) and (i) to read as follows:

§ 52.11 North American Numbering Council.

* * * * *

(c) Initially resolving disputes, through consensus, that foster efficient and impartial number administration in the United States by adopting and utilizing dispute resolution procedures that provide disputants, regulators, and the public notice of the matters at issue, a reasonable opportunity to make oral and written presentations, a reasoned recommended solution, and a written report summarizing the recommendation and the reasons therefore;

* * * * *

(g) Carrying out this part as directed by the Commission;

(h) Monitoring the performance of the NANPA and the B&C Agent on at least an annual basis; and

(i) Implementing, at the direction of the Commission, any action necessary to correct identified problems with the performance of the NANPA and the B&C Agent, as deemed necessary.

4. Add § 52.12 to Subpart B to read as follows:

§ 52.12 North American Numbering Plan Administrator and B&C Agent.

The North American Numbering Plan Administrator (''NANPA'') and the associated ''B&C Agent'' will conduct their respective operations in accordance with this section. The NANPA and the B&C Agent will conduct their respective operations with oversight from the Federal Communications Commission (the ''Commission'') and with recommendations from the North American Numbering Council (''NANC'').

(a)(1) *Neutrality.* The NANPA and the B&C Agent shall be non-governmental entities that are impartial and not aligned with any particular telecommunication industry segment. Accordingly, while conducting their respective operations under this section, the NANPA and B&C Agent shall ensure that they comply with the following neutrality criteria:

(i) The NANPA and B&C Agent may not be an affiliate of any telecommunications service provider(s) as defined in the Telecommunications Act of 1996. ''Affiliate'' is a person who controls, is controlled by, or is under the direct or indirect common control with another person. A person shall be deemed to control another if such person possesses, directly or indirectly—

(A) An equity interest by stock, partnership (general or limited) interest, joint venture participation, or member interest in the other person ten (10%) percent or more of the total outstanding equity interests in the other person, or

(B) The power to vote ten (10%) percent or more of the securities (by stock, partnership (general or limited) interest, joint venture participation, or member interest) having ordinary voting power for the election of directors, general partner, or management of such other person, or

(C) The power to direct or cause the direction of the management and policies of such other person, whether through the ownership of or right to vote voting rights attributable to the stock, partnership (general or limited) interest, joint venture participation, or member interest) of such other person, by contract (including but not limited to stockholder agreement, partnership (general or limited) agreement, joint venture agreement, or operating agreement), or otherwise;

(ii) The NANPA and B&C Agent, and any affiliate thereof, may not issue a majority of its debt to, nor may it derive a majority of its revenues from, any telecommunications service provider. ''Majority'' shall mean greater than 50 percent, and ''debt'' shall mean stocks, bonds, securities, notes, loans or any other instrument of indebtedness; and

(iii) Notwithstanding the neutrality criteria set forth in paragraphs (a)(1) (i) and (ii) of this section, the NANPA and B&C Agent may be determined to be or not to be subject to undue influence by parties with a vested interest in the outcome of numbering administration and activities. NANC may conduct an evaluation to determine whether the NANPA and B&C Agent meet the undue influence criterion.

(2) Any subcontractor that performs—

(i) NANP administration and central office code administration, or

(ii) Billing and Collection functions, for the NANPA or for the B&C Agent must also meet the neutrality criteria described in paragraph (a)(1).

(b) *Term of administration.* The NANPA shall provide numbering administration, including central office code administration, for the United States portion of the North American Numbering Plan (''NANP'') for an initial period of five (5) years. At any time prior to the termination of the initial or subsequent term of administration, such term may be renewed for up to five (5) years with the approval of the Commission and the agreement of the NANPA. The B&C Agent shall provide billing and collection functions for an initial period of five (5) years. At any time prior to the termination of the initial or subsequent term of administration, such term may be renewed for up to five (5) years with the approval of the Commission and the agreement of the B&C Agent.

(c) *Changes to regulations, rules, guidelines or directives.* In the event that

regulatory authorities or industry groups (including, for example, the Industry Numbering Committee—INC, or its successor) issue rules, requirements, guidelines or policy directives which may affect the functions performed by the NANPA and the B&C Agent, the NANPA and the B&C Agent shall, within 10 business days from the date of official notice of such rules, requirements, guidelines or policy directives, assess the impact on its operations and advise the Commission of any changes required. NANPA and the B&C Agent shall provide written explanation why such changes are required. To the extent the Commission deems such changes are necessary, the Commission will recommend to the NANP member countries appropriate cost recovery adjustments, if necessary.

(d) *Performance review process.* NANPA and the B&C Agent shall develop and implement an internal, documented performance monitoring mechanism and shall provide such performance review on request of the Commission on at least an annual basis. The annual assessment process will not preclude telecommunications industry participants from identifying performance problems to the NANPA, the B&C Agent and the NANC as they occur, and from seeking expeditious resolution. If performance problems are identified by a telecommunications industry participant, the NANC, B&C Agent or NANPA shall investigate and report within 10 business days of notice to the participant of corrective action, if any, taken or to be taken. The NANPA, B&C Agent or NANC (as appropriate) shall be permitted reasonable time to take corrective action, including the necessity of obtaining the required consent of the Commission.

(e) *Termination.* If the Commission determines at any time that the NANPA or the B&C Agent fails to comply with the neutrality criteria set forth in paragraph (a) of this section or substantially or materially defaults in the performance of its obligations, the Commission shall advise immediately the NANPA or the B&C Agent of said failure or default, request immediate corrective action, and permit the NANPA or B&C Agent reasonable time to correct such failure or default. If the NANPA or B&C Agent is unwilling or unable to take corrective action, the Commission may, in a manner consistent with the requirements of the Administrative Procedure Act and the Communications Act of 1934, as amended, take any action that it deems appropriate, including termination of the NANPA's or B&C Agent's term of administration.

(f) *Required and optional enterprise services.* Enterprise Services, which are services beyond those described in § 52.13 that may be provided by the new NANPA for specified fees, may be offered with prior approval of the Commission.

(1) *Required Enterprise Services.* At the request of a code holder, the NANPA shall, in accordance with industry standards and for reasonable fees, enter certain routing and rating information, into the industry-approved database(s) for dissemination of such information. This task shall include reviewing the information and assisting in its preparation.

(2) *Optional Enterprise Services.* The NANPA may, subject to prior approval and for reasonable fees, offer ''Optional Enterprise Services'' which are any services not described elsewhere in this section.

(3) *Annual report.* NANPA shall identify and record all direct costs associated with providing Enterprise Services separately from the costs associated with the non-enterprise NANPA functions. The NANPA shall submit an annual report to the NANC summarizing the revenues and costs for providing each Enterprise Service. NANPA shall be audited by an independent auditor after the first year of operations and every two years thereafter, and submit the report to the Commission for appropriate review and action.

5. Amend § 52.13 to revise paragraph (b) and to add paragraphs (c), (d), (e) (f) and (g) to read as follows:

§ 52.13 North American Numbering Plan Administrator.

* * * * *

(b) The NANPA shall administer the numbering resources identified in paragraph (d) of this section. It shall assign and administer NANP resources in an efficient, effective, fair, unbiased, and non-discriminatory manner consistent with industry-developed guidelines and Commission regulations. It shall support the industry's efforts to accommodate current and future numbering needs. It shall perform additional functions, including but not limited to:

(1) Ensuring the efficient and effective administration and assignment of numbering resources by performing day-to-day number resource assignment and administrative activities;

(2) Planning for the long-term need for NANP resources to ensure the continued viability of the NANP by implementing a plan for number resource administration that uses effective forecasting and management skills in order to make the industry aware of the availability of numbering resources and to meet the current and future needs of the industry;

(3) Complying with guidelines of the North American Industry Numbering Committee (INC) or its successor, related industry documentation, Commission regulations and orders, and the guidelines of other appropriate policy-making authorities, all of which may be modified by industry fora or other appropriate authority;

(4) Providing management supervision for all of the services it provides, including responsibility for achieving performance measures established by the NANC and the INC in industry guidelines;

(5) Participating in the NANC annual performance review as described in §§ 52.11 and 52.12;

(6) Establishing and maintaining relationships with current governmental and regulatory bodies, and their successors, including the United States Federal Communications Commission, Industry Canada, the Canadian Radio-television and Telecommunications Commission, and other United States, Canadian, and Caribbean numbering authorities and regulatory agencies, and addressing policy directives from these bodies;

(7) Cooperating with and actively participating in numbering standards bodies and industry fora, such as INC and, upon request, the Canadian Steering Committee on Numbering (CSCN);

(8) Representing the NANP to national and international numbering bodies;

(9) Developing and maintaining communications channels with other countries who also participate in the NANP to ensure that numbering needs of all countries served by the NANP are met;

(10) Attending United States Study Group A meetings and maintaining a working knowledge of Study Group 2 International Telecommunications Union activities on behalf of the United States telecommunications industry;

(11) Reviewing requests for all numbering resources to implement new applications and services and making assignments in accordance with industry-developed resource planning and assignment guidelines;

(12) Referring requests for particular numbering resources to the appropriate industry body where guidelines do not exist for those resources;

(13) Participating in industry activities to determine whether, when new telecommunications services requiring numbers are proposed, NANP numbers are appropriate and what level

of resource is required (e.g. line numbers, central office codes, NPA codes);

(14) Maintaining necessary administrative staff to handle the legal, financial, technical, staffing, industry, and regulatory issues relevant to the management of all numbering resources, as well as maintaining the necessary equipment, facilities, and proper billing arrangements associated with day-to-day management of all numbering resources;

(15) Managing the NANP in accordance with published guidelines adopted in conjunction with the industry and the appropriate NANP member countries' governing agencies, and referring issues to the appropriate industry body for resolution when they have not been addressed by the industry;

(16) Responding to requests from the industry and from regulators for information about the NANP and its administration, as the primary repository for numbering information in the industry;

(17) Providing upon request information regarding how to obtain current documents related to NANP administration;

(18) Providing assistance to users of numbering resources and suggesting numbering administration options, when possible, that will optimize number resource utilization;

(19) Coordinating its numbering resource activities with the Canadian Number Administrator and other NANP member countries' administrators to ensure efficient and effective management of NANP numbering resources; and

(20) Determining the final allocation methodology for sharing costs between NANP countries.

(c) In performing the functions outlined in paragraph (b) of this section, the NANPA shall:

(1) Ensure that the interests of all NANP member countries are considered;

(2) Assess fairly requests for assignments of NANP numbering resources and ensure the assignment of numbering resources to appropriate service providers;

(3) Develop, operate and maintain the computer hardware, software (database) and mechanized systems required to perform the NANPA and central office (CO) Code Administration functions;

(4) Manage projects such as Numbering Plan Area (NPA) relief (area code relief) planning and the Central Office Code Utilization Survey (COCUS);

(5) Facilitate NPA relief planning meetings;

(6) Participate in appropriate industry activities;

(7) Manage proprietary data and competitively sensitive information and maintain the confidentiality thereof;

(8) Act as an information resource for the industry concerning all aspects of numbering (i.e., knowledge and experience in numbering resource issues, International Telecommunications Union (ITU) Recommendation E.164, the North American Numbering Plan (NANP), NANP Administration, INC, NANP area country regulatory issues affecting numbering, number resource assignment guidelines, central office code administration, relief planning, international numbering issues, etc.); and

(9) Ensure that any action taken with respect to number administration is consistent with this part.

(d) The NANPA and, to the extent applicable, the B&C Agent, shall administer numbering resources in an efficient and non-discriminatory manner, in accordance with Commission rules and regulations and the guidelines developed by the INC and other industry groups pertaining to administration and assignment of numbering resources, including, but not limited to:

(1) Numbering Plan Area (NPA) codes,

(2) Central Office codes for the 809 area,

(3) International Inbound NPA 456 NXX codes,

(4) (NPA) 500 NXX codes,

(5) (NPA) 900 NXX codes,

(6) N11 Service codes,

(7) 855–XXXX line numbers,

(8) 555–XXXX line numbers,

(9) Carrier Identification Codes,

(10) Vertical Service Codes,

(11) ANI Information Integer (II) Digit Pairs,

(12) Non Dialable Toll Points, and

(13) New numbering resources as may be defined.

(e) *Relationships with other NANP member countries' administrators and authorities*. The NANPA shall address policy directives from other NANP member countries' governmental and regulatory authorities and coordinate its activities with other NANP member countries' administrators, if any, to ensure efficient and effective management of NANP resources.

(f) *Transition plan*. The NANPA shall implement a transition plan, subject to Commission approval, leading to its assumption of NANPA functions within 90 days of the effective date of a Commission order announcing the selection of the NANPA.

(g) *Transfer of intellectual property*. The new NANPA must make available any and all intellectual property and associated hardware resulting from its activities as numbering administrator including, but not limited to, systems and the data contained therein, software, interface specifications and supporting documentation and make such property available to whomever NANC directs free of charge. The new NANPA must specify any intellectual property it proposes to exclude from the provisions of this paragraph based on the existence of such property prior to its selection as NANPA.

6. Amend § 52.15 to add paragraphs (d) and (e) to read as follows:

§ 52.15 Central office code administration.

* * * * *

(d) *Central Office (CO) Code Administration functional requirements*. The NANPA shall manage the United States CO code numbering resource, including CO code request processing, NPA code relief and jeopardy planning, and industry notification functions. The NANPA shall perform its CO Code Administration functions in accordance with the published industry numbering resource administration guidelines and Commission orders and regulations at 47 CFR chapter I. Subject to the approval of the Commission, the NANPA shall develop a transition plan to transfer CO code assignment from the current administrators to itself and shall submit this plan to the Commission within 90 days of the effective date of a Commission order announcing the selection of the NANPA. The NANPA shall complete the transfer of CO code assignment functions from existing administrators to itself no more than 18 months after the NANPA has assumed all of said administrators' current NANPA function.

(e) The new NANPA shall perform the numbering administration functions currently performed by Bellcore, and the CO code administration functions currently performed by the eleven CO code administrators, at the price agreed to at the time of its selection. The new NANPA may request from NANC, with subsequent approval by the Commission, an adjustment in this price if the actual number of CO Code assignments made per year, the number of NPAs requiring relief per year or the number of NPA relief meetings per NPA exceeds 120% of the NANPA's stated assumptions for the tasks at the time of its selection.

7. Add § 52.16 to Subpart B to read as follows:

52.16 Billing and Collection Agent.

The B&C Agent shall:

(a) Calculate, assess, bill and collect payments for numbering administration functions and distribute funds to NANPA on a monthly basis;

(b) Design a standard Reporting Worksheet to collect information for assessment calculations from carriers and distribute it to carriers and other NANP nations; this worksheet must be submitted to the Commission for its review and approved by OMB prior to its use by the B&C Agent.

(c) Keep confidential all data obtained from carriers and not disclose such data in company-specific form unless authorized by the Commission. The B&C Agent shall use such data only for calculating, collecting and verifying payments;

(d) Develop procedures to monitor industry compliance with reporting requirements and propose specific procedures to address reporting failures and late payments;

(e) File annual reports with the appropriate regulatory authorities of the NANP member countries as requested; and

(f) Obtain an audit from an independent auditor after the first year of operations and annually thereafter, which shall evaluate the validity of calculated payments. The B&C Agent shall submit the audit report to the Commission for appropriate review and action.

[FR Doc. 97–27946 Filed 10–22–97; 8:45 am]

BILLING CODE 6712–01–P

Proposed Rules

Federal Register
Vol. 62, No. 205
Thursday, October 23, 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

Foreign Agricultural Service

7 CFR Part 6

Dairy Tariff-Rate Import Quota Licensing; Correction

AGENCY: Foreign Agricultural Service, USDA.

ACTION: Advanced notice of proposed rulemaking on Dairy Tariff-Rate Import Quota Licensing; Correction.

SUMMARY: This is a correction to a notice published in the **Federal Register** on October 15, 1997, which requested public comments on possible options for the implementation of the Dairy Tariff-Rate Import Quota Licensing regulation's requirement to permanently reduce historical licenses based on surrender. The options include the possible recision, suspension, or delay of this requirement.

FOR FURTHER INFORMATION CONTACT: Diana Wanamaker, Group Leader, Import Policies and Programs Division, Foreign Agricultural Service, 1400 Independence Avenue, S.W., Stop 1021, Washington, D.C. 20250–1021 or telephone (202) 720–2916.

SUPPLEMENTARY INFORMATION:

Correction

In the October 15, 1997 issue of the **Federal Register**, page 53581, column 1, Paragraph D, ''Eliminate the five-year rule, while retaining the three-year rule'' is corrected by revising the third sentence to read as follows:

''Per the three-year rule, a licensee could surrender more than 50 percent of a historical license amount for two years of the three year period without penalty and not be subjected to license reduction.''

Signed at Washington, D.C. on October 16, 1997.

Timothy J. Galvin,

Acting Administrator.

[FR Doc. 97–28023 Filed 10–22–97; 8:45 am]

BILLING CODE 3410–10–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 97–ASO–20]

Proposed Amendment of Class E Airspace; Covington, KY

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking.

SUMMARY: This notice proposes to amend Class E airspace at Covington, KY. A Global Positioning System (GPS) Runway (RWY) 24 Standard Instrument Approach Procedure (SIAP) has been developed for Cincinnati-Blue Ash Airport. As a result, additional controlled airspace extending upward from 700 feet above Ground Level (AGL) is needed to accommodate the SIAP and for Instrument Flight Rules (IFR) operations at Cincinnati-Blue Ash Airport.

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

ADDRESSES: Send comments on the proposal in triplicate to: Federal Aviation Administration, Docket No. 97–ASO–20, Manager, Airspace Branch, ASO–520, P.O. Box 20636, Atlanta, Georgia 30320.

The official docket may be examined in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, telephone (404) 305–5586.

FOR FURTHER INFORMATION CONTACT: Nancy B. Shelton, Airspace Branch, Air Traffic Division, Federal Aviation Administration, P.O. Box 20636, Atlanta, Georgia 30320; telephone (404) 305–5491.

SUPPLEMENTARY INFORMATION:

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views or arguments as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal. Communications should identify the airspace docket number and be submitted in triplicate to the address listed above. Commenters wishing the FAA to acknowledge receipt of their comments on this notice must submit those comments a self-addressed, stamped postcard on which the following statement is made: ''Comments to Airspace Docket No. 97–ASO–20.'' The postcard will be date/time stamped and returned to the commenter. All communications received before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this notice may be changed in light of the comments received. All comments submitted will be available for examination in the Office of the Assistant Chief Counsel for Southern Region, Room 550, 1701 Columbia Avenue, College Park, Georgia 30337, both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

Any person may obtain a copy of this Notice of Proposed Rulemaking (NPRM) by submitting a request to the Federal Aviation Administration, Manager, Airspace Branch, ASO–520, Air Traffic Division, P.O. Box 20636, Atlanta, Georgia 30320. Communications must identify the notice number of this NPRM. Persons interested in being placed on a mailing list for future NPRMs should also request a copy of Advisory Circular No. 11–2A, which describes the application procedure.

The Proposal

The FAA is considering an amendment to part 71 of the Federal Aviation Regulations (14 CFR Part 71) to amend Class E airspace at Covington, KY. A GPS RWY 24 SIAP has been developed for Cincinnati-Blue Ash Airport. Additional controlled airspace extending upward from 700 feet AGL is needed to accommodate the SIAP and for IFR operations at Cincinnati-Blue Ash Airport. Class E airspace designations for airspace areas extending upward 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 would be published subsequently in the Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulation for which frequent and routine amendments are necessary to keep them operationally current. It, therefore, (1) is 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).

The Proposed Amendment

In consideration of the foregoing, the Federal Aviation Administration proposes to amend 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.

* * * *

ASO KY E5 Covington, KY [Revised]

Covington, Cincinnati/Northern Kentucky International Airport KY
(lat. 39°02′30″ N, long. 84°39′38″ W)
Cincinnati Municipal Airport-Lunken Field
(lat. 39°09′33″ N, long. 84°25′06″ W)
Cincinnati NDB
(lat. 39°09′33″ N, long 84°20′32″ W)
Clermont Country Airport, Batavia, OH
(lat. 39°04′42″ N, long. 84°12′38″ W)
Cincinnati-Blue Ash Airport, OH
(lat. 39°14′48″ N, long. 84°23′21″ W)

That airspace extending upward from 700 feet above the surface within a 10-mile radius of Cincinnati/Northern Kentucky International Airport, and within a 10.5-mile radius of Cincinnati Airport-Lunken Filed and within 2.6 miles each side of the 044° bearing from Cincinnati NDB and extending from the 10.5-mile radius to 7.4 miles northeast of the NDB, and within a 6.8-mile radius of Clermont County Airport, Batavia, OH, and within a 6.3-mile radius of Cincinnati-Blue Ash Airport, OH.

* * * * *

Issued in College Park, Georgia, on September 4, 1997.

Nancy B. Shelton,

Acting Manager, Air Traffic Division, Southern Region.

[FR Doc. 97–28102 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–13–M

INTERNATIONAL TRADE COMMISSION

19 CFR Parts 201 and 207

Notice of Proposed Amendments to Rules of Practice and Procedure

AGENCY: United States International Trade Commission.

ACTION: Notice of Proposed rulemaking.

SUMMARY: The United States International Trade Commission (the Commission) proposes to amend its Rules of Practice and Procedure concerning antidumping and countervailing duty investigations and reviews in 19 CFR parts 201 and 207. The proposed amendments will establish procedures for five-year reviews of antidumping and countervailing duty orders and suspension agreements that the Commission will begin to conduct in 1998 pursuant to the provisions of section 751(c) of the Tariff Act of 1930, as amended (the Act).

DATES: To be assured of consideration, written comments must be received not later than December 22, 1997. Rebuttal comments must be received not later than January 21, 1998.

ADDRESSES: A signed original and 14 copies of each set of comments, along with a cover letter, should be submitted to the Secretary, U.S. International Trade Commission, 500 E Street, SW, Washington, D.C. 20436.

FOR FURTHER INFORMATION CONTACT: Marc A. Bernstein, Office of General Counsel, U.S. International Trade Commission (telephone: 202–205–3087, e-mail: mbernstein@usitc.gov), or Vera A. Libeau, Office of Investigations, U.S. International Trade Commission (telephone 202–205–3176, e-mail: vlibeau@usitc.gov). Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–205–1810.

SUPPLEMENTARY INFORMATION:

Background

The Uruguay Round Agreements Act (URAA) fundamentally revised the Act by requiring that antidumping and countervailing duty orders and suspension agreements be revoked after five years unless revocation would be likely to lead to a continuation or recurrence of (1) dumping or a countervailable subsidy, and (2) material injury to the domestic industry. The URAA assigns to the Commission the responsibility of determining whether revocation of an antidumping or countervailing duty order, or termination of a suspension agreement, is likely to lead to the continuation or recurrence of material injury. The URAA requires that the Department of Commerce (Commerce) begin initiating five-year reviews in July 1998, that all five-year reviews of ''transition orders''—those antidumping and countervailing duty orders and suspension agreements in effect on January 1, 1995, when the United States acceded to the Uruguay Round Agreements—be initiated by December 31, 1999, and that all reviews of transition orders be completed by June 30, 2001. The URAA further requires that Commerce initiate a five-year review of each order or agreement that is not a ''transition order'' no later than 30 days before the fifth anniversary of publication of the order or agreement in the **Federal Register**.

This notice proposes new procedures for five-year reviews. As described below, some of the proposed procedures will be reflected in changes to the Commission's Rules of Practice and Procedure. Other proposed procedures, such as scheduling, relate to internal agency practices and do not require regulations. Nevertheless, this notice describes several of these proposals and invites public comment on all proposed regulations and procedures.

The Commission has determined that these proposed regulations do not meet the criteria described in section 3(f) of the Executive Order 12866 (58 FR 51735, Oct. 4, 1993) (EO) and thus do not constitute a significant regulatory

action for purposes of the EO. The Regulatory Flexibility Act (5 U.S.C. 601 note) is inapplicable to this rulemaking, because it is not one for which a Notice of Proposed Rulemaking (NOPR) is required under 5 U.S.C. 553(b) or any other statute. Although the Commission has chosen to publish an NOPR, these proposed regulations are ''agency rules of procedure and practice,'' and thus are exempt from the notice requirement imposed by 5 U.S.C. 553(b).

The draft notice of institution reproduced at Annex A to this Notice constitutes an information collection request subject to the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 et seq. After consultation with the Office of Management and Budget (OMB), the Commission believes that the contemplated collection of information pursuant to the draft notice of institution is encompassed within a clearance OMB has given the Commission under the Paperwork Reduction Act to collect information for antidumping and countervailing duty investigations and reviews, including those undertaken pursuant to section 751 of the Act. This clearance has been assigned OMB Control Number 3117–0016.

Request for Comment

The Commission solicits comments pertaining to its proposals concerning five-year reviews. The Commission will conduct a two-step comment process. Initial comments should be received by the Commission Secretary not later than December 22, 1997. Rebuttals to the initial comments may also be filed. Any rebuttal comments should be received by the Commission Secretary not later than January 21, 1998. All comments will be available for public inspection in the Commission's Public Docket Room between the hours of 8:45 am and 5:15 pm, Monday through Friday (except Federal Holidays).

Commenters are invited to address several distinct matters in their comments and rebuttal comments. The Commission requests that, to facilitate its review, commenters organize their comments as follows:

Section I of the comments should address the proposed amendments to the part 201 and 207 regulations presented in this notice.

Section II of the comments should address proposed procedures for five-year reviews that the Commission has discussed in this notice, but has not incorporated into the proposed amendments to the part 201 and part 207 regulations. These would include, for example, comments on the format or specific questions of the sample notice of institution appearing as Annex A to this notice, or comments on the proposed schedule appearing as Annex B to this notice.

Section III of the comments should address any other issues commenters may desire to raise pertaining to five-year reviews. The regulations proposed below solely concern the procedures that the Commission intends to use in conducting five-year reviews. The proposed regulations do not address what methodology the Commission, or individual Commissioners, may use to determine whether revocation of an order, or termination of a suspended investigation, would be likely to lead to continuation or recurrence of material injury within a reasonably foreseeable time. Nor do the proposed regulations address how the Commission, or individual Commissioners, will analyze the various factors specified in section 752(a) of the Act in making determinations in five-year reviews.

Although the Commission does not intend to issue regulations pertaining to methodological or analytical issues in five-year reviews, many private practitioners may desire the opportunity to address the Commission about such issues before the reviews begin. The Commission therefore invites persons to file comments on such issues in conjunction with their comments on the procedural matters discussed in this NOPR.

Hearing

The Commission also intends to hold a public hearing at which interested persons will be invited to present their views regarding the procedural matters discussed in this NOPR as well as methodological and analytical issues relating to five-year reviews. The Commission will issue a notice in advance of the hearing setting forth the date of the hearing and the procedures that will be followed at the hearing. The hearing will be held after the submission of the rebuttal comments.

Overview of the Proposed Regulations

The Commission is proposing to promulgate a series of new regulations, to be codified in Subpart F of Part 207, establishing procedures for five-year reviews. Several of the proposed regulations closely resemble current regulations in Subpart C of Part 207 concerning final phase antidumping and countervailing duty investigations. Others establish new procedures that address unique aspects of the five-year review mechanism created by the URAA.

The statute requires Commerce to initiate all five-year reviews automatically. As part of the initiation, Commerce and the Commission are authorized to request that interested parties submit certain information needed to conduct the review. Accordingly, one of the proposed regulations describes the information that the Commission will request from interested parties upon initiation of the review. Each interested party will be requested to state its willingness to participate in the review, and describe the likely effects of revocation of the order or termination of the suspended investigation under review. In addition, the Commission will request that each interested party provide other information or industry data, including a statement concerning conditions of competition in the pertinent domestic industry, a listing of U.S. producers of the domestic like product and importers and foreign producers of the subject merchandise, and certain quantitative data concerning its operations. All interested parties will be requested to furnish this information to the Commission within 30 days. (Interested parties that desire to participate as parties in the Commission review must also file entries of appearance with the Commission within 21 days.) These provisions will aid the Commission in ascertaining whether interested parties have sufficient willingness to participate in a five-year review. They will also provide the Commission with record information for use in an expedited determination, if appropriate.

Section 751(c)(3)(B) of the Act authorizes the Commission to make an expedited determination without further investigation when interested party responses to the notice of initiation are inadequate. Interested parties that have entered appearances in the review and have responded to the notice of institution and other parties that have entered appearances in the review will be permitted to file a brief submission concerning whether an expedited determination is appropriate based on the adequacy of interested party responses to the notice of institution.

The Commission will consider these comments and the responses to the notice of institution and determine whether the review should be expedited approximately 95 days after publication of the notice of institution. Should the Commission determine to expedite the review, interested parties that have entered appearances in the review and have responded adequately to the notice of institution and other parties that have entered appearances in the review will be provided the opportunity to submit comments concerning the merits of the review before the Commission's

determination on the merits. The record evidence in the expedited review will be limited to that already available to the Commission.

Should the Commission determine not to expedite the review, the review will proceed in a manner closely resembling a final phase antidumping or countervailing duty investigation. Several of the proposed regulations apply existing procedures to five-year reviews. For example, parties that have entered appearances in the review will have the opportunity to submit written comments on draft questionnaires. They will receive prehearing and final reports from the Commission staff, and will have the opportunity to present testimony at a hearing before the Commission and to file prehearing and posthearing briefs and final comments.

Section-by-Section Analysis of the Proposed Regulations

Section 201.11

Section 201.11 concerns the filing of entries of appearance in Commission investigations and reviews. The Commission is proposing to add new paragraphs (b)(4) and (b)(5) to this section to govern the filing of entries of appearance in five-year reviews. Under proposed section 201.11(b)(4), a party will have 21 days from publication of the Commission's notice of institution of five-year review to file an entry of appearance.

If the Commission determines not to expedite the review, it will issue a notice of scheduling approximately 95 days after institution of the review. (See proposed section 207.62.) Under proposed section 201.11(b)(5), a party will have an additional 45 days after publication of this notice to file an entry of appearance.

Section 207.3

Section 207.3(b) requires parties to provide hand or overnight service of, *inter alia*, prehearing briefs, hearing testimony, and posthearing briefs filed in antidumping and countervailing duty investigations. The proposed amendment adds cross-references to several of the new provisions in Subpart F to existing requirements regarding service.

Section 207.45

Section 207.45 concerns changed circumstances reviews pursuant to section 751(b) of the Act. The proposed amendment changes the statutory cross-reference in section 207.45(a) so it specifically cites section 751(b). No substantive change is intended.

Section 207.46

Section 207.46 is an interim regulation that establishes procedures for investigations under section 753 of the Act, which concerns countervailing duty orders issued under former section 303 of the Act without an injury determination by the Commission.[1] The proposed regulation contains three changes from the interim regulation. First, in the caption for subsection 207.46(g) and in the first sentence of section 207.46(g)(1), the word ''expedited'' has been deleted to avoid any confusion between simultaneous reviews conducted pursuant to section 753(e) of the Act and five-year reviews that are expedited pursuant to section 751(c)(3)(B) of the Act. Second, the second sentence of section 207.46(g)(1) has been deleted as unnecessary. This sentence requires that requests for simultaneous five-year reviews under section 753(e) of the Act contain a statement why revocation of the order to be reviewed would lead to continuation or recurrence of material injury. Should a simultaneous five-year review be conducted, a similar statement will be requested in the notice of institution. Third, the final sentence in section 207.46(g)(2) has been amended to refer to the new Subpart F governing five-year reviews.

Section 207.60

Proposed section 207.60 defines certain terms used in Subpart F of Part 207 concerning five-year reviews. The first three definitions, ''five-year review,'' ''expedited determination,'' and ''notice of institution,'' are proposed to promote economy of wording. ''Five-year review'' is a five-year review investigation conducted under section 751(c) of the Act. ''Expedited determination'' is a determination made under section 751(c)(3)(B) of the Act. ''Notice of institution'' is the notice of institution of five-year review that the Commission will publish in the **Federal Register** upon initiation of a review. The remaining three terms, ''domestic like product,'' ''domestic industry,'' and ''subject merchandise,'' are terms commonly used in antidumping and countervailing duty proceedings, and are based on sections 771(10), 771(4)(A), and 771(25) of the Act, respectively.

Section 207.61

When Commerce initiates a five-year review, the Commission will publish a notice of institution of five-year review in the **Federal Register** informing interested parties and other persons of their opportunity to provide information to the Commission. Proposed section 207.61 describes what interested parties will be requested to submit to the Commission in response to the notice of institution.

Each interested party (as that term is defined in section 771(9) of the Act) may respond to the notice of institution whether or not it entered an appearance in the Commission review proceedings. If interested parties do not file adequate responses, however, the Commission may determine not to conduct a full review investigation, but instead may issue an expedited determination based on the facts available pursuant to section 751(c)(3)(B) of the Act. The Commission's evaluation of adequacy is described below in the discussion of proposed section 207.62.

Proposed § 207.61(a) states that responses to the notice of institution must be submitted to the Commission no later than 30 days after publication of the notice in the **Federal Register**. The Commission believes that 30 days will be ample time for interested parties to submit the requested information, particularly since the Commission will provide public notice (through this rulemaking and other actions) of the type of information that will be requested in five-year reviews well in advance of the actual institution of any five-year reviews. Moreover, the Commission intends that it will jointly prepare with Commerce a final schedule of all transition reviews, which will be published in the **Federal Register** before the initiation of the first review. This notice will provide interested parties with sufficient advance notice of scheduling of all transition reviews to enable them to know approximately when such information will be due before publication of the actual notice of institution. This notice will also be mailed to the embassy in Washington, D.C. of each country that will be a

[1]Section 207.46 became effective on January 1, 1995, together with several other interim regulations that were designed to conform the Commission's Rules of Practice and Procedure to the URAA pending adoption of final regulations. *See* 60 Fed. Reg. 18 (Jan. 3, 1995). When the Commission proposed adopting its other interim regulations as final regulations, it did not do so with respect to section 207.46, because it perceived section 207.46 to relate to the general question of five-year reviews and stated that ''the Commission is not prepared to address the question of ''sunset'' reviews at this time.'' 60 Fed. Reg. 51748, 51753 (Oct. 3, 1995). Now that the Commission is establishing procedures for five-year reviews, it believes that proposing to adopt section 207.46 as a final regulation is appropriate. (The Commission contemplates that it will be conducting investigations under section 753, pursuant to pending requests, during 1997-98. Additionally, there is a theoretical possibility that future requests for section 753 investigations may be filed if additional countries become Subsidies Agreement countries.)

subject country in any five-year review. Persons who are not interested parties will also be provided an opportunity to respond under proposed § 207.61(e), as discussed below.

Proposed paragraphs (b) and (c) describe what interested parties will be requested to submit to the Commission in response to the notice of institution. Sections 751(c)(2)(A), (B), and (C) of the Act expressly direct the Commission and Commerce to request interested parties to submit: (1) A statement expressing their willingness to participate in the review by providing information requested by the agencies, (2) a statement regarding the likely effects of revocation of the order or termination of the suspension agreement under review, and (3) such other information or industry data as the agencies may specify. The URAA's legislative history specifically contemplates that the Commission may seek detailed quantitative data from interested parties upon initiation of a five-year review, such as ''certain key data regarding sales, prices, imports, and market conditions.'' [2]

The Commission has two reasons for requesting the submission of certain information and quantitative data from interested parties upon initiation of a five-year review. First, the Commission must determine whether there is sufficient willingness among interested parties to participate in the review and adequate indication that parties will submit requested information throughout the proceeding. The Commission could not effectively ascertain whether such willingness exists—and whether any future investigative efforts are likely to be fruitful—if interested parties were permitted merely to submit *pro forma* statements of intent to participate. When such willingness does not exist or is limited, an expedited review will be more efficient for both the parties and the Commission than conducting a full review.

Second, the responses to the notice of institution will provide the Commission with information for the record it can use in making a determination, particularly an expedited determination pursuant to section 751(c)(3)(B) of the Act. Section 752(a) of the Act requires the Commission to consider a number of factors when it makes its determination, including an expedited determination, in a five-year review. Additionally, the Commission's expedited determinations are subject to review by U.S. courts, NAFTA Chapter 19 panels, and/or the WTO Dispute Settlement Body.

As a practical matter, the Commission's sole opportunity in expedited reviews to obtain information that will enhance its ability to reach a defensible determination—beyond what is available from the original record—is to request such information in the notice of institution. Thus, because of the possibility of an expedited determination in any five-year review, there is a certain amount of information gathering at the initiation stage that is simply unavoidable and any resulting burden on interested parties is inherent in the statutory scheme. Moreover, the information to be submitted is the same type of information that the Commission necessarily would seek at some point in the review. At most, therefore, the proposed regulations request interested parties to submit information earlier in the review process. The Commission nevertheless solicits comments addressing what amount and type of information should be requested in the notice of institution that will enable the Commission to assess the willingness of interested parties to participate in a full five-year review and to make an expedited determination when such a determination is appropriate, while minimizing burdens on interested parties.

Interested party responses to the notice of institution will be in two parts. One part will be filed with the Secretary. The other will be submitted to the Office of Investigations. The Commission believes that such a bifurcated filing process will reduce the burdens to interested parties in submitting business proprietary information (BPI), because, as explained below, the parties need not justify proprietary treatment for information they will submit to the Office of Investigations or prepare and file a public version of this submission. The evaluation of whether the response of an individual interested party is adequate will be based on that party's response to both parts of the notice.

The first part of the response, which proposed section 207.61(b) addresses, will be filed with the Secretary pursuant to the requirements of Commission rules 201.8 and 207.3. This submission will include the material specified in section 751(c)(2)(A) and (B) of the Act: a statement that the submitter is willing to participate in the review by providing requested information and a statement regarding the likely effects of revocation of the order or termination of the suspended investigation. These requirements are set forth in proposed sections 207.61(b)(1) and (b)(2). The submission will also provide identifying information: the submitter's name, address, telephone number, facsimile number, electronic mail address and (if applicable) World Wide Web site address, and a statement indicating whether it is a producer of the domestic like product, a U.S. importer of subject merchandise, a foreign producer or exporter of subject merchandise, or another type of interested party.

Interested parties will also be asked to list all known and currently operating U.S. producers of the domestic like product, all known and currently operating U.S. importers of subject merchandise, and all known and currently operating producers of the subject merchandise in each subject country that currently export or have exported subject merchandise to the United States or to any other country during the period specified in the notice of institution. This material will aid the Commission in determining the adequacy of interested party responses to the notice of institution. Interested parties will be required only to furnish information in their possession to compile these lists. If this information is not in the interested party's possession, however, it must expressly so indicate in its response to the Commission pursuant to proposed section 207.61(d).

Additionally, each interested party will be provided the option of stating whether it agrees with the definitions of the domestic like product and domestic industry that the Commission adopted in its original investigation(s). Interested parties that respond that they disagree with an original definition will be requested to explain why and to provide an alternative definition. This information will assist the Commission to ascertain the like product and domestic industry issues that may arise in each review, and the extent and nature of any future investigative activity it may conduct.

The second part of the response to the notice of institution, which proposed section 207.61(c) addresses, will be a submission to the Commission's Office of Investigations. Domestic producers, foreign producers of subject merchandise, and U.S. importers of subject merchandise will be requested to furnish certain quantitative data to the Office of Investigations concerning their operations. Each domestic producer will be asked to provide information about the domestic like product(s) defined by the Commission in the original investigation(s) giving rise to the review, including information on capacity, production, commercial shipments, inventories, employment, financial performance, and prices. Each

[2] URAA Statement of Administrative Action (SAA), H.R. Rep. 316, 103d Cong., 2d Sess., vol. 1 at 879 (1994).

importer of subject merchandise will be asked to provide information about its import volumes, commercial shipments, inventories, and prices for the subject merchandise. Each foreign producer of subject merchandise will be asked to provide information about its capacity, production, home market shipments, export shipments, and inventories of the subject merchandise. The Commission will request each party to submit actual data for the most recently completed calendar year, and projections for the succeeding calendar year (which will generally be the calendar year in which the notice of institution is published) in accordance with generally accepted accounting principles. The notice of institution for each review will specify the particular data that interested parties are to furnish.

Each interested party will also be requested to provide certain narrative information to the Office of Investigations. First, each interested party will be requested to identify significant changes in the supply of and demand for the domestic like product that have occurred since the order(s) or agreement(s) under review became effective. This will provide the Commission with information concerning conditions of competition that it can use in making a determination. Additionally, interested parties in grouped reviews involving multiple subject countries will be asked to explain the extent to which the domestic like product competes or is likely to compete with subject merchandise from each subject country, and the degree to which merchandise from each subject country competes or is likely to compete with merchandise from each other subject country. This will provide the Commission with information pertinent to its determination on cumulation.

Finally, under proposed section 207.61(c)(2), interested parties will be free to furnish any other information or data relevant to the Commission's determination. For example, interested parties may desire to provide information not specifically requested in the notice of institution pertinent to one or more of the factors that the Commission is to consider under section 752(a) of the Act in rendering a determination in a five-year review. Interested parties may also desire to indicate which domestic producers are related parties under section 771(4)(B) of the Act.

Any submission that interested parties make pursuant to section 207.61(c) will be submitted to the Office of Investigations and will not be subject to the filing requirements of section 201.8. Instead, only a single copy of the submission need be filed with the Office of Investigations. The Commission contemplates that substantially all of the information contained in this submission will be business proprietary. Consequently, the Commission will automatically accord such submissions proprietary treatment, except to the extent the information is otherwise publicly available. A submitter need not submit the justification for proprietary treatment or public versions of the submissions that would otherwise be required by Commission rules 201.6 or 201.8. This procedure will accord the same treatment to these submissions that has long been accorded to questionnaires submitted to the Office of Investigations in Commission investigations. Pursuant to Commission rule 207.3(b), interested parties that entered appearances in the review must serve the public version of the submission described in section 207.61(b) on all other parties to the review and the proprietary versions of both parts of their response to the notice of institution (i.e., the submissions described in both sections 207.61(b) and 207.61(c)) on all representatives on the Administrative Protective Order (APO) service list.

A sample notice of institution appears at Annex A to this notice. The Commission contemplates that interested parties will be able to obtain forms, whose use will be optional, to respond to the notice of institution in a specific review from the Office of Investigations or the Commission's World Wide Web site.

Proposed section 207.61(d) addresses situations in which an interested party cannot furnish the information requested in the notice of institution in the form or manner requested. In such instances, the interested party should explain in its response why it is unable to comply and indicate alternative forms in which it can provide such information. This section is intended to apply the provisions of section 782(c)(1) of the Act in the context of responses to notices of institution.

Pursuant to section 782(b) of the Act and Commission rule 207.3(a), any person that submits information in response to the notice of institution or that makes a submission pursuant to section 207.61(e) must certify that the information is accurate and complete to the best of its knowledge. The Commission contemplates that the standard forms it will make available for responses to the notice of institution will contain specific language, such as that currently used in questionnaires in antidumping and countervailing duty investigations, for the required certification. Interested parties must certify both parts of their responses (i.e., the submissions described in section 207.61(b) and section 207.61(c)).

Each individual interested party response to the notice of institution will be reviewed for completeness by Commission staff immediately upon its receipt. Commission staff will attempt to notify each interested party of any deficiencies in its response, will state the nature of the deficiency and will, to the extent practicable, provide it with a brief period of time (approximately 5–10 days) in which to remedy or explain the deficiency. The Commission will not collect or accept any additional information or conduct other investigative activity thereafter unless it decides to proceed to a full review. This notification procedure is intended to apply the provisions of section 782(d) of the Act in the context of responses to notices of institution.

The Act provides the Commission with several potential courses of action when interested parties fail to provide responses to the notice of institution or provide responses that are deficient. Under section 782(d) of the Act, when a person fails to respond in a satisfactory or timely manner to a request to remedy or explain a deficiency in a submission, the Commission may disregard all or part of the submission. Under section 776(b) of the Act, when an interested party fails to cooperate by not acting to the best of its ability to comply with a Commission request for information, the Commission may take an adverse inference against the party in reaching a determination. Consequently, when an interested party neither provides the information requested in the notice of institution nor provides an acceptable explanation of its inability to provide such information, the Commission may take an adverse inference against that party in reaching any determination in a five-year review, including an expedited determination.

Proposed section 207.61(e) provides an opportunity for those persons that are not interested parties as defined by the Act (such as industrial users, and, if merchandise under investigation is sold at the retail level, representative consumer groups) to submit information they consider relevant to the Commission's five-year review. Such information must be filed with the Commission Secretary in accordance with the provisions of section 201.8 within the 30-day period applicable to interested party responses to the notice of institution.

Section 207.62

Section 751(c)(3)(B) of the Act permits the Commission to make expedited determinations in five-year reviews when ''interested parties provide inadequate responses to a notice of initiation.'' Proposed section 207.62 describes the procedures for issuing expedited determinations under section 751(c)(3)(B).

Proposed section 207.62(a) authorizes certain parties to file brief comments to the Commission within a time specified in the notice of institution, which will generally be no later than 60 days after publication of the notice. Parties authorized to file comments are: (1) Interested parties that have entered appearances in the review and have responded to the notice of institution; and (2) all parties that have entered appearances in the review that are not interested parties. The sole issue these comments may address is whether an expedited determination under section 751(c)(3)(B) of the Act is appropriate. These comments may not include any new factual information (such as supplementation of the response to the notice of institution) and will be limited to five pages.

Representatives of interested parties that have entered into a Commission APO will have access to other parties' proprietary responses to the notice of institution well before these comments are due. Under section 207.3(b), responses to the notice of institution submitted by parties that have entered appearances in the investigation must be served on all other parties on the service list. The Commission will release under APO responses to the notice of institution filed by interested parties that have not entered appearances in the investigation approximately two weeks before the section 207.62(a) comments are due. At approximately the same time, the Commission intends to release confidential versions of the Commission's opinion(s) in the original investigation and staff reports and non-privileged memoranda prepared in connection with that investigation (where available) to representatives under the APO. Public versions of these documents (where available) will also be released. The Commission will also release official import statistics and estimates of domestic and foreign industry production compiled by Commission staff, where such information is available.

After all comments are received, the Commission will determine whether interested party responses are adequate. The SAA provides that the purpose of the expedited review mechanism is to promote administrative efficiency by eliminating needless reviews. The SAA also states that the determination of adequacy is committed to the Commission's (and, separately, Commerce's) discretion.[3]

Responses will be evaluated for adequacy on both an individual and an aggregate basis. In assessing the adequacy of responses in the aggregate, the Commission will consider only those responses that individually are considered adequate. The Commission will separately determine the adequacy of response (in the aggregate) of: (1) Interested parties described in sections 771(9)(C), (D), (E), (F), and (G) of the Act (a group that consists of, inter alia, U.S. producers of the domestic like product and labor unions or groups of workers which are representative of an industry producing the domestic like product; this group will be referred to as ''domestic producers/unions''), and (2) interested parties described in sections 771(9)(A) and (B) of the Act (a group that consists of, inter alia, U.S. importers and foreign exporters or producers of subject merchandise and subject country governments; this group will be referred to as ''foreign producers/importers'').

The Commission will make the determination of adequacy on a case-by-case basis taking several factors into account. One factor that the Commission will consider in determining adequacy is the responding parties' likely share of domestic production (for domestic producers/unions) or of subject imports or production of the subject merchandise (for foreign producers/importers). The Commission does not intend to apply strict numerical tests to determine adequacy of interested party responses. Nevertheless, to provide some guidance to interested parties, the Commission can tentatively identify certain circumstances in which it will consider that response rates are sufficiently high or low to provide a strong indication that interested party responses are either adequate or inadequate. Specifically, responses from parties accounting for more than 50 percent of domestic production will normally be considered to be a strong indication of an adequate response from domestic producers/unions. Responses from parties accounting for more than 50 percent of subject imports or production of subject merchandise will normally be considered to be a strong indication of an adequate response from foreign producers/importers. Consequently, a sufficient response by either U.S. importers or foreign producers of the subject merchandise may constitute an adequate response from foreign producers/importers. By contrast, responses accounting for less than 25 percent of domestic production, on the one hand, or subject imports or production of subject merchandise, on the other, will normally be considered to be a strong indication of inadequate responses by domestic producers/unions and foreign producers/importers, respectively.

The Commission will not rely solely on numerical tests and will take other factors into account in determining whether interested party responses are adequate. For example, a response rate that may seem to be inadequate for a highly concentrated industry may be adequate for a highly fragmented industry.

Additional factors that the Commission intends to consider include the structure of the pertinent domestic industry and industry producing the subject merchandise, the potential of particular foreign producers to export to the United States, the extent to which subject imports are effectively excluded from the U.S. market by the order or suspension agreement under review, and, for domestic producers/unions, the prevalence of related party producers. The Commission invites parties to comment on the appropriateness of relying on these factors to determine whether interested party responses are adequate, and whether there are additional or different factors that the Commission should consider in making such a determination. The Commission also invites parties to comment on the appropriateness of making expedited determinations in grouped reviews involving subject merchandise from several countries, if responses from the foreign producers/importers are adequate with respect to some of the subject countries within the group but inadequate with respect to others.

Pursuant to proposed section 207.62(b), if the Commission determines that interested party responses are adequate, it will conduct a full five-year review. In such cases, the Commission will publish its schedule of the remaining procedures in the **Federal Register**. (A sample schedule appears as Annex B to this notice.) Under proposed section 201.11(b)(5), parties will have 45 days after publication of this **Federal Register** notice to file additional entries of appearance and APO applications.

By contrast, proposed section 207.62(c) describes procedures that apply when the Commission concludes that interested party responses are

[3] SAA at 880.

inadequate and an expedited determination is appropriate. In such circumstances, the Secretary will notify all parties that submitted timely entries of appearance in the Commission review that the Commission has decided to make an expedited determination. The notice will invite interested parties that responded adequately to the notice of institution and all parties that are not interested parties to submit comments on the merits of the review by a specific deadline (which will generally be approximately 30–35 days from issuance of the notice). Other persons who are not interested parties will have the opportunity to submit a brief written statement on the merits of the review by the same deadline.

The comments to be filed under proposed section 207.62(c), which will satisfy the requirements of section 782(g) of the Act, give parties their sole opportunity to submit comments to the Commission on the merits of an expedited determination. These comments may not contain new factual information and may not exceed 25 pages. Consistent with Commission practice under section 207.30(b), comments containing new factual information will be accepted into the record, but new factual information and arguments based on that new factual information will be disregarded. Any compilations by the Commission of information collected and not previously released to representatives under APO will be released under APO approximately 20 days before these comments are due. The information released will include a staff report that will compile information obtained in response to the notice of institution as well as official import statistics, and, where available, estimates of domestic and foreign industry production compiled by the Commission staff. A public version of the staff report will also be released.

Proposed section 207.62(d) allows the Commission to delegate to a senior member of the staff, such as the Director of Operations or the Director of Investigations, authority to make decisions concerning whether interested party responses to the notice of institution are adequate or inadequate. Initially, the Commission will itself make all such decisions. Should the Commission decide to delegate decisionmaking authority concerning whether interested party responses are inadequate, it will retain sole authority to issue the expedited determination in any particular review.

Section 207.63

Proposed section 207.63 concerns circulation of draft questionnaires in five-year reviews. As stated in proposed section 207.63(a), when the Commission does not issue an expedited determination in a five-year review, it will circulate draft questionnaires to the parties that have entered appearances in the review. The Commission anticipates sending questionnaires to U.S. producers of the domestic like product, foreign producers of subject merchandise, U.S. importers of subject merchandise, and U.S. purchasers. Questionnaires will commonly seek data in more detail (particularly with respect to financial performance and pricing), for additional periods of time, and, when warranted, for additional products than will the notice of institution. The Commission anticipates that draft questionnaires will be circulated to the parties to the review approximately 150 days after initiation. The Commission invites comment on the content and format of questionnaires in five-year reviews.

Parties that desire to comment on the draft questionnaires may submit written comments to the Commission, as indicated by proposed section 207.63(b). The Commission anticipates that such comments will be due approximately 30 days after circulation of the draft questionnaires.

Proposed section 207.63(b) requires each party to present all data collection requests in its questionnaire comments. The Commission will disregard any subsequent arguments that are premised on the collection of new data if the data collection request was not asserted in the questionnaire comments. Thus, if the draft questionnaires in a review propose collecting data for only one product, and a party believes that data should be collected for two products, it must request data collection for two products, and provide a legal basis for its request, in its comments on the questionnaire. It may not request collection of such data for the first time, for example, in its prehearing brief or at the hearing.

The Commission believes this procedure is necessary to focus its data collection efforts. In original antidumping and countervailing duty investigations, the Commission has found issuing supplemental questionnaires in the late stages of an investigation to be impractical because of time and staffing constraints. These problems will be exacerbated in five-year reviews. Therefore, any data collected in a five-year review must be collected pursuant to the notice of institution and in the questionnaires. It is imperative that the Commission be apprised of all data collection issues before questionnaires are issued. The Commission believes that this procedure will impose no hardship on representatives of interested parties who have entered an APO, who will have the benefit of pertinent portions of the record of the original investigation, as well as access under APO to all information collected in response to the notice of institution, before they are to file comments on the questionnaires. This material should allow interested party representatives ample time to determine what information they believe the Commission should seek and consider. Likewise, parties to the review that are not interested parties will have ample notification and access to the public record to provide an informed basis for comment.

Section 207.64

Proposed section 207.64 concerns staff reports in five-year reviews. It tracks current section 207.22 concerning staff reports in final phase antidumping and countervailing duty investigations.

Section 207.65

Proposed section 207.65 concerns prehearing briefs. It is adapted from current section 207.23. In a five-year review, every party to the review is to submit a prehearing brief on the date specified in the scheduling notice.

Section 207.66

Proposed section 207.66 concerns hearings in five-year reviews. The Commission will conduct a hearing in each five-year review in which it does not render an expedited determination. Hearing procedures will conform to those established in current section 207.24 concerning final phase antidumping and countervailing duty investigations.

Section 207.67

Proposed section 207.67 concerns posthearing briefs and statements. It is based on current sections 207.25 and 207.26.

Section 207.68

Proposed section 207.68 concerns final comments on information in five-year reviews. It is based on the final comment procedure in section 207.30 currently used in final phase antidumping and countervailing duty investigations.

The procedures in section 207.68 will be used in five-year reviews where the determination is not expedited. In five-year reviews where the determination is

expedited, the final comment procedure is specified in proposed section 207.62(c).

Section 207.69

Proposed section 207.69 requires the Commission to publish and serve its determinations in five-year reviews. It tracks current section 207.29.

List of Subjects

19 CFR Part 201

Administrative practice and procedure, Investigations, Imports.

19 CFR Part 207

Administrative practice and procedure, Antidumping, Countervailing duties, Investigations.

For the reasons stated in the preamble, 19 CFR parts 201 and 207 are proposed to be amended as set forth below:

PART 201—[AMENDED]

1. The authority citation for part 201 continues to read as follows:

Authority: Section 335 of the Tariff Act of 1930 (19 U.S.C. 1335) and § 603 of the Trade Act of 1974 (19 U.S.C. 2482), unless otherwise noted.

2. New paragraphs (b)(4) and (b)(5) are added to § 201.11 to read as follows:

§ 201.11 Appearance in an investigation as a party.

* * * * *

(b) *Time for filing.* * * *

(4) In the case of reviews conducted under subpart F of part 207 of this chapter, each entry of appearance shall be filed with the Secretary not later than twenty-one (21) days after publication in the **Federal Register** of the notice of institution described in § 207.60(c).

(5) Notwithstanding paragraph (b)(4) of this section, a party may file an entry of appearance in a review conducted under subpart F of part 207 of this chapter for a period of 45 days after publication in the **Federal Register** of the notice specified under § 207.62(b).

* * * * *

PART 207—[AMENDED]

3. The authority citation for part 207 continues to read as follows:

Authority: 19 U.S.C. 1336, 1671–1677n, 2482, 3513.

4. Paragraph (b) of § 207.3 is revised to read as follows:

§ 207.3 Service, filing, and certification of documents

* * * * *

(b) *Service.* Any party submitting a document for inclusion in the record of the investigation shall, in addition to complying with § 201.8 of this chapter, serve a copy of each such document on all other parties to the investigation in the manner prescribed in § 201.16 of this chapter. If a document is filed before the Secretary's issuance of the service list provided for in § 201.11 of this chapter or the administrative protective order list provided for in § 207.7, the document need not be accompanied by a certificate of service, but the document shall be served on all appropriate parties within two (2) days of the issuance of the service list or the administrative protective order list and a certificate of service shall then be filed. Notwithstanding § 201.16 of this chapter, petitions, briefs, and testimony filed by parties pursuant to §§ 207.10, 207.15, 207.23, 207.24, 207.25, 207.65, 207.66, and 207.67 shall be served by hand or, if served by mail, by overnight mail or its equivalent. Failure to comply with the requirements of this rule may result in removal from status as a party to the investigation. The Commission shall make available to all parties to the investigation a copy of each document, except transcripts of conferences and hearings, business proprietary information, privileged information, and information required to be served under this section, placed in the record of the investigation by the Commission.

* * * * *

5. Paragraph (a) of § 207.45 is revised to read as follows:

§ 207.45 Investigation to review outstanding determination

(a) *Request for review.* Any person may file with the Commission a request for the institution of a review investigation under section 751(b) of the Act. The person making the request shall also promptly serve copies of the request on the parties to the original investigation upon which the review is to be based. All requests shall set forth a description of changed circumstances sufficient to warrant the institution of a review investigation by the Commission.

* * * * *

6. Paragraph (g) of § 207.46 is revised to read as follows:

§ 207.46 Investigations concerning certain countervailing duty orders.

* * * * *

(g) *Request for simultaneous section 751(c) review.* (1) A requesting party who requests a section 753 review may at the same time request from the Commission and the administering authority a review under section 751(c) of the Act of a countervailing or antidumping duty order involving the same or comparable subject merchandise.

(2) Should the administering authority, after consulting with the Commission, determine to initiate a section 751(c) review, the Commission shall conduct a consolidated review under sections 751(c) and 753 of the Act of the orders involving the same or comparable subject merchandise. Any such consolidated review shall be conducted under the applicable procedures set forth in subparts A and F of this part.

(3) Should the administering authority, after consulting with the Commission, determine not to initiate a section 751(c) review, the Commission will consider the request for a section 753 review pursuant to the procedures established in this section.

7. A new subpart F is added to read as follows:

Subpart F—Five-Year Reviews

207.60 Definitions.
207.61 Responses to notice of institution.
207.62 Adequacy of responses to notice of institution.
207.63 Circulation of draft questionnaires.
207.64 Staff reports.
207.65 Prehearing briefs.
207.66 Hearing.
207.67 Posthearing briefs and statements.
207.68 Final comments on information.
207.69 Publication of determinations.

§ 207.60 Definitions.

For purposes of this subpart:

(a) The term *five-year review* means a five-year review investigation conducted pursuant to section 751(c) of the Act.

(b) The term *expedited determination* means a determination issued by the Commission pursuant to section 751(c)(3)(B) of the Act.

(c) The term *notice of institution* shall refer to the notice of institution of five-year review that the Commission shall publish in the **Federal Register** requesting that interested parties provide information to the Commission upon initiation of a five-year review.

(d) The term *domestic like product* means a product produced in the United States which is like, or in the absence of like, most similar in characteristics and uses with, the articles subject to a five-year review.

(e) The term *domestic industry* means the producers as a whole of a domestic like product, or those producers whose collective output of a domestic like product constitutes a major proportion of the total domestic production of the product.

(f) The term *subject merchandise* means the class or kind of merchandise

that is within the scope of the five-year review.

§ 207.61 Responses to notice of institution.

(a) *When information must be filed.* Responses to the notice of institution shall be submitted to the Commission no later than 30 days after its publication in the **Federal Register**.

(b) *Information to be filed with the Secretary.* The notice of institution shall direct each interested party to make a filing pursuant to §§ 201.8 and 207.3 of this chapter containing the following:

(1) A statement expressing its willingness to participate in the review by providing information requested by the Commission;

(2) A statement regarding the likely effects of revocation of the order(s) or termination of the suspended investigation(s) under review;

(3) Other information requested in the notice of institution.

(c) *Information to be submitted to the Office of Investigations.* The notice of institution shall further direct each interested party to submit the following material to the Commission's Office of Investigations:

(1) Such information or industry data as the Commission may specify in the notice of institution;

(2) Any other information or data the party considers relevant to the Commission's determination.

(d) *When requested information cannot be supplied.* Any interested party that cannot furnish the information requested by the notice of institution shall explain in its response(s) why it is unable to provide the information and indicate alternative forms in which it can provide equivalent information.

(e) *Submissions by persons other than interested parties.* Any person who is not an interested party may submit to the Commission, in a filing satisfying the requirements of § 201.8 of this title, information relevant to the Commission's review no later than 30 days after publication of the notice of institution in the **Federal Register**.

§ 207.62 Adequacy of responses to notice of institution.

(a) *Comments to the Commission.* (1) Comments to the Commission concerning whether the Commission should make an expedited determination in that review may be submitted by:

(i) Any interested party that is a party to the investigation and that has responded to the notice of institution; and

(ii) Any party, other than an interested party, that is a party to the investigation.

(2) Comments shall be submitted within the time specified in the notice of institution. Comments shall not exceed five (5) pages of textual material, double-spaced and single-sided, on stationery measuring 8½ x 11 inches. Comments containing new factual information shall be disregarded.

(b) *Determination that responses are adequate.* If the Commission concludes that interested parties' responses to the notice of institution are adequate, investigative activities pertaining to that review will continue. The Commission will publish in the **Federal Register** a notice of scheduling pertaining to subsequent procedures in the review.

(c) *Determination that responses are inadequate.* (1) If the Commission concludes that interested parties' responses to the notice of institution are inadequate, it may decide to issue an expedited determination. In that event, the Commission shall direct the Secretary to issue a notice stating that the Commission has decided to make an expedited determination and inviting those parties to the review described in paragraph (c)(2) of this section to file written comments with the Secretary on what determination the Commission should reach in the review. The date on which such comments must be filed will be specified in the notice to be issued by the Secretary. Comments shall not exceed twenty-five (25) pages of textual material, double-spaced and single-sided, on stationery measuring 8½ × 11 inches. Comments containing new factual information shall be disregarded.

(2) The following parties may file the comments described in paragraph (c)(1) of this section:

(i) Any interested party that is a party to the investigation and that has filed an adequate response to the notice of institution; and

(ii) Any party, other than an interested party, that is a party to the investigation.

(3) Any person who is neither a party to the investigation nor an interested party may submit a brief written statement (which shall not contain any new factual information) pertinent to the review within the time specified for the filing of written comments.

(d) *Delegation of responsibilities.* Notwithstanding any other provision of this part, the Commission may delegate its responsibilities pursuant to this section to a member of the Commission staff.

§ 207.63 Circulation of draft questionnaires.

(a) In each five-year review in which the Commission has not issued an expedited determination, the Director shall circulate draft questionnaires to the parties for comment.

(b) Any party desiring to comment on the draft questionnaires shall submit such comments in writing to the Commission within a time specified by the Director. All requests for collecting new data must be presented at this time. The Commission will disregard subsequent arguments that are premised on requests for collection of new data if such requests were not included in the comments on the draft questionnaires.

§ 207.64 Staff reports.

(a) *Prehearing staff report.* The Director shall prepare and place in the record, prior to the hearing, a prehearing staff report containing information concerning the subject matter of the five-year review. A version of the staff report containing business proprietary information shall be placed in the nonpublic record and made available to persons authorized to receive business proprietary information under § 207.7, and a nonbusiness proprietary version of the staff report shall be placed in the public record.

(b) *Final staff report.* After the hearing, the Director shall revise the prehearing staff report and submit to the Commission, prior to the Commission's determination, a final version of the staff report. The final staff report is intended to supplement and correct the information contained in the prehearing staff report. A public version of the final staff report shall be made available to the public and a business proprietary version shall also be made available to persons authorized to receive business proprietary information under § 207.7.

§ 207.65 Prehearing briefs.

Each party to a five-year review may submit a prehearing brief to the Commission on the date specified in the scheduling notice. A prehearing brief shall be signed and shall include a table of contents. The prehearing brief should present a party's case concisely and shall, to the extent possible, refer to the record and include information and arguments which the party believes relevant to the subject matter of the Commission's determination.

§ 207.66 Hearing.

(a) *In general.* The Commission shall hold a hearing in each five-year review in which it does not make an expedited determination. The date of the hearing

shall be specified in the scheduling notice.

(b) *Procedures.* Hearing procedures in five-year reviews will conform to those for final phase antidumping and countervailing duty investigations set forth in § 207.24.

§ 207.67 Posthearing briefs and statements.

(a) *Briefs from parties.* Any party to a five-year review may file with the Secretary a posthearing brief concerning the information adduced at or after the hearing within a time specified in the scheduling notice or by the presiding official at the hearing. No such posthearing brief shall exceed fifteen (15) pages of textual material, double spaced and single sided, on stationery measuring 8½ × 11 inches. In addition, the presiding official may permit persons to file answers to questions or requests made by the Commission at the hearing within a specified time. The Secretary shall not accept for filing posthearing briefs or answers which do not comply with this section.

(b) *Statements from nonparties.* Any person other than a party may submit a brief written statement of information pertinent to the review within the time specified for the filing of posthearing briefs.

§ 207.68 Final comments on information.

(a) The Commission shall specify a date after the filing of posthearing briefs on which it will disclose to all parties to the five-year review all information it has obtained on which the parties have not previously had an opportunity to comment. Any such information that is business proprietary information will be released to persons authorized to obtain such information pursuant to § 207.7.

(b) The parties shall have an opportunity to file comments on any information disclosed to them after they have filed their posthearing brief pursuant to § 207.67. Comments shall only concern such information, and shall not exceed 15 pages of textual material, double spaced and single-sided, on stationery measuring 8½ × 11 inches. A comment may address the accuracy, reliability, or probative value of such information by reference to information elsewhere in the record, in which case the comment shall identify where in the record such information is found. Comments containing new factual information shall be disregarded. The date on which such comments must be filed will be specified by the Commission when it specifies the time that information will be disclosed pursuant to paragraph (a) of this section. The record shall close on the date such comments are due, except with respect to changes in bracketing of business proprietary information in the comments permitted by § 207.3(c).

§ 207.69 Publication of determinations.

Whenever the Commission makes a determination concluding a five-year review, the Secretary shall serve copies of the determination and, when applicable, the nonbusiness proprietary version of the final staff report on all parties to the review, and on the administering authority. The Secretary shall publish notice of such determination in the **Federal Register**.

By order of the Commission.

Issued: October 20, 1997.

Donna R. Koehnke,

Secretary.

Note: The following annexes would not appear in the Code of Federal Regulations.

Annex A—Notice of Institution of Five-Year Review

Definitions

(1) *Subject Merchandise* is the class or kind of merchandise that is within the scope of the five-year review. In this review, the Department of Commerce has defined the *Subject Merchandise* as **DEFINE**.

(2) The *Subject Country* in this review is **COUNTRY**.

(3) The *Domestic Like Product* is the domestically produced product or products which are like, or in the absence of like, most similar in characteristics or uses with, the *Subject Merchandise.* In its original determination, the Commission defined the *Domestic Like Product* as **DEFINE. One Commissioner/certain Commissioners defined the** *Domestic Like Product* **differently**.

(4) The *Domestic Industry* is the producers as a whole of a *Domestic Like Product,* or those producers whose collective output of a *Domestic Like Product* constitutes a major proportion of the total domestic production of the product. In its original determination, the Commission defined the *Domestic Industry* as producers of **DEFINE**.

(5) The *Order Date* is the date that the **countervailing duty order/antidumping duty order/suspension agreement** under review became effective. In this review, the *Order Date* is **DATE**.

(6) An *Importer* is any person or firm engaged, either directly or through a parent company or subsidiary, in importing the *Subject Merchandise* into the United States from a foreign manufacturer or through its selling agent.

Certification

In accordance with Commission rule 207.3, any person submitting information to the Commission in connection with this investigation must certify that the information is accurate and complete to the best of the submitter's knowledge. This certification must be included in both the information to be submitted to the Commission's Secretary and the information to be submitted to the Commission's Office of Investigations specified below. In making the certification, the submitter will be deemed to consent, unless otherwise specified, for the Commission, its employees, and contract personnel to use the information provided in any other investigations of the same or comparable products which the Commission conducts under Title VII of the Act, or in internal audits and investigations relating to the programs and operations of the Commission pursuant to 5 U.S.C. Appendix 3.

Information to be Submitted to the Secretary

Responses filed with the Secretary must conform with the provisions of section 201.8 of the Commission's rules. If business proprietary treatment is desired for portions of a response, submitters must follow the requirements set forth in sections 201.6, 207.3, and 207.7 of the Commission's rules. Also, in accordance with sections 201.16(c) and 207.3 of the Commission's rules, each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by either the public or BPI service list as appropriate), and a certificate of service must accompany the document (if you are not a party to the investigation you do not need to serve your response). Any interested party that cannot furnish the information requested should explain why it is unable to do so and indicate alternative forms in which it can provide equivalent information. **(Added if more than one country is involved)** If you are a domestic producer, import/export *Subject Merchandise* from more than one *Subject Country,* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.*

The response to the Secretary should include:

(1) The name and address of your firm (including World Wide Web address if available) and name, telephone number,

fax number, and E-mail address of the certifying official.

(2) A statement indicating whether your firm is a U.S. producer of the *Domestic Like Product,* a U.S. importer of the *Subject Merchandise,* a foreign producer/exporter of the *Subject Merchandise,* or another interested party (including an explanation).

(3) A statement indicating whether your firm is willing to participate in this review by providing information requested by the Commission.

(4) A statement of the likely effects of the **revocation of the countervailing duty order/ antidumping duty order/termination of the suspension agreement** on the *Domestic Industry* in general and/or your firm specifically.

(5) A list of all known and currently operating U.S. producers of the *Domestic Like Product.*

(6) A list of all known and currently operating U.S. importers of the *Subject Merchandise* and producers of the *Subject Merchandise* in **COUNTRY** that currently export or have exported *Subject Merchandise* to the United States or other countries since **(YEAR OF PETITION).**

(7) (OPTIONAL) A statement of whether you agree with the above definitions of the *Domestic Like Product* and *Domestic Industry;* if you disagree with either or both of these definitions, please explain why and provide alternative definitions.

Information To Be Submitted to the Office of Investigations

Responses filed with the Office of Investigations will be treated as business proprietary unless the information is otherwise publicly available and should be submitted to **INVESTIGATOR,** Office of Investigations, U.S. International Trade Commission, Room 615, 500 E Street, SW, Washington, DC 20436. Only one copy of the response needs to be submitted to the Office of Investigations, but each document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the BPI service list), and a certificate of service must accompany the document (if you are not a party to the investigation you do not need to serve your response). Any interested party that cannot furnish the information requested should explain why it is unable to do so and indicate alternative forms in which it can provide equivalent information. **(Added if more than one country is involved)** If you are a domestic producer, import/export *Subject Merchandise* from more than one *Subject Country,* or produce *Subject Merchandise* in more than one *Subject Country,* you may file a single response. If you do so, please ensure that your response to each question includes the information requested for each pertinent *Subject Country.*

The response to the Office of Investigations should include:

(1) The name and address of your firm (including World Wide Web address if available) and name, telephone number, fax number, and E-mail address of the certifying official.

(2) If your firm is a U.S. producer of **PRODUCT,** provide the following information on your firm's operations on that product during calendar year **PRECEDING YEAR** and your projections, in accordance with Generally Accepted Accounting Principles (GAAP), for calendar year **CURRENT YEAR** (report *quantity* data in **UNITS** and *value* data in thousands of dollars):

(a) Annual production capacity (*quantity*) (report the practical capacity of your plant(s) using the machinery and equipment in place at the end of the year and specify that the capacity reported is based on operating ____ hours per week, ____ weeks per year);

(b) end-of-year inventories (*quantity*);

(c) production (*quantity*) (including, if known, an estimate of the percentage of total U.S. production of **PRODUCT** accounted for by your firm's production in **PRECEDING YEAR**);

(d) the *quantity* and *value* of U.S. commercial shipments of product produced in your U.S. plant(s);

(e) the *quantity* of product produced in your U.S. plant(s) that you consumed internally or transferred within your company;

(f) the *quantity* and *value* of exports of product produced in your U.S. plant(s);

(g) the average number of production workers;

(h) your firm's net sales and operating income or (loss); and

(i) average prices for **SPECIFIC PRODUCT**.

(3) If your firm is a U.S. importer of the *Subject Merchandise,* provide the following information on your firm's operations on that product **FOR EACH COUNTRY SUBJECT TO THIS REVIEW INVESTIGATION** during calendar year **PRECEDING YEAR** and your projections, in accordance with GAAP, for calendar year **CURRENT YEAR** (report *quantity* data in **UNITS** and *value* data in thousands of dollars):

(a) The *quantity* and *value* of U.S. imports (including, if known, an estimate of the percentage of total U.S. imports of **PRODUCT** from **COUNTRY** accounted for by your firm's imports in **PRECEDING YEAR**);

(b) end-of-year inventories (*quantity*);

(c) the *quantity* and *value* of U.S. commercial shipments of imported product; and

(d) average prices for **SPECIFIC PRODUCT**.

(4) If your firm is a producer of the *Subject Merchandise* in **COUNTRY**, provide the following information on your firm's operations on that product during calendar year **PRECEDING YEAR** and your projections, in accordance with GAAP, for calendar year **CURRENT YEAR** (report *quantity* data in **UNITS** and *value* data in thousands of dollars):

(a) Annual production capacity (*quantity*) (report the practical capacity of your plant(s) using the machinery and equipment in place at the end of the year and specify that the capacity reported is based on operating ____ hours per week, ____ weeks per year);

(b) end-of-year inventories (*quantity*);

(c) production (*quantity*) (including, if known, an estimate of the percentage of total production of **PRODUCT** in **COUNTRY** accounted for by your firm's production in **PRECEDING YEAR**);

(d) the *quantity* and *value* of home market shipments of product produced in your plant(s) (including any internal consumption and company transfers);

(e) the *quantity* and *value* of your firm's exports to the United States of product produced in your plant(s) (including, if known, an estimate of the percentage of total exports to the United States of **PRODUCT** from **COUNTRY** accounted for by your firm's exports in **PRECEDING YEAR**); and

(f) the *quantity* and *value* of your firm's exports to all other countries of product produced in your plant(s).

(5) Identify any significant changes in the supply of and demand for the *Domestic Like Product* that have occurred in the United States since the *Order Date.* Address changes in factors such as technology; production methods; the availability and price of major production inputs; consumption patterns; new alternative products that compete for sales; availability of imports from nonsubject countries; the degree of interchangeability between the *Domestic Like Product, Subject Merchandise,* and nonsubject imports; and demand for U.S. products in export markets.

(6) **(Asked in reviews involving multiple subject countries)** Explain (a) whether the *Domestic Like Product and Subject Merchandise* from each *Subject Country* compete or are likely to compete with each other in the United States and (b) whether *Subject Merchandise* from each individual *Subject Country* competes or is likely to

compete in the United States with *Subject Merchandise* from each other *Subject Country*. In determining whether (likely) competition exists between two products, you may consider such factors as (i) the degree of (likely) fungibility between the products, (ii) whether the products are (likely to be) sold in the same geographic markets in the United States, (iii) whether the products are (likely to be) sold in common channels of distribution, and (iv) whether the products are (likely to be) sold in the U.S. market simultaneously.

(7) (OPTIONAL) Provide any other information or data that you consider relevant to the Commission's determination.

Annex B—Proposed Schedule for Sunset Reviews[1]

Action/Event	Day
Notice of Institution (Published in the FEDERAL REGISTER)	0
Entries of Appearance/APO Applications Due	21
Responses to Notice of Institution Due	30
Comments on Appropriateness of Expedited Review Due	60
Notice of Inadequacy/Expedited Review or Adequacy/Full Review	95

[1] The Commission may extend its deadline by up to 90 days in all transition reviews and other extraordinarily complicated cases.

INADEQUATE RESPONSES/EXPEDITED REVIEW

Action/Event	Day
Staff Report/Data Compilation to Commission and Parties	110
Commerce Expedited Determination (If Issued)	120
Written Submission on Merits ("Final Comments") by Parties Due	130
Commission Vote	140
Commission Determination and Views to Commerce	150

ADEQUATE RESPONSES/FULL REVIEW

Action/Event	Day
New Entries of Appearance/APO Applications Due	140
Draft Questionnaires to Parties for Comment	150
Written Comments on Draft Questionnaires Due (Final Opportunity for Parties to Raise Issues Affecting Data Collection)	180
Questionnaire Mail Date	225
Commerce Subsidy/Dumping Determination	240
Questionnaire Return Date	265
Prehearing Report to Commission and Parties	299
Prehearing Briefs Due	305
Hearing	313
Posthearing Briefs Due	320
Staff Report to Commission and Parties	330

ADEQUATE RESPONSES/FULL REVIEW—Continued

Action/Event	Day
Final Comments Due	340
Commission Vote	348
Commission Determination and Views to Commerce	360

[FR Doc. 97–28257 Filed 10–22–97; 8:45 am]

BILLING CODE 7020–02–P

RAILROAD RETIREMENT BOARD

20 CFR Part 216

RIN 3220–AB27

Eligibility for an Annuity

AGENCY: Railroad Retirement Board.

ACTION: Proposed rule.

SUMMARY: The Railroad Retirement Board proposes to amend its regulation under the Railroad Retirement Act concerning when a child of a railroad employee is considered a full-time elementary or secondary student. The proposed changes reflect the current trend in most States and jurisdictions to recognize home schooling and independent study programs as comparable to traditional education.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Secretary to the Board, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611.

FOR FURTHER INFORMATION CONTACT: Thomas W. Sadler, Senior Attorney, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611, (312) 751–4513, TDD (312) 751–4701.

SUPPLEMENTARY INFORMATION: Section 2(d)(4) of the Railroad Retirement Act (45 U.S.C. 231a(d)(4)) provides, in pertinent part, that an annuity is payable to a child of a deceased employee until such child attains age 18 or 19 if such child is in full-time attendance at an elementary or secondary school. Section 2(d)(4) of the Act incorporates the provisions of section 202(d)(7) of the Social Security Act (42 U.S.C. 402(d)(7)), which defines the terms full-time elementary or secondary student. Section 202(d)(7) of the Social Security Act in turn provides that a full-time elementary or a secondary student is an individual who is in full-time attendance as a student at an elementary or secondary school, as determined by the Commissioner of the Social Security Administration (by regulations prescribed by the Commissioner).

Before July 24, 1996, section 404.367 of the Social Security Administration's regulations under the Social Security Act (20 CFR 404.367) defined a full-time student as an individual enrolled in an educational institution including public, private, and religious schools. The Social Security Administration's previous policy, as reflected in its regulation, was aligned with the traditional definition of educational programs. However, recently most States and other jurisdictions have broadened the definition of education programs to include home schooling and independent study programs. Because of this trend, the Social Security Administration revised section 404.367 to include such types of schooling in the definition of elementary and secondary schools. *See*, 61 FR 38363 (1996). The Board, therefore, proposes to revise its regulations to include students enrolled in home schooling or independent study programs authorized by a State or other jurisdiction within the definition of a full-time elementary or secondary school student.

The Board, with the concurrence of the Office of Management and Budget, has determined that this is not a significant regulatory action under Executive Order 12866. There are no information collections associated with this rule.

List of Subjects in 20 CFR Part 216

Railroad employees, Railroad retirement.

For the reasons set out in the preamble, chapter II of title 20 of the Code of Federal Regulations is proposed to be amended as follows:

PART 216—ELIGIBILITY FOR AN ANNUITY

1. The authority citation for part 216 continues to read as follows:

Authority: 45 U.S.C. 231f.

2. Section 216.74 is revised to read as follows:

§ 216.74 When a child is a full-time elementary or secondary school student.

(a) A child is a full-time elementary or secondary school student if he or she meets all of the following conditions:

(1) The child is in full-time attendance at an elementary or secondary school; or

(2) The child is instructed in elementary or secondary education at home in accordance with a home school

law of the State or other jurisdiction in which the child resides; or

(3) The child is in an independent study elementary or a secondary education program administered by the local school, district, or jurisdiction, which is in accordance with the law of the State or other jurisdiction in which he or she resides.

(b) The child is in full-time attendance in a day or evening non-correspondence course of at least 13 weeks duration and he or she is carrying a subject load that is considered full-time for day students under the institution's standards and practices. If he or she is in a home schooling program as described in paragraph (a)(2) of this section, he or she must be carrying a subject load that is considered full-time for day students under the standards and practices set by the State or other jurisdiction in which the student resides.

(c) To be considered in full-time attendance, scheduled attendance must be at the rate of at least 20 hours per week unless one of the exceptions in paragraphs (c)(1) and (c)(2) of this section applies. If the student is in an independent study program as described in paragraph (a)(3) of this section, the number of hours spent in school attendance is determined by combining the number of hours of attendance at a school facility with the agreed upon number of hours spent in independent study. The student may still be considered in full-time attendance if the scheduled rate of attendance is below 20 hours per week if the Board finds that:

(1) The school attended does not schedule at least 20 hours per week and going to that particular school is the student's only reasonable alternative; or

(2) The student's medical condition prevents him or her from having scheduled attendance of at least 20 hours per week. To prove that the student's medical condition prevents him or her from scheduling 20 hours per week, the Board may request that the student provide appropriate medical evidence or a statement from the school.

(d) An individual is not a full-time student if, while attending an elementary or secondary school, he or she is paid compensation by an employer who has requested or required that the individual attend the school. An individual is not a fulltime student while he or she is confined in a penal institution or correctional facility because he or she committed a felony after October 19, 1980.

(e) A student who reaches age 19 but has not completed the requirements for a secondary school diploma or certificate and who is a full-time elementary or secondary student, as defined in paragraph (a) of this section, will continue to be eligible for benefits until the first day of the first month following the end of the quarter or semester in which he or she is then enrolled, or if the school is not operated on a quarter or semester system, the earlier of:

(1) The first day of the month following completion of the course(s) in which he or she was enrolled when age 19 was reached; or

(2) The first day of the third month following the month in which he or she reached age 19.

Dated: October 14, 1997.

By Authority of the Board.

Beatrice Ezerski,

Secretary to the Board.

[FR Doc. 97–28063 Filed 10–22–97; 8:45 am]

BILLING CODE 7905–01–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Chapter II

Workshop on the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996 (RSFA)

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of workshop.

SUMMARY: The Minerals Management Service (MMS), Royalty Management Program, is implementing the requirements of the Federal Oil and Gas Royalty Simplification and Fairness Act of 1996. The purpose of this notice is to inform the public of a public workshop session.

DATES: The workshop will begin on Wednesday, November 5, 1997, from 1 p.m. to 5 p.m., Mountain time; and continues on Thursday, November 6, 1997, from 8:30 a.m. to 4 p.m., Mountain time.

ADDRESSES: The workshop will be held in the Building 85 Auditorium at the Denver Federal Center, Denver, Colorado. Mail comments to: David S. Guzy, Chief, Rules and Publications Staff, Royalty Management Program, Minerals Management Service, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; courier delivery to Building 85, Denver Federal Center, Denver, Colorado 80225; or e-mail David__Guzy@mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, telephone (303) 231–3432; Fax (303) 231–3385; e-mail: David__Guzy@mms.gov.; or contact Mike Miller, at (303) 231–3413; e-mail: Mike__Miller@mms.gov.

MMS will send a detailed agenda for the meeting via facsimile on or before October 30, 1997, to the State and industry working group members listed below. This group originally met with us in October 1996, and members of this working group agreed to make sure those stakeholders whom they represent are appropriately represented at scheduled meetings.

American Petroleum Institute

Richard McPike, Fina Oil, P.O. Box 2159, Dallas, TX 75221, (214) 750–2820, Fax: (214) 750–2987

Backup: David Deal, 1220 L Street, N.W., Washington, DC 20005, (202) 682–8261, Fax: (202) 682–8033

Council of Petroleum Accountants Societies

John Clark, Conoco, P.O. Box 1267, Ponca City, OK 74602–1267, (405) 767–5044, Fax: (405) 767–3686

Domestic Petroleum Council

Becky McGee, Oryx Energy Company, 13155 Noel Road, Dallas, TX 75240, (972) 715–3198, Fax: (972) 715–8810

Independent Petroleum Association of America

Ben Dillon, 1101 16th Street, N.W., Washington, DC 20036, (202) 857–4722, Fax: (202) 857–4799

Independent Petroleum Association of Mountain States

Carla Wilson, 518 17th Street, Denver, CO 80202–4167, (303) 623–0987, Fax: (303) 893–0709

Mid-Continent Oil & Gas Association

Patty Patten, OXY USA, Inc., 110 W. 7th Street, Tulsa, OK 74137, (918) 561–3703, Fax: (918) 561–4364

Backup: Patricia Dunmire Bragg, Gardere & Wynne, L.L.P., 100 West Fifth Street, 200 Oneck Plaza, Tulsa, OK 74103–4240, (918) 699–2920, Fax: (918) 699–2929

Natural Gas Supply Association

George Butler, Chevron, P.O. Box 3725, Houston, TX 77213–3725, (713) 754–7809, Fax: (713) 754–3366

Rocky Mountain Oil & Gas Association

Mary Stonecipher, Amoco Corporation, P.O. Box 591, Tulsa, OK 74102, (918) 581–4354, Fax: (918) 581–4526

Backup: Cliff Dodge, 1775 Sherman Street, Suite 2501, Denver, CO 80203, (303) 860–0099, Fax: (303) 860–0310

Backup: Wayne Pachall, Texaco, Inc., P.O. Box 4325, Houston, TX 77210, (713) 752–7412, Fax: (713) 752–4660

Royalty Policy Committee

David Blackmon, Burlington Resources, 801 Cherry, Suite 700, Fort Worth, TX 76102, (817) 347–2354, Fax: (817) 347–2877

State and Tribal Royalty Audit Committee

George Staigle, North Dakota State Auditor's Office, Royalty Audit Section, P.O. Box 3009, Bismark, ND 58502–3009, (701) 250–4682, Fax: (701) 250–4686

Western Governors' Association

Paul Kruse, State of Wyoming, Herschler Building, 3 West, 121 West 25th Street, Cheyenne, WY 82002–0600, (307) 777–7331, Fax: (307) 777–5400

Western States Land Commissioners Association

Roger Melson, Oklahoma Commissioners of the Land Office, P.O. Box 26910, Oklahoma City, OK 26910, Phone: (405) 271–1000, Fax: (405) 271–2500.

SUPPLEMENTARY INFORMATION: President Clinton signed the Federal Oil and Gas Royalty Simplification and Fairness Act (RSFA) on August 13, 1996, to improve the management of royalties from Federal oil and gas leases. This is the first major legislation affecting royalty management since the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) was passed in January 1983.

In our **Federal Register** Notice dated October 30, 1996 (61 FR 55941), MMS listed key issues involved in implementing RSFA. This workshop will focus on some of those key issues. Potential discussion topics include:

Interest on Overpayments

- Accepting Interest Payments and Reporting from ''Designees'' on Underpayments.
- Reporting and Paying Interest on Overpayments.

Assessing for Chronic Erroneous Reporting Takes/Entitlements

- Marginal Properties exception to RSFA entitlements reporting requirements.
- Reporting requirements on takes/entitlement basis.

Marginal Properties

- Providing Accounting, Reporting, and Auditing Relief for Marginal Properties.
- Allowing for Prepayments of Future Revenue Streams.

For each of these issues, MMS plans to describe work to date including any decision reached. MMS will also discuss the status of regulations, systems changes, and process implementation for each of these key issues. We will also focus on aspects of these key issues where we believe State and industry feedback is needed before we go further in implementation.

In order to accomplish a broad based fact finding on how the requirements of RSFA affect our customers and stakeholders, comments from the public are encouraged on any issue related to implementing RSFA. In addition to attendance at this workshop, comments can be made in writing and sent directly to MMS using instructions in the **ADDRESSES** part of this notice.

Dated: October 16, 1997.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 97–28088 Filed 10–22–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Part 206

RIN 1010–AC09

Public Meeting on Proposed Rule; Establishing Oil Value for Royalty Due on Federal Leases

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of public workshop and reopening of comment period.

SUMMARY: The Minerals Management Service (MMS) has reopened the public comment period under a proposed rule published in the **Federal Register** on January 24, 1997 (62 FR 3742), amending the royalty valuation regulations for crude oil produced from Federal leases. In the July 3, 1997, **Federal Register** (62 FR 36030), we published a supplementary notice of proposed rulemaking. We received a variety of comments on the proposed and supplementary proposed rules. In the September 22, 1997, **Federal Register** (62 FR 49460), we published a summary of these comments, outlined alternatives for proceeding with further rulemaking, and requested public comment on those or other suggested alternatives. MMS now extends the comment period to November 5, 1997.

MMS will hold a public workshop to discuss alternatives for proceeding with the rulemaking. The purpose of this workshop is to obtain comments on the alternatives described in the September 22, 1997, **Federal Register** notice, or any new alternatives or modifications to the proposed alternatives for MMS's consideration. We are not requesting comments on the original proposed rule or the supplemental proposed rule, nor on the summary of comments outlined in the September 22, 1997, **Federal Register** notice. Interested parties are invited to attend and participate in this workshop.

DATES: The public workshop will be held from 9 a.m. until 1 p.m. on October 27, 1997, Eastern time. MMS must receive comments on or before November 5, 1997.

ADDRESSES: The workshop will be held at the Main Interior Building, Large Buffet Room, in the Cafeteria, Basement Floor, 1849 C Street, N.W., Washington, D.C. 20240, telephone (202) 208–3512. Mail written comments to: Minerals Management Service, Royalty Management Program, Rules and Publications Staff, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165; courier address is Building 85, Denver Federal Center, Denver, Colorado 80225; or e:Mail to David__Guzy@mms.gov.

FOR FURTHER INFORMATION CONTACT: David S. Guzy, Chief, Rules and Publications Staff, Minerals Management Service, Royalty Management Program, P.O. Box 25165, MS 3021, Denver, Colorado 80225–0165, telephone (303) 231–3432, fax number (303) 231–3385, e-Mail David__Guzy@mms.gov.

SUPPLEMENTARY INFORMATION: MMS held public workshops and meetings in the oil producing areas of the U.S. where the issues and alternatives about oil valuation have been discussed. Participants at these earlier workshops and meetings requested more time to submit comments. Also, we received requests to hold an additional workshop in the Washington, D.C. area. Accordingly, a workshop is now scheduled for October 27 in Washington, D.C. The public is invited, without advance registration, to further discuss the alternatives. We encourage members of the public to participate in a discussion of the alternatives. For building security measures, each person will be required to present a picture identification to gain entry to the workshop. In order to allow for sufficient time to comment on the proposed alternatives, the comment period is extended to November 5, 1997.

Dated October 17, 1997.

Lucy Querques Denett,

Associate Director for Royalty Management.

[FR Doc. 97–28087 Filed 10–22–97; 8:45 am]

BILLING CODE 4310–MR–P

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Subchapters S

[CGD 97–066]

Federal Requirements for Education in Recreational Boating Safety

AGENCY: Coast Guard, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Coast Guard seeks comments from interested people, groups, and businesses about the need for, and alternatives to, Federal requirements or incentives for recreational boaters to take courses in boating safety. It will consider all comments and will consult with the National Boating Safety Advisory Council (NBSAC) in determining how best to reduce the number of deaths among boaters caused by a lack of boating safety training.

DATES: Comments must reach the Coast Guard on or before February 2, 1998.

ADDRESSES: You may mail comments to the Executive Secretary, Marine Safety Council (G–LRA, 3406) [CGD 97–066] U.S. Coast Guard Headquarters, 2100 Second Street SW., Washington, DC 20593–0001, or deliver them to room 3406 at the same address between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays. The telephone number is 202–267–1477.

The Executive Secretary maintains the public docket for this notice. Comments, and documents as indicated in this preamble, will become part of this docket and will be available for inspection or copying at room 3406, U.S. Coast Guard Headquarters, between 9:30 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mike Moore, Project Manager, Office of Boating Safety, Program Development and Implementation Division (202) 267–0577. You may obtain a copy of this notice by calling the U.S. Coast Guard Infoline at 1–800–368–5647, or read it on the Internet, at the Web Site for the Office of Boating Safety, at URL address www.uscgboating.org.

SUPPLEMENTARY INFORMATION:

Background and Purpose

Through its Recreational Boating Safety Program, the Coast Guard tries to reduce the number of recreational boating accidents. Although recreational use of water has caused fewer and fewer deaths over the last 20 years, these accidents still cause more deaths than any other transportation related activity except use of roads. These accidents caused 830 deaths in 1995. Eighty-nine percent of fatalities, in accidents involving operators whose level of education the Coast Guard could ascertain, occurred on vessels whose operators had no boating safety education. Most fatal boating accidents were due to hazardous waters, weather, operators' inattention, operators' inexperience, excessive speed, behavior of passenger and water-skiers, and overloading. Current nationally recognized courses in boating safety address these conditions.

Each year the Coast Guard sponsors a national safe boating campaign based on educational methods aimed at encouraging boaters to take courses in boating safety. Such nonregulatory methods of modifying behavior may not by themselves be fully successful. However, the Coast Guard knows from data on boating accidents that State efforts, based on regulatory methods aimed at boating safety education, have been extremely successful.

Request for Comments

The Coast Guard encourages you to submit comments about the need for, and alternatives to, Federal requirements or incentives for boaters to participate in boating safety education. In particular, the Coast Guard encourages you to answer the specific questions which it developed in consultation with members of NBSAC at the meeting in April, 1997. The Coast Guard also solicits comments from all segments of the boating community, State boating safety authorities, NBSAC, the National Association of State Boating Law Administrators (NASBLA), and other interested people, groups, and businesses on the economic and other impacts of Federal requirements or incentives for boating safety education.

Please include your name and address, identify this notice [CGD 97–066] and the specific question or area of concern to which each comment applies, and give the reason(s) for each comment. Please submit two copies of all comments and attachments in an unbound format, no larger than 8½ by 11 inches, to help us with copying and electronic filing. If you want us to acknowledge receipt of your comments, please enclose a stamped, self-addressed postcard or envelope.

A. Recreational Boating by Commenter

1. How much risk do you believe recreational boating involves?

2. Do you agree with the following statement: If I went recreational boating, I would feel safe because I knew the basic rules of the road (navigational rules) pertaining to the waters I would be using?

3. Would a requirement for taking a course in boating safety likely affect your participation in recreational boating and how would it affect it?

4. Recreational boating varies widely depending on the interest of the individual boater. He or she may own, rent, or be a passenger on a boat; the boat may be powered by hand, sail, or motor; and the reason for boating may be relaxation, transportation, competition, or excitement. Please tell us something about your boating, including how often you go boating, what kind of boating you do, and the kind of water on which you go boating.

5. Please tell us about your experience with recreational boating safety education to this date.

B. Mandatory Recreational Boating-Safety Education

1. Several States have imposed various requirements for recreational boating safety education—by children under 12 years of age, aboard personal watercraft, and so on. What Federal requirements, if any, should the Coast Guard propose for taking courses in boating safety that would ensure uniformity around the country? Should the Coast Guard propose Federal requirements for children, for specific waterways, for personal watercraft, or for any other appropriate category of boaters or boating?

2. What Federal requirements, if any, for taking a course in boating safety should the Coast Guard propose because of higher fatalities in one or more categories of boater, boating, or conditions?

3. What Federal requirements, if any, for taking a course in boating safety should the Coast Guard propose because of higher fatalities involving one or more sizes or kinds of recreational vessels?

4. Statistics for 1995 indicate that there were 66 fatalities for youths under 17 years of age while engaged in recreational boating. What Federal requirements, if any, for taking courses in boating safety should the Coast Guard propose because of higher fatalities corresponding to the ages of the victims?

5. A survey of States' boating laws conducted in 1996 by NASBLA revealed that 20 States impose mandatory boating safety education on youths of various ages. What Federal requirements, if any, should the Coast Guard propose for youths of certain ages to take courses in boating safety before operating vessels?

6. If you know of an instance where a person did not take a course in boating

safety, but where the person or you later wished that person had taken one, please describe the instance.

7. If you know of instances where safety may make taking a course in boating safety unacceptable or undesirable, please describe them.

8. Are your aware of the intended uses and limits of the various kinds of courses in boating safety (classroom, home study, computer) and kinds of evaluations (proctored exams, non-proctored ones) approved by the Coast Guard?

9. What Federal requirements, if any, should the Coast Guard propose for boaters engaged in any particular activities to take courses in boating safety under any conditions?

10. Describe any other boaters, boating, or conditions on whose members the Coast Guard should propose Federal requirements to take courses in boating safety.

C. General

1. What benefits (in terms of personal safety or other terms) do you think would accrue from Federal requirements to take courses in boating safety? What cost (in terms of money, paperwork, inconvenience, or other terms) would accrue from such requirements? Would the cost outweigh the benefits?

2. Please describe any nonregulatory ways to reduce the number of recreational boating deaths due to a lack of boating safety training, at lower costs or with less burden than Federal requirements would entail.

3. Is there any other information you feel may help the Coast Guard reduce the number of deaths due to recreational boating with lower cost to, or lesser burden on, the Coast Guard itself, the States, and, most of all, boaters?

The Coast Guard will summarize all comments it receives during the comment period in response to this notice, place a copy of the summary in the public docket, and provide copies to the members of NBSAC for them to consider at their meeting in April 1998. It will itself consider all relevant comments in the formulation of any regulatory and nonregulatory measures that may follow from this notice.

Dated: October 17, 1997.

Ernest R. Riutta,

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

[FR Doc. 97–28100 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–14–M

DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 20

RIN 2900–AI87

Board of Veterans' Appeals: Rules of Practice—Continuation of Representation Following Death of a Claimant or Appellant

AGENCY: Department of Veterans Affairs.

ACTION: Proposed rule.

SUMMARY: The Department of Veterans Affairs (VA) proposes to amend the Rules of Practice of the Board of Veterans' Appeals (Board) to eliminate a rule which automatically assigns a deceased appellant's representative to the appellant's survivor. This change is necessary because of a court ruling which eliminates the need for such a provision.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to ''RIN 2900–AI87.'' All written comments will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8 a.m. and 4:30 p.m., Monday through Friday (except holidays).

FOR FURTHER INFORMATION CONTACT: Steven L. Keller, Chief Counsel, Board of Veterans' Appeals, Department of Veterans Affairs, 810 Vermont Avenue, NW, Washington, DC 20420 (202–565–5978).

SUPPLEMENTARY INFORMATION: The Board is an administrative body that decides appeals from denials of claims for veterans' benefits.

Currently, Rule 611 (38 CFR 20.611) provides that a person or organization properly designated to represent a claimant or appellant will be recognized as the representative of his or her survivors for a period of one year following the death of the claimant or appellant. This provision was deemed necessary to ensure continuity of representation, since Rule 1302 (38 CFR 20.1302) previously provided that, when an appeal is pending before the Board at the time of the appellant's death, the Board could complete its action on the issues properly before it without application from the survivors. In *Smith (Irma)* v. *Brown,* No. 95–898 (Vet. App. June 13, 1997), the U.S. Court of Veterans Appeals ruled that former Rule 1302 is invalid because, pursuant to the court's ruling in *Landicho* v. *Brown,* 7 Vet. App. 42, 47 (1994), a pending claim for compensation benefits under chapter 11 of title 38, United States Code, does not survive the claimant's death. Thus, when an appellant dies prior to the promulgation of the Board's decision with regard to a compensation claim, the Board no longer has jurisdiction of the appeal, and the appeal must be dismissed. Rule 1302 has been amended to provide that an appeal pending when the veteran dies will be dismissed. Similarly, Rule 611 was amended to eliminate a provision permitting a deceased appellant's representative to continue to act with respect to any appeal pending upon the death of the appellant.

Because there is no longer any need to provide for continuous representation, we propose to eliminate Rule 611.

The Secretary hereby certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. This rule will affect only the processing of claims by VA and will not affect small businesses. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of §§ 603 and 604.

List of Subjects in 38 CFR Part 20

Administrative practice and procedure, Claims, Veterans.

Approved: October 8, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set out in the preamble, 38 CFR part 20 is proposed to be amended as set forth below:

PART 20—BOARD OF VETERANS' APPEALS: RULES OF PRACTICE

1. The authority citation for part 20 continues to read as follows:

Authority: 38 U.S.C. 501(a).

Subpart G—Representation

§ 20.611 [Removed]

2. In subpart G, § 20.611 is removed and reserved.

[FR Doc. 97–28058 Filed 10–22–97; 8:45 am]

BILLING CODE 8320–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 50

[FRL–5913–4]

Review of National Ambient Air Quality Standards for Particulate Matter

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of review.

SUMMARY: This document describes EPA's plans and schedule for the next periodic review of the air quality criteria and national ambient air quality standards (NAAQS) for particulate matter (PM). This review will take into account newly emerging research on the effects of airborne particles on human health and the environment. This new information will be integrated with that developed during the most recent review of the PM criteria and standards completed in July 1997. The schedule for this review is consistent with the requirements of the Clean Air Act (Act) for periodic review of the criteria and standards, including review by the Clean Air Scientific Advisory Committee (CASAC), and the Presidential Memorandum for the Administrator of the EPA published on July 18, 1997 (62 FR 38421) on the implementation of revised NAAQS for ozone and PM, which called for completion of this PM review by July 2002.

DATES: The target dates for major milestones in the PM NAAQS review are contained in a chart in **SUPPLEMENTARY INFORMATION.**

FOR FURTHER INFORMATION CONTACT: Dr. Lester Grant, National Center for Environmental Assessment (MD–52), with regard to the air quality criteria document, or Dr. Karen Martin, Office of Air Quality Planning and Standards (MD–15), with regard to review of the standards, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711; telephone: (919) 541–4173 for Dr. Grant and (919) 541–5274 for Dr. Martin; e-mail: grant.lester@epamail.epa.gov and martin.karen@epamail.epa.gov.

SUPPLEMENTARY INFORMATION:

Background

On July 18, 1997 the EPA published a final rule revising the NAAQS for PM (62 FR 38652). On the same day, EPA also published a final rule revising the NAAQS for ozone (62 FR 38856). A Presidential Memorandum (62 FR 38421, July 18, 1997) was also published outlining the Administration's goals for implementing the revised PM and ozone NAAQS. The Memorandum directed the Agency to provide to CASAC within 90 days and to publish a notice outlining its schedule for the next periodic review of PM and to complete the next review, including review by CASAC, within 5 years after issuance of the revised standards. Such a schedule would ensure that EPA's review of the emerging scientific information, which forms the criteria upon which the standards are based, and of the standards themselves will have been completed prior to any areas being designated as ''nonattainment'' under the recently established standards for fine particles (i.e., $PM_{2.5}$ standards)[1] and prior to the imposition of any new controls related to the revised standards. To facilitate timely scientific research within this review period, EPA is initiating certain activities immediately, as noted below in the discussion of the PM research program.

Review Plans and Schedule

The EPA's plans to review the criteria and standards for PM are outlined in the table below, together with target dates for key milestones. As with all NAAQS reviews, the purpose is to update the criteria and to determine whether it is appropriate to revise the standards in light of new scientific and technical information. Although the EPA concluded in its recent final rule on the PM standards (62 FR 38652, July 18, 1997) that the current scientific knowledge provides a strong basis for the revised PM standards, including the establishment of $PM_{2.5}$ standards, there remain scientific uncertainties associated with the health effects of PM and with the means of reducing such effects. Recognizing the importance of developing a better understanding of the effects of fine particles on human health, including their causes and mechanisms, as well as the species and sources of $PM_{2.5}$, the EPA will continue to sponsor research to address these uncertainties.

The Presidential Memorandum also directed EPA and other relevant Federal agencies to develop and implement a greatly expanded, coordinated research plan. These PM research plans are outlined in the following section.

As with other NAAQS reviews, a rigorous assessment of relevant scientific information will be presented in a Criteria Document (CD) prepared by EPA's National Center for Environmental Assessment. The development of the CD will involve substantial external peer review through public workshops involving the scientific community at large and through iterative reviews of successive drafts by CASAC and the public. The final CD will reflect input received through these reviews and will serve to evaluate and integrate this scientific information to ensure that the review of the standards is based on sound science. The schedule for this review will allow for consideration of relevant new peer-reviewed scientific studies published or accepted for publication from mid-1996 (when the last CD was completed) through mid-2000.

The EPA's Office of Air Quality Planning and Standards will also prepare a Staff Paper (SP) for the Administrator, drawing on information in the CD. The SP will evaluate the policy implications of the key studies and scientific information contained in the CD and identify critical elements that EPA staff believes should be considered in reviewing the standards. The SP is intended to bridge the gap between the scientific review in the CD and the public health and welfare policy judgments required of the Administrator in reviewing the PM NAAQS. For that purpose, the SP will present technical analyses, including air quality analyses and a quantitative health risk assessment, and other factors relevant to the evaluation of the PM NAAQS, as well as staff conclusions and recommendations of options for the Administrator's consideration. The SP will also be reviewed by CASAC and the public, and the final SP will reflect the input received through these reviews.

[1] $PM_{2.5}$ refers to particles with an aerodynamic diameter less than or equal to a nominal 2.5 micrometers.

MAJOR MILESTONES IN PM NAAQS REVIEW

Major milestones	Target dates
PM NAAQS Review Plan to CASAC	October 1997.
Prepare CD Development Plan	November 1997 to January 1998.
CASAC meeting on CD Development Plan	March 1998.
Prepare Workshop Drafts of CD Chapters	April to December 1998.
Peer Review Workshops	February/March 1999.
Prepare External Review Draft CD	March to July 1999.
Draft CD to CASAC	July/August 1999.
Public Comment Period on Draft CD	August to October 1999.
CASAC meeting on Draft CD	October/November 1999.
Prepare Revised CD and Draft SP	November 1999 to February 2000.
Revised CD and Draft SP to CASAC	March 2000.
Public Comment Period on Revised CD and Draft SP	March to May 2000.
CASAC meeting on Revised CD and Draft SP	May/June 2000.
Prepare Revised SP and Final Revisions to CD	May to August 2000.
Revised SP to CASAC; Complete Final CD	September 2000.
Public Comment Period on Revised SP	September to November 2000.
CASAC meeting on Revised SP	November/December 2000.
Complete Final SP and Develop Proposal Package	December 2000 to April 2001.
OMB/Interagency Review of Proposal Package (90 days)	May to July 2001.
Publish Proposal in FEDERAL REGISTER	August 2001.
Public Comment Period on Proposal (90 days)	September to November 2001.
CASAC meeting on Proposal	November 2001.
Review Public/CASAC Comments and Develop Promulgation Package	December 2001 to April 2002.
OMB/Interagency Review of Promulgation Package (60 days)	May to June 2002.
Final Promulgation Package Signed by Administrator	July 2002.

PM Research Program

The EPA is broadening its ongoing PM research activities by developing, in partnership with other Federal agencies, a coordinated interagency PM research program. This interagency program will contribute to expanding scientific knowledge of PM health effects, as well as developing improved monitoring methods and cost-effective mitigation strategies. The interagency effort will also promote further coordination with other research organizations including state-, local-, nonprofit-, and industry-sponsored research groups. Beginning this fall, public participation will also be encouraged through workshops and review of program documentation. Workshops and the availability of relevant documentation will be announced in the **Federal Register**.

To aid identification of needed research efforts, EPA is revising a document, *Research Needs for Particulate Matter*, in response to comments received from CASAC on an earlier draft document. This document will identify research needed to improve scientific information supporting future health risk assessment and review of the PM NAAQS. The document will provide a useful framework for coordination among Federal agencies and other research organizations. A complementary document, *Particulate Matter Research Program Strategy*, which will identify the areas of emphasis for EPA's research program, is also being revised in response to CASAC review. The EPA's research emphasis includes studies to improve understanding of the formation and composition of fine PM, the characteristics or components of PM that are responsible for its health effects, and the mechanisms by which these effects are produced, as well as improved measurements and estimation of population exposures to PM. These EPA research efforts include epidemiology, clinical studies, in vivo and in vitro toxicology, atmospheric sciences including monitoring and modeling studies, development of data on emissions of fine particles from stationary and mobile sources, and identification and evaluation of risk management options. The results from these efforts, as well as related efforts by other Federal agencies and the general scientific community, will advance the scientific and technical bases for future decisions on the PM NAAQS and for the implementation of PM monitoring and control efforts.

List of Subjects in 40 CFR Part 50

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: October 17, 1997.

Carol M. Browner,

Administrator.

[FR Doc. 97–28143 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[Docket No. AD–FRL–5912–4]

Regional Haze Regulations Notice of Proposed Rulemaking

AGENCY: U.S. Environmental Protection Agency (US EPA).

ACTION: Reopening of public comment period.

SUMMARY: The EPA is announcing the reopening of the public comment period on the proposed regional haze regulations published on July 31, 1997 (62 FR 41138) to accept comments until December 5, 1997.

DATES: Written comments must be received on or before December 5, 1997.

ADDRESSES: Submit comments on the proposed action, in duplicate if possible, to: Office of Air and Radiation Docket and Information Center (6102), Attention: Docket No. A–95–38, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, DC 20460, phone (202–260–7548), fax (202–260–4400). Comments can also be submitted by electronic mail to the following address: A-and-R-Docket@epamail.epa.gov. The docket may be inspected at the above address between 8:00 a.m. and 5:30 p.m. on weekdays, and a reasonable fee may be charged for copying.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Polkowsky (telephone (919) 541–5532) or Mr. Richard Damberg (telephone 919–541–5592), U.S. EPA,

Visibility and Ecosystems Protection Group (MD–15), Research Triangle Park, NC 27707.

SUPPLEMENTARY INFORMATION: Proposed revisions to the existing visibility regulations (40 CFR part 51.300–51.307) to address regional haze were published on July 31, 1997 and originally provided that the comment period would close on October 20, 1997. In writing and at the September 18, 1997 public hearing in Denver, Colorado, a number of commenters requested an extension of the public comment period for the proposed regional haze regulations. In response to these requests, and in order to provide the public more time to better understand and formulate comment on these proposed regulations, EPA is therefore reopening the public comment period on these proposed revisions to 40 CFR part 51.

Dated: October 10, 1997.

Richard D. Wilson,

Acting Assistant Administrator for Air and Radiation.

[FR Doc. 97–27858 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52

[MN54–01–7279b; FRL–5913–2]

Approval and Promulgation of Implementation Plan; Minnesota

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The United States Environmental Protection Agency (EPA) proposes full approval of Minnesota's 1993 carbon monoxide (CO) emission inventory. The inventory was submitted by the State of Minnesota to satisfy a certain Federal requirement that those States containing CO nonattainment areas (NAA's) classified moderate and serious to submit a revised emission inventory (i.e., from the 1990 base year inventory) at the end of each 3 year period thereafter, until the area is redesignated to attainment, of actual CO season emissions from all sources in accordance with EPA guidance. In the final rules section of this **Federal Register**, the EPA is approving these actions as a direct final rule without prior proposal because EPA views these actions as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If EPA receives substantive adverse comments which have not already been responded to, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting on this action should do so at this time.

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

ADDRESSES: Comments may be mailed to Carlton T. Nash, Chief, Regulation Development Section, Air Programs Branch (AR–18J), United States Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604. Copies of the material submitted by the Minnesota Pollution Control Agency may be examined during normal business hours at the same location.

FOR FURTHER INFORMATION CONTACT: Charles Hatten at (312) 886–6031.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: October 9, 1997.

David A. Ullrich,

Acting Regional Administrator.

[FR Doc. 97–28140 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 52 and 81

[KY95–9722b; IN82b–1; FRL–5901–3]

Clean Air Act Promulgation of Extension of Attainment Date for Ozone Nonattainment Area; Kentucky; Indiana

AGENCY: Environmental Protection Agency (USEPA).

ACTION: Proposed rule.

SUMMARY: The U.S. Environmental Protection Agency (USEPA) is proposing to extend the attainment date for the Louisville interstate moderate ozone nonattainment area from November 15, 1996, to November 15, 1997. This extension is based in part on monitored air quality readings for the national ambient air quality standard (NAAQS) for ozone during 1996. In the final rules section of this **Federal Register**, the USEPA is approving these actions as a direct final rule without prior proposal because USEPA views these actions as noncontroversial and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to that direct final rule, no further activity is contemplated in relation to this proposed rule. If USEPA receives substantive adverse comments which have not already been responded to, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on the proposed rule. USEPA will not institute a second comment period on this action.

Any parties interested in commenting on this action should do so at this time.

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

ADDRESSES: Comments may be mailed to Joseph M. LeVasseur at the USEPA Region 4 address listed below or to J. Elmer Bortzer, Chief, Regulation Development Section, Air Programs Branch (AR–18J), Region 5 at the address listed below. Copies of the material submitted by the Kentucky Natural Resources and Environmental Protection Cabinet (KNREPC) may be examined during normal business hours at the following locations:

Environmental Protection Agency, Atlanta Federal Center, Region 4 Air Planning Branch, 61 Forsyth Street SW., Atlanta, Georgia 30303–3104.

Natural Resources and Environmental Protection Cabinet, 803 Schenkel Lane, Frankfort, Kentucky 40601.

Copies of the materials submitted by the Indiana Department of Environmental Management (IDEM) may be examined during normal business hours at the following location: Regulation Development Section, Air Programs Branch (AR–18J), U.S. Environmental Protection Agency, Region 5, 77 West Jackson Boulevard, Chicago, Illinois, 60604.

FOR FURTHER INFORMATION CONTACT: Randolph O. Cano at (312) 886–6036 or Joseph M. LeVasseur at (404) 562–9035.

SUPPLEMENTARY INFORMATION: For additional information see the direct final rule published in the rules section of this **Federal Register**.

Dated: August 20, 1997.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Dated: August 19, 1997.

Michelle D. Jordan,

Acting Regional Administrator, Region 5.

[FR Doc. 97–28142 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 1

[CS Docket No. 97–151; DA 97–2181]

Pole Attachments

AGENCY: Federal Communications Commission.

ACTION: Proposed rule; extension of time.

SUMMARY: The Cable Services Bureau, released an *Order* which granted the Motion for Extension of Time filed by the United States Telephone Association (''USTA'') and the Carolina Power & Light Company, Delmarva Power & Light Company, Atlantic City Electric Company, Entergy Services, Florida Power Corporation, Pacific Gas and Electric Power Company, Potomac Electric Power Company, Public Service Company of Colorado, Southern Company, Georgia Power, Alabama Power, Gulf Power, Mississippi Power, Savannah Electric, Tampa Electric Company and Virginia Power, including North Carolina Power (collectively, ''Electric Utilities'') in *Implementation of Section 703 (e) of the Telecommunications Act of 1996, Amendment of Rules and Policies Governing Pole Attachments (Notice of Proposed Rulemaking*''. The Bureau found that good cause existed to grant a one week extension of time from October 14, 1997 to October 21, 1997. This extension of time is granted in order to facilitate the development of a complete record in this proceeding.

DATES: Reply comments are now due on or before October 21, 1997.[1]

ADDRESSES: Office of the Secretary, Federal Communications Commission, 1919 M Street, N.W., Room 222, Washington, D.C. 20554.

FOR FURTHER INFORMATION, CONTACT: Elizabeth Beaty, Cable Services Bureau, (202) 418–2294, TTY (202) 418–7172.

SUPPLEMENTARY INFORMATION: This is a synopsis of the Cable Services Bureau's *Order*, CS Docket No. 97–151, DA 97–2181, adopted October 9, 1997 and released October 10, 1997, in *Implementation of Section 703(e) of the Telecommunications Act of 1996, Amendment of Rules and Policies Governing Pole Attachments*, 62 FR 43963 (August 18, 1997). The full text of this decision is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, NW, Washington, D.C. 20554, and may be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 1231 20th Street, NW, Washington, D.C. 20036. For copies in alternative formats, such as braille, audio cassette, or large print, please contact Sheila Ray at International Transcription Service.

Synopsis of the Order

1. On August 12, 1997, the Commission commenced a rulemaking proceeding to seek comment on the implementation of a methodology to ensure just, reasonable, and nondiscriminatory maximum pole attachment rates for telecommunications carriers. Comments were due September 26, 1997, and reply comments were due October 14, 1997.

2. On October 6, 1997, the United States Telephone Association (''USTA'') and the Carolina Power & Light Company, Delmarva Power & Light Company, Atlantic City Electric Company, Entergy Services, Florida Power Corporation, Pacific Gas and Electric Power Company, Potomac Electric Power Company, Public Service Company of Colorado, Southern Company, Georgia Power, Alabama Power, Gulf Power, Mississippi Power, Savannah Electric, Tampa Electric Company and Virginia Power, including North Carolina Power (collectively, ''Electric Utilities'') filed a Motion for Extension of Time (''Motion'') to file reply comments. USTA and the Electric Utilities request that the Commission grant a two week extension of time to file reply comments, from October 14, 1997 to October 28, 1997. The USTA and Electric Utilities request an extension of time because, in addition to the complex and new issues raised by implementation of section 703(e) of the Telecommunications Act of 1996, they allege that the issues raised in the initial comments in this proceeding are prolific and contain complex administrative and technical issues. They contend that granting an extension of time will allow the parties to confer with one another and allow representatives of the local exchange carrier and electric utility industries time to collaborate on issues that they may have in common.

3. It is the policy of the Commission that extensions of time are not routinely granted. In order to facilitate development of a complete record in this proceeding, we find that good cause exists to grant an extension of time. However, because the Telecommunications Act of 1996 has mandated that the Commission prescribe and implement the new telecommunications rate methodology within specified deadlines, we find that a two week extension of time is not possible. Therefore, we will grant a one week extension of time in which to file reply comments. Thus, reply comments will now be due on October 21, 1997.

Ordering Clauses

4. Accordingly, *it is ordered*, pursuant to §§ 0.321 and 1.46 of the Commission's rules, 47 CFR 0.321 and 1.46, that the Motion for Extension of Time filed by the United States Telephone Association and the Carolina Power & Light Company, Delmarva Power & Light Company, Atlantic City Electric Company, Entergy Services, Florida Power Corporation, Pacific Gas and Electric Power Company, Potomac Electric Power Company, Public Service Company of Colorado, Southern Company, Georgia Power, Alabama Power, Gulf Power, Mississippi Power, Savannah Electric, Tampa Electric Company and Virginia Power, including North Carolina Power is *granted*.

5. *It is further ordered* that all interested parties may file reply comments on the matters discussed in the Commission's *Notice of Proposed Rulemaking* by October 21, 1997.

Federal Communications Commission.

Meredith J. Jones,

Chief, Cable Services Bureau.

[FR Doc. 97–28091 Filed 10–22–97; 8:45 am]

BILLING CODE 6712–01–P

[1] This document was received by the Office of the Federal Register on October 20, 1997.

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

49 CFR Parts 216, 223, 229, 231, 232, and 238

[FRA Docket No. PCSS–1, Notice No. 3]

RIN 2130–AA95

Passenger Equipment Safety Standards

AGENCY: Federal Railroad Administration (FRA), Department of Transportation (DOT).

ACTION: Notice of proposed rulemaking; date and location of public hearing.

SUMMARY: By notice of proposed rulemaking (NPRM) published on September 23, 1997 (62 FR 49728), FRA proposed a rule establishing comprehensive safety standards for railroad passenger equipment. In that notice, FRA announced that it would schedule a public hearing to allow interested parties the opportunity to comment on issues addressed in the NPRM.

DATES: *Public Hearing:* The date of the public hearing is Friday, November 21,

1997 at 9:00 a.m. in Washington, D.C. Any person wishing to participate in the hearing should notify the Docket Clerk by telephone (202–632–3198) or by mail at the address provided below at least five working days prior to the date of the hearing and submit three copies of the oral statement that he or she intends to make at the hearing. The notification should identify the party the person represents, and the particular subject(s) the person plans to address. The notification should also provide the Docket Clerk with the participant's mailing address. FRA reserves the right to limit participation in the hearings of persons who fail to provide such notification.

ADDRESSES: (1) *Docket Clerk:* Written notification should identify the docket number and must be submitted in triplicate to the Docket Clerk, Office of Chief Counsel, Federal Railroad Administration, RCC–10, 400 Seventh Street, S.W., Washington, D.C. 20590.

(2) *Public Hearing:* The public hearing will be held in the Federal Aviation Administration (FAA) Auditorium, Third Floor, Federal Office Building 10A, 800 Independence Avenue, S.W., Washington, D.C. 20591.

FOR FURTHER INFORMATION CONTACT: Edward Pritchard, Acting Staff Director, Motive Power and Equipment Division, Office of Safety Assurance and Compliance, FRA, 400 Seventh Street, S.W., Mail Stop 25, Washington, D.C. 20590 (telephone: 202–632–3362); Daniel Alpert, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. (telephone: 202–632–3186); or Thomas Herrmann, Trial Attorney, Office of Chief Counsel, FRA, 400 Seventh Street, S.W., Mail Stop 10, Washington, D.C. 20590 (telephone: 202–632–3167).

Issued in Washington, D.C., on October 20, 1997.

Jolene M. Molitoris,

Federal Railroad Administrator.

[FR Doc. 97–28148 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–06–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 971009242–7242–01; I.D. 091997B]

RIN 0648–AJ14

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Amendment 15

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

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS issues this proposed rule to implement Amendment 15 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). This proposed rule would replace the current commercial red snapper endorsement and trip limit system with a system comprised of two classes of transferrable red snapper licenses and trip limits; starting in 1998, split the red snapper commercial fishing season into two time periods, the first commencing February 1 with two-thirds of the annual quota available and the second commencing on September 1 with the remainder of the annual quota available; open the red snapper commercial fishery at noon on the first of each month and close it at noon on the 15th of each month during the commercial season; prohibit the possession of reef fish in excess of the bag limit on a vessel that has on board, or is tending, a trap other than a fish, stone crab, or spiny lobster trap; increase the minimum size limit for vermilion snapper; close the commercial fishery for greater amberjack each year during March through May; remove sea basses, grunts, and porgies from the FMP; and remove certain species from the aggregate bag limit for reef fish. In addition, NMFS proposes to exclude certain species from the prohibition on their harvest using powerheads in the stressed area. The intended effects of this rule are to conserve and manage the reef fish resources of the Gulf of Mexico.

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

ADDRESSES: Comments on the proposed rule or on the initial regulatory flexibility analysis (IRFA) must be sent to Robert Sadler, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702.

Comments regarding the collection-of-information requirements contained in this rule should be sent to Edward E. Burgess, Southeast Regional Office, NMFS, 9721 Executive Center Drive N., St. Petersburg, FL 33702, and to the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Washington, DC 20503 (Attention: NOAA Desk Officer).

Requests for copies of Amendment 15, which includes an environmental assessment, a regulatory impact review (RIR), and an IRFA, and for copies of a minority report submitted by two members of the Council, should be sent to the Gulf of Mexico Fishery Management Council, Suite 1000, 3018 U.S. Highway 301 North, Tampa, FL, 33619, phone: 813–228–2815; Fax: 813-225-7015.

FOR FURTHER INFORMATION CONTACT: Robert Sadler, 813–570–5305.

SUPPLEMENTARY INFORMATION: The reef fish fishery of the Gulf of Mexico is managed under the FMP. The FMP was prepared by the Gulf of Mexico Fishery Management Council (Council) and is implemented under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act) by regulations at 50 CFR part 622.

Red Snapper Licenses and Trip Limits

The current commercial red snapper endorsement and trip limit system would be replaced with a ''two-tier'' license system consisting of Class 1 licenses, holders of which would be restricted to a red snapper trip limit of 2,000 lb (907 kg), and Class 2 licenses, holders of which would be restricted to a red snapper trip limit of 200 lb (91 kg). A Class 1 license would be issued for the vessel specified by the holder of a red snapper endorsement on March 1, 1997, and to a historical captain. The determination of status as a historical captain would be based on information collected under Amendment 9 to the FMP. The definition of historical captain in this proposed rule is unchanged from that published in the final rule to implement Amendment 9 (59 FR 39301, August 2, 1994).

A Class 2 license would be issued for a vessel specified by an owner or operator whose earned income qualified for a Gulf reef fish permit that was valid on March 1, 1997, and whose vessel had recorded a red snapper landing during the period January 1, 1990, through February 28, 1997. Eligibility for a Class 2 license would be based on information collected under Amendment 9 on red snapper landings in the 1990–1992 period. Red snapper landings for the

period January 1, 1993, through February 28, 1997, would be based solely on fishing vessel logbooks received by the Science and Research Director, Southeast Fisheries Science Center, NMFS, not later than March 31, 1997. To establish eligibility for an initial Class 2 license, a vessel's record of red snapper landings may be transferred to the current owner of a reef fish permitted vessel. The specific circumstances for such transfers are designed to protect the reasonable and legitimate rights of owners.

The Regional Administrator, Southeast Region, NMFS (Regional Administrator), would notify each owner of a vessel that had a valid Gulf reef fish permit on March 1, 1997, each operator whose earned income qualified for a valid permit on that date, and each potential historical captain of his or her eligibility for a Class 1 or Class 2 red snapper license. Initial determinations of eligibility would be based on NMFS' records of red snapper endorsements, red snapper landings during the period from January 1, 1990, through February 28, 1997, and applications for historical captain status under Amendment 9 to the FMP. An owner, operator, or potential historical captain who concurs with NMFS' initial determination of eligibility would not need to take further action; if he or she is determined to be eligible, an appropriate license would be issued not later than January 28, 1998.

A person initially determined by the Regional Administrator to be ineligible for historical captain status or a Class 2 red snapper license may appeal that decision to either the Regional Administrator or an ad hoc appeals committee, consisting of the principal state officials who are members of the Council, or their designees. The Regional Administrator and the appeals committee would be empowered only to deliberate whether the eligibility criteria were applied correctly in the appellant's case. In making that determination, the Regional Administrator or the appeals committee members would consider only disputed calculations and determinations based on the documentation provided, including transfers of landings records. Neither the appeals committee nor the Regional Administrator would be empowered to consider whether a person should have been eligible for historical captain status or a Class 2 license because of hardship or other factors.

Amendment 15 would allow transfer of red snapper licenses to permitted reef fish vessels without restriction. This would encourage flexibility in participation in the fishery.

Changes to Timing of Red Snapper Commercial Harvest

Amendment 15 and the proposed rule would split the red snapper commercial fishing season into two time periods starting in 1998, the first commencing February 1 with two-thirds of the annual quota available, and the second commencing on September 1 with the remainder of the annual quota available. This measure is intended to enhance planning of fishing activities by ensuring sufficient advance notification of each year's opening dates. A split commercial harvest period has been implemented in recent years by regulatory amendment.

Amendment 15 and the proposed rule would open the red snapper commercial fishery at noon on the first of each month and close it at noon on the 15th of each month, during the commercial red snapper season. The Council proposed, and NMFS approved, a regulatory amendment that included a similar measure starting September 2, 1997, for the remainder of the 1997 commercial season (62 FR 46677, September 4, 1997). Allowing commercial harvest only during the first 15 days of each month would help extend the length of the fishing season. This extension of the fishing season may reduce ex-vessel prices. Any reduction in revenues would be offset, to some degree, by reduced costs for vessel/gear maintenance and repair (due to preventive maintenance during closed periods) and associated increases in efficiency of fishing operations. However, the 15-day harvest period followed by a 15-day closure could result in a series of mini-derbies as fishermen compete to get their share of the commercial quota.

Monitoring and enforcement costs would increase as a function of the number of 15-day periods the fishery is open. However, closing the commercial red snapper fishery for the rest of the month after the 15-day harvest period should allow fishermen time to perform preventive maintenance and minor repairs before the fishery opens the following month. This should improve safety and avoid the higher repair costs that can occur when normal, preventive maintenance is postponed.

Restriction on Possession of Reef Fish Harvested in Traps Other Than Fish Traps

Current regulations do not limit the amount of reef fish that may be harvested in traps other than fish traps, provided the vessel has a reef fish permit. This creates a loophole for directed harvest of reef fish by other trap gear, including blue crab traps. Anecdotal information indicates that some persons are using blue crab traps to target reef fish in the EEZ off the Big Bend area of Florida. It is believed that these persons do not possess fish trap endorsements and, in some cases, commercial reef fish vessel permits.

To address this loophole, Amendment 15 and the proposed rule would restrict the possession of reef fish on a vessel that has on board, or is tending, a trap other than a stone crab, spiny lobster, or permitted reef fish trap, to the bag limits. The measure should enhance enforcement by discouraging directed harvest of reef fish by fishermen allegedly fishing blue crab traps. Blue crabs are seldom found in the EEZ off Florida, and rarely in commercial quantities.

Increase in the Minimum Size Limit for Vermilion Snapper

Amendment 15 and the proposed rule would extend indefinitely the 10–inch (25.4–cm) minimum size limit established by temporary interim rule (62 FR 47765, September 11, 1997). That temporary interim rule, which expires on March 11, 1997, increased the minimum size limit from 8 inches (20.3 cm) pending the development, approval, and implementation of Amendment 15. Because the interim rule has already appropriately modified the regulatory text for the 10–inch (25.4–cm) minimum size limit, the proposed rule would not modify the regulatory text.

The minimum size limit increase from 8 inches (20.3 cm) to 10 inches (25.4 cm) responds to the 1996 vermilion snapper stock assessment, a 1997 Addendum to that assessment, and Reef Fish Stock Assessment Panel (SAP) Reports. In those documents, fishery scientists concluded that the vermilion snapper resource, while not currently overfished, is undergoing overfishing based on decreasing trends in overall catch, mean size of individual fish, catch-per-unit-effort, and estimated numbers of age–1 fish in the population. The intent of the increase in the minimum size limit is to help mitigate the need for more restrictive vermilion snapper management measures in the future (e.g., quotas, additional increases in minimum size, and reductions in bag limits). A 10–inch minimum size limit reduces fishing mortality, increases the vermilion snapper spawning potential ratio (SPR), and thereby improves the status of the resource.

The Council recognized that, if the declining trends continue, additional regulatory action will be needed to prevent vermilion snapper from becoming overfished. The Council has

requested that a stock assessment on vermilion snapper be completed by the Southeast Fisheries Science Center (SEFSC) in 1998 to allow development of appropriate management actions. Such actions would be accomplished under the FMP's framework procedure, or by an additional FMP amendment.

Seasonal Closure of the Commercial Fishery for Greater Amberjack

NMFS prepared a stock assessment that indicated greater amberjack is relatively healthy (i.e., the SPR was estimated at 43 percent in 1994, well above the overfished threshold). However, given the uncertainty associated with the assessment, and based on recent data showing declines in effort, average size, and landings of greater amberjack, the Council and the Reef Fish Stock Assessment Panel determined that the stock assessment was too optimistic. In response to that information, the Council proposed in Amendment 12, and NMFS implemented, a reduction in the greater amberjack recreational bag limit from three fish to one fish (61 FR 65983, December 16, 1996).

The Council believes a seasonal closure of commercial harvest of greater amberjack is necessary to reduce fishing mortality; ensure that commercial effort does not negate stock rebuilding resulting from the recent bag limit reduction; and provide more equitable sharing of the burden of stock rebuilding between the recreational and commercial sectors. Accordingly, Amendment 15 and the proposed rule would close the commercial fishery during March, April, and May of each year. This measure was found by the SEFSC to be based on the best available scientific information.

Removal of Sea Basses, Grunts, and Porgies From the FMP

Amendment 15 and the proposed rule would remove sea basses, grunts, and porgies from the FMP. Removal of these species was proposed by the Council in response to public testimony that severe, adverse economic effects resulted from Amendment 12's inclusion of sea basses, grunts, and porgies in the 20–fish aggregate bag limit for species for which there is no other bag limit. Public testimony was primarily from headboat operators who indicated that many of their repeat customers had typically harvested these species (primarily grunts) in excess of the 20–fish aggregate bag limit.

Sea basses, grunts, and porgies are harvested predominantly off Florida. The Council determined that if these species were removed from the FMP, they could be effectively managed by Florida without conservation risk. The Council representative from the Florida Marine Fisheries Commission (FMFC) stated that the FMFC has scheduled public hearings on potential management measures for these species.

Since Amendment 15 does not include a delegation of management authority to Florida, although such a delegation can be authorized under Section 306(a)(3)(B) of the Magnuson-Stevens Act, Florida would not be empowered to regulate a person aboard a vessel registered in another state, unless that vessel landed fish in Florida. However, landings of these species are insignificant outside Florida, and, given their relatively low value, the economic incentive for out of state vessels to harvest these species off Florida but land the catch in another state is minimal. Proposal of this measure also is consistent with the President's Regulatory Reinvention Initiative of March 4, 1995, that directs Federal agencies, among several things, to consider eliminating Federal regulations where the states can assume the necessary regulatory function.

Removal of Species From the Aggregate Bag Limit for Reef Fish

The regulations implementing Amendment 12 to the FMP established a 20–fish aggregate bag limit for species of reef fish not otherwise subject to a bag limit. In Amendment 12, the Council intended that the aggregate bag limit apply only to species in the ''management unit'' of the FMP. However, 11 species that are in the FMP, but are not in the ''management unit,'' were inadvertently included in the aggregate bag limit.

The Council concluded that the unintended inclusion of these 11 species in the aggregate bag limit resulted in an unnecessary burden on recreational fishermen, who use some of them (primarily pinfish and sand perch) as bait. Accordingly, Amendment 15 and the proposed rule would exclude these species from the aggregate bag limit. Seven of the 11 species are sea basses, grunts, and porgies. If, as discussed above, sea basses, grunts, and porgies are removed from the FMP, these seven species would be automatically excluded from the aggregate bag limit. The remaining four species—sand perch, dwarf sand perch, hogfish, and queen triggerfish—would be excluded from the aggregate bag limit by this action.

Availability of and Comments on Amendment 15

Additional background and rationale for the measures discussed above are contained in Amendment 15, the availability of which was announced in the **Federal Register** on September 26, 1997 (62 FR 50553). Written comments on Amendment 15 are solicited and must be received by November 25, 1997. Comments that are received by November 25, 1997, whether specifically directed to the amendment or the proposed rule, will be considered in the approval/disapproval decision on Amendment 15. Comments received after that date will not be considered in the approval/disapproval decision. All comments received on Amendment 15 or on this proposed rule during their respective comment periods will be addressed in the preamble to the final rule.

Change Proposed by NMFS

NMFS proposes to exempt four species from the prohibition on their being taken by use of a powerhead in the stressed area, the near-shore portion of the Gulf of Mexico EEZ where the majority of fishing for reef fish occurs. Appendix B, Table 2 of 50 CFR part 622 sets forth the coordinates of the stressed area. As discussed above, there are 11 species in the FMP that are not in the management unit. If Amendment 15's proposal to remove sea basses, grunts, and porgies from the FMP is approved, only sand perch, dwarf sand perch, hogfish, and queen triggerfish would remain in the FMP but not in the management unit.

Commencing with the original regulations implementing the FMP (49 FR 39548, October 9, 1984), the use of a powerhead in the stressed area to take reef fish species in the FMP management unit has been prohibited. Such prohibition did not apply to species in the FMP but not in the management unit. No other management measures distinguished between reef fish species in the management unit and those not in the management unit. By interim final and final rules (61 FR 34930, July 3, 1996, and 61 FR 47821, September 11, 1996), NMFS consolidated 11 CFR parts covering most of the fisheries conducted in the Southeast Region, NMFS, into 50 CFR part 622. In the process of that consolidation, the prohibition on the taking of reef fish species in the stressed area with a powerhead was expanded erroneously to include species in the FMP but not in the management unit. Accordingly, to conform to the intent of the Council regarding species for which

a powerhead may not be used in the stressed area, NMFS proposes to exempt sand perch, dwarf sand perch, hogfish, and queen triggerfish from that prohibition. However, if Amendment 15's proposed removal from the FMP of sea basses, grunts, and porgies is not approved, NMFS would remove all 11 species currently in the FMP but not in the management unit from the powerhead prohibition.

Classification

At this time, NMFS has not determined that the amendment that this rule would implement is consistent with the national standards of the Magnuson-Stevens Act and other applicable laws. NMFS, in making that determination, will take into account the data, views, and comments received during the comment period on Amendment 15.

This proposed rule has been determined to be not significant for purposes of E.O. 12866.

The Council prepared an IRFA that describes the impact this proposed rule, if adopted, would have on small entities. Based on the IRFA, NMFS has concluded that Amendment 15, if approved and implemented through final regulations, would have significant economic impacts on a substantial number of small entities. The IRFA is summarized as follows.

The Council intends that the proposed management measures will: Increase the stability of the commercial red snapper fishery in terms of fishing patterns and markets, while also reducing harvesting capacity; promote flexibility for and safety of commercial red snapper fishermen in their fishing operations; provide for cost-effective and enforceable management of the reef fish fishery by removing certain species from the FMP and restricting use of certain non-fish traps to catch reef fish; reduce fishing mortality of vermilion snapper, which is in danger of becoming overfished, and greater amberjack, which appears to be declining in abundance; and limit the application of the 20–fish aggregate bag limit to species listed in the FMP management unit, thereby relieving recreational fishermen of an unnecessary burden. The Magnuson-Stevens Act provides the legal basis for the rule.

Amendment 15 would affect all of the 1,424 commercial reef fish harvesting firms and 930 for-hire vessels (838 charter vessels and 92 headboats) operating in the Gulf of Mexico. These commercial and recreational entities are considered small business entities for the purposes of the Regulatory Flexibility Act, because their annual gross revenues are less than $3 million and $5 million, respectively. Therefore, a substantial number of small entities are expected to be affected for purposes of the Regulatory Flexibility Act.

The commercial red snapper license and trip limit system is expected to include practically all current participants in the commercial red snapper fishery. Based on historical landings, the potential change in the distribution of revenues could be higher than 5 percent relative to the 1996 share for an unknown number of these vessels. The provisions of Amendment 15 regarding commercial red snapper fishing seasons have potential impacts on revenues. These impacts have been determined to reduce ex-vessel revenues by an unknown amount.

The potential reduction in revenues due to the non-fish trap harvest provision is unknown. The proposed increase in minimum size limit for vermilion snapper would reduce commercial ex-vessel revenues by less than 5 percent, since landings reductions have been estimated to be only about 1.6 percent. On the other hand, the minimum size limit increase would reduce recreational landings by about 23 percent, primarily in the for-hire sector. The proposed removal of species from the FMP and 20–fish aggregate bag limit are not expected to reduce revenues.

Revenue reduction from the proposed spawning season closure for greater amberjack could be as high as 22 percent. While amberjack revenues account for only 4.7 percent of commercial reef fish revenues, a revenue reduction of 22 percent for those fishermen who target amberjack would be significant.

The total public burden to comply with the provisions of Amendment 15 has been estimated at $35,000 annually—an insignificant portion of the total industry costs. However, entry costs by new red snapper fishery participants could account for more than 5 percent of total operating costs. As a result, annual compliance costs (e.g., annualized capital, operating, reporting) could increase total costs of production for some small entities by more than 5 percent.

The IRFA also discusses information available regarding the ability of small business fishing firms to finance items such as a switch to new gear. Available information, however, is not sufficient to estimate whether capital costs of compliance represent a significant portion of capital available to small entities.

It is unknown whether this proposed rule is likely to result in 2 percent of the small entities affected being forced to cease business operations. The adoption of a license limitation system would preclude some vessels from re-entering the commercial red snapper fishery without leasing or buying licenses, but those vessels could still harvest other reef fish if they possess valid commercial reef fish permits. The vermilion snapper minimum size limit and spawning season closure for greater amberjack would reduce revenues of some vessels, but the affected entities are not expected to cease operation.

No duplicative, overlapping, or conflicting Federal rules have been identified. The reporting, recordkeeping, and other compliance requirements of the proposed rule are not materially different from the current practice, with the possible exception of license renewal. No additional professional skills are required to comply with the proposed rule.

The Council considered several types of alternatives designed to meet the FMP objectives. With respect to the license limitation program, the status quo (i.e., continuation of the current endorsement system) is not considered a viable alternative since it provides little opportunity for new entities to enter the fishery. Some unknown amount of revenue could be forgone by adopting the proposed split monthly harvest period alternative. Other specific alternatives were considered, but are generally found to be more costly to the fishery participants.

Regarding vermilion snapper minimum size limits, under the status quo (i.e., an 8–inch (20.3–cm) size limit after expiration of the interim rule) the status of the stocks would deteriorate, which could have potentially significant adverse short-term impacts on the stock and the industry over the long-run. The other rejected vermilion snapper management alternative was a 12–inch (30.5–cm) minimum size limit. This rejected alternative could effect an immediate and substantial revenue reduction on both the commercial vessels and for-hire vessels by potentially causing a loss of as much as 25 percent and 69 percent in landings, respectively.

Regarding the spawning season closure for greater amberjack, both rejected alternatives would have less adverse short-term impacts on fishing participants. However, the proposed spawning season closure responds to landings information indicating a declining status of the stock; therefore, the proposed spawning season closure could prevent potential long-term negative impacts associated with the two rejected alternatives.

The alternatives proposed in the remainder of Amendment 15, compared to the corresponding rejected alternatives, were generally shown to better address problems in the fishery. A copy of the IRFA is available from the Council (see **ADDRESSES**).

Notwithstanding any other provision of law, no person is required to respond to nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act (PRA) unless that collection of information displays a currently valid OMB Control Number.

This rule contains two new, one-time collection-of-information requirements subject to the PRA—namely, the submission of copies of agreements whereby a vessel's record of landings was not transferred when the vessel was sold and the submission of appeals of the Regional Administrator's initial determination of eligibility for historical captain status or a Class 2 red snapper license. These collection-of-information requirements have been submitted to OMB for approval. The public reporting burdens for these collections of information are estimated at 15 and 45 minutes per response, respectively, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collections of information.

Public comment is sought regarding: Whether these proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; the accuracy of the burden estimates; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collections of information, including through the use of automated collection techniques or other forms of information technology. Send comments on these, or any other aspects of the collections of information, to NMFS and OMB (see **ADDRESSES**).

This rule would continue in effect the collection-of-information requirement associated with the transfer or renewal of commercial red snapper endorsements, which would be applied to commercial red snapper licenses under Amendment 15. This collection of information was previously approved by OMB under OMB control number 0648–0205.

List of Subjects in 50 CFR Part 622

Fisheries, Fishing, Puerto Rico, Reporting and recordkeeping requirements, Virgin Islands.

Dated: October 17, 1997.

David L. Evans,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 622 is proposed to be amended as follows:

PART 622—FISHERIES OF THE CARIBBEAN, GULF, AND SOUTH ATLANTIC

1. The authority citation for part 622 continues to read as follows:

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

2. In § 622.4, paragraph (a) introductory text, paragraph (a)(2) heading, and paragraphs (a)(2)(ix), (d), (g), (i) through (l), and (p) are revised to read as follows:

§ 622.4 Permits and fees.

(a) *Permits required.* To conduct activities in fisheries governed in this part, valid permits, licenses, and endorsements are required as follows:

* * * * *

(2) *Commercial vessel permits, licenses, and endorsements.*

* * * * *

(ix) *Gulf red snapper.* For a person aboard a vessel for which a commercial vessel permit for Gulf reef fish has been issued to retain red snapper under the trip limits specified in § 622.44(e)(1) or (2), a Class 1 or Class 2 Gulf red snapper license must have been issued to the vessel and must be on board. See paragraph (p) of this section regarding initial issue of red snapper licenses.

* * * * *

(d) *Fees.* A fee is charged for each application for a permit, license, or endorsement submitted under this section, for each request for transfer or replacement of such permit, license, or endorsement, and for each fish trap or sea bass pot identification tag required under § 622.6(b)(1)(i). The amount of each fee is calculated in accordance with the procedures of the NOAA Finance Handbook, available from the RD, for determining the administrative costs of each special product or service. The fee may not exceed such costs and is specified with each application form. The appropriate fee must accompany each application, request for transfer or replacement, or request for fish trap/sea bass pot identification tags.

* * * * *

(g) *Transfer.* A vessel permit, license, or endorsement or dealer permit issued under this section is not transferable or assignable, except as provided in paragraph (m) of this section for a commercial vessel permit for Gulf reef fish, paragraph (n) of this section for a fish trap endorsement, or paragraph (p) of this section for a red snapper license. A person who acquires a vessel or dealership who desires to conduct activities for which a permit, license, or endorsement is required must apply for such permit, license, or endorsement in accordance with the provisions of this section. If the acquired vessel or dealership is currently permitted, the application must be accompanied by the original permit and a copy of a signed bill of sale or equivalent acquisition papers.

* * * * *

(i) *Display.* A vessel permit, license, or endorsement issued under this section must be carried on board the vessel. A dealer permit issued under this section, or a copy thereof, must be available on the dealer's premises. In addition, a copy of the dealer's permit must accompany each vehicle that is used to pick up from a fishing vessel reef fish harvested from the Gulf EEZ. The operator of a vessel must present the permit, license, or endorsement for inspection upon the request of an authorized officer. A dealer or a vehicle operator must present the permit or a copy for inspection upon the request of an authorized officer.

(j) *Sanctions and denials.* A permit, license, or endorsement issued pursuant to this section may be revoked, suspended, or modified, and a permit, license, or endorsement application may be denied, in accordance with the procedures governing enforcement-related permit sanctions and denials found at 15 CFR part 904, subpart D.

(k) *Alteration.* A permit, license, or endorsement that is altered, erased, or mutilated is invalid.

(l) *Replacement.* A replacement permit, license, or endorsement may be issued. An application for a replacement permit, license, or endorsement is not considered a new application.

* * * * *

(p) *Gulf red snapper licenses*—(1) *Class 1 licenses.* To be eligible for the 2,000–lb (907–kg) trip limit for Gulf red snapper specified in § 622.44(e)(1), a vessel must have been issued both a valid commercial vessel permit for Gulf reef fish and a valid Class 1 Gulf red snapper license, and such permit and license must be on board.

(2) *Class 2 licenses.* To be eligible for the 200–lb (91–kg) trip limit for Gulf red snapper specified in § 622.44(e)(2), a vessel must have been issued both a

valid commercial vessel permit for Gulf reef fish and a valid Class 2 Gulf red snapper license, and such permit and license must be on board.

(3) *Operator restriction*. An initial Gulf red snapper license that is issued for a vessel based on the qualification of an operator or historical captain is valid only when that operator or historical captain is the operator of the vessel. When applicable, this operator restriction is shown on the license.

(4) *Transfer of Gulf red snapper licenses*. A red snapper license may be transferred to a vessel owner independently of a commercial vessel permit for Gulf reef fish by completing the transfer information on the reverse of the license and returning it to the RD.

(5) *Initial issue of Gulf red snapper licenses*—(i) *Class 1 licenses*. (A) An initial Class 1 license is issued for the vessel specified by the holder of a valid red snapper endorsement on March 1, 1997, and to a historical captain. In the event of death or disability of such holder between March 1, 1997, and the date Class 1 licenses are issued, the Class 1 license is issued for the vessel specified by the person to whom the red snapper endorsement was transferred.

(B) Status as a historical captain is based on information collected under Amendment 9 to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico (FMP). A historical captain is an operator who—

(*1*) From November 6, 1989, through 1993, fished solely under verbal or written share agreements with an owner, and such agreements provided for the operator to be responsible for hiring the crew, who was paid from the share under his or her control;

(*2*) Landed from that vessel at least 5,000 lb (2,268 kg) of red snapper per year in 2 of the 3 years 1990, 1991, and 1992;

(*3*) Derived more than 50 percent of his or her earned income from commercial fishing, that is, sale of the catch, in each of the years 1989 through 1993; and

(*4*) Landed red snapper prior to November 7, 1989.

(ii) *Class 2 licenses*. (A) An initial Class 2 license is issued for the vessel specified by an owner or operator whose income qualified for a commercial vessel permit for reef fish that was valid on March 1, 1997, and such owner or operator was the person whose earned income qualified for a commercial vessel permit for reef fish that had a landing of red snapper during the period from January 1, 1990, through February 28, 1997.

(B) For the purpose of paragraph (p)(5)(ii)(A) of this section, landings of red snapper are as recorded in the information collected under Amendment 9 to the FMP for the period 1990 through 1992 and in fishing vessel logbooks, as required under § 622.5(a)(1)(ii), received by the SRD not later than March 31, 1997, for the period from January 1, 1993, through February 28, 1997.

(C) A vessel's red snapper landings record during the period from January 1, 1990, through February 28, 1997, is retained by the owner at the time of the landings if he or she transferred the permit to another vessel owned by him or her. When a vessel has had a change of ownership and concurrent transfer of its permit, the vessel's red snapper landings record is credited to the owner of that vessel on March 1, 1997, unless there is a legally binding agreement under which a previous owner retained the landings record. An owner who claims such retention of a landings record must submit a copy of the agreement to the RD postmarked or hand delivered not later than January 6, 1998.

(6) *Implementation procedures*—(i) *Initial notification*. The RD will notify each owner of a vessel that had a valid permit for Gulf reef fish on March 1, 1997, each operator whose earned income qualified for a valid permit on that date, and each potential historical captain of his or her eligibility for a Class 1 or Class 2 red snapper license. Initial determinations of eligibility will be based on NMFS' records of red snapper endorsements, red snapper landings during the period from January 1, 1990, through February 28, 1997, and applications for historical captain status under Amendment 9 to the FMP. An owner, operator, or potential historical captain who concurs with NMFS' initial determination of eligibility need take no further action—if determined to be eligible, an appropriate license will be issued not later than January 23, 1998.

(ii) *Appeals*. (A) An appeal of the RD's initial decision regarding eligibility for historical captain status or for a Class 2 red snapper license may be submitted for reconsideration solely by the RD or to an ad hoc appeals committee consisting of the principal state officials who are members of the GMFMC, or their designees.

(B) The RD and the appeals committee are empowered only to deliberate whether the eligibility criteria in paragraph (p)(5) of this section were applied correctly in the appellant's case. In making that determination, the RD or the appeals committee members will consider only disputed calculations and determinations, including disputed transfers of landings records, based on the documentation provided. Neither the appeals committee nor the RD is empowered to consider whether a person should have been eligible for historical captain status or a Class 2 license because of hardship or other factors.

(C) A written request for consideration of an appeal must be submitted to the RD postmarked or hand delivered not later than January 13, 1998, and must provide written documentation supporting the basis for the appeal. An appellant may also make a personal appearance before the appeals committee. If consideration by the appeals committee is requested, such request constitutes the appellant's written authorization under section 402(b)(1)(F) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*) for the RD to make available to the appeals committee members such confidential catch and other records as are pertinent to the matter being appealed.

(D) The appeals committee will meet only once to consider appeals submitted within the time period specified in paragraph (p)(6)(iii)(C) of this section. Members of the appeals committee will provide their individual recommendations for each appeal referred to the committee to the RD. Members of the appeals committee may comment upon whether the eligibility criteria were correctly applied in each case, based solely on the available record, including documentation submitted by the appellant. The RD will decide the appeal based on the initial eligibility criteria in paragraph (p)(5) of this section and the available record, including documentation submitted by the appellant and, if the appeal is considered by the appeals committee, the recommendations and comments from members of the appeals committee. The RD will notify the appellant of the decision and the reason therefore, in writing, normally within 15 days of receiving the recommendations of the appeals committee members. The RD's decision will constitute the final administrative action by NMFS on an appeal.

3. In § 622.7, paragraphs (a) through (c) are revised to read as follows:

§ 622.7 Prohibitions.

* * * * *

(a) Engage in an activity for which a valid Federal permit, license, or endorsement is required under § 622.4 or § 622.17 without such permit, license, or endorsement.

(b) Falsify information on an application for a permit, license, or endorsement or submitted in support of such application, as specified in § 622.4(b), (g), or (p) or § 622.17.

(c) Fail to display a permit, license, or endorsement, as specified in § 622.4(i) or § 622.17(g).

* * * * *

4. In § 622.34, a sentence is added at the end of paragraph (g)(1) and paragraph (l) is revised to read as follows:

§ 622.34 Gulf EEZ seasonal and/or area closures.

* * * * *

(g) * * *

(1) * * * The provisions of this paragraph (g)(1) do not apply to the following species: dwarf sand perch, hogfish, queen triggerfish, and sand perch.

* * * * *

(l) *Closures of the commercial fishery for red snapper.* The commercial fishery for red snapper in or from the Gulf EEZ is closed from January 1 to noon on February 1 and thereafter from noon on the 15th of each month to noon on the first of each succeeding month. All times are local times. During these closed periods, the possession of red snapper in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such red snapper were harvested, is limited to the bag and possession limits, as specified in § 622.39(b)(1)(iii) and (b)(2), respectively, and such red snapper are subject to the prohibition on sale or purchase of red snapper possessed under the bag limit, as specified in § 622.45(c)(1).

5. In § 622.36, the introductory text and paragraphs (a), (b), and (c) are redesignated as paragraph (b) introductory text and paragraphs (b)(1), (b)(2), and (b)(3), respectively, and paragraph (a) is added to read as follows:

§ 622.36 Seasonal harvest limitations.

(a) During March, April, and May, each year, the possession of greater amberjack in or from the Gulf EEZ and in the Gulf on board a vessel for which a commercial permit for Gulf reef fish has been issued, as required under § 622.4(a)(2)(v), without regard to where such greater amberjack were harvested, is limited to the bag and possession limits, as specified in § 622.39(b)(1)(i) and (b)(2), respectively, and such greater amberjack are subject to the prohibition on sale or purchase of greater amberjack possessed under the bag limit, as specified in § 622.45(c)(1).

* * * * *

6. In § 622.39, paragraph (a)(2) introductory text is republished, paragraph (a)(2)(iv) is added, and paragraph (b)(1)(v) is revised to read as follows:

§ 622.39 Bag and possession limits.

(a) * * *

(2) Paragraph (a)(1) of this section notwithstanding, bag and possession limits also apply for Gulf reef fish in or from the EEZ to a person aboard a vessel that has on board a commercial permit for Gulf reef fish—

* * * * *

(iv) When the vessel has on board or is tending any trap other than a fish trap authorized under § 622.40(a)(2), a stone crab trap, or a spiny lobster trap.

(b) * * *

(1) * * *

(v) Gulf reef fish, combined, excluding those specified in paragraphs (b)(1)(i) through (iv) of this section and excluding dwarf sand perch, hogfish, queen triggerfish, and sand perch—20.

* * * * *

7. In § 622.42, paragraph (a)(1)(i) is revised to read as follows:

§ 622.42 Quotas.

(a) * * *

(1) * * *

(i) Red snapper—4.65 million lb (2.11 million kg), round weight, apportioned as follows:

(A) 3.06 million lb (1.39 million kg) available at noon on February 1 each year, subject to the closure provisions of §§ 622.34(l) and 622.43(a)(1)(i).

(B) The remainder available at noon on September 1 each year, subject to the closure provisions of §§ 622.34(l) and 622.43(a)(1)(i).

* * * * *

8. In § 622.44, paragraph (e) is revised to read as follows:

§ 622.44 Commercial trip limits.

* * * * *

(e) *Gulf red snapper.* (1) The trip limit for red snapper in or from the Gulf for a vessel that has on board a valid commercial permit for Gulf reef fish and a valid Class 1 red snapper license is 2,000 lb (907 kg), round or eviscerated weight.

(2) The trip limit for red snapper in or from the Gulf for a vessel that has on board a valid commercial permit for Gulf reef fish and a valid Class 2 red snapper license is 200 lb (91 kg), round or eviscerated weight.

(3) The trip limit for red snapper in or from the Gulf for any other vessel for which a commercial permit for Gulf reef fish has been issued is zero.

(4) As a condition of a commercial vessel permit for Gulf reef fish, as required under § 622.4(a)(2)(v), without regard to where red snapper are harvested or possessed, a vessel that has been issued such permit—

(i) May not possess red snapper in or from the Gulf in excess of the appropriate vessel trip limit, as specified in paragraphs (e)(1) through (3) of this section.

(ii) May not transfer or receive at sea red snapper in or from the Gulf.

* * * * *

Appendix A to Part 622 [Amended]

9. In Table 3 of appendix A to part 622, the family Haemulidae—Grunts and the three species and scientific names thereunder are removed; under the family Serranidae, the species Bank sea bass, Rock sea bass, and Black sea bass and their scientific names are removed and the family name ''Serranidae—Sea Basses and Groupers'' is revised to read ''Serranidae—Groupers''; and the family Sparidae—Porgies and the six species and scientific names thereunder are removed.

[FR Doc. 97–28166 Filed 10–22–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[I.D. 101497F]

New England Fishery Management Council; Public Meeting

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

ACTION: Public meeting.

SUMMARY: The New England Fishery Management Council (Council) will hold a 2-day public meeting to consider actions affecting New England fisheries in the exclusive economic zone.

DATES: The meeting will be held on Wednesday, November 5, 1997, at 10 a.m., and on Thursday, November 6, 1997, at 8:30 a.m.

ADDRESSES: The meeting will be held at the Holiday Inn by the Bay, 88 Spring Street, Portland, ME; telephone (207) 775–2311. Requests for special accommodations should be addressed to the New England Fishery Management

Council, 5 Broadway, Saugus, MA 01906-1097; telephone: (781) 231-0422.

FOR FURTHER INFORMATION CONTACT: Paul J. Howard, Executive Director, New England Fishery Management Council (781) 231-0422.

SUPPLEMENTARY INFORMATION:

Wednesday, November 5, 1997

After introductions, the Council meeting will begin with a presentation on a Council plan to address Sustainable Fisheries Act requirements and the 13 overfished stocks recently identified in the NMFS report entitled ''Status of Fisheries of the United States.'' The Habitat Committee will review its discussions about the Council's essential fish habitat (EFH) amendment process and habitat requirements for fishery management plans (FMPs). Following a mid-day break, the Whiting Committee will provide an update on progress to develop a whiting amendment to the Northeast Multispecies FMP and, if necessary, will seek approval of this ongoing process. The Groundfish Committee will recommend initial action on a framework adjustment to the Northeast Multispecies FMP to establish an exempted gillnet fishery for dogfish in the area of Nantucket Shoals and waters east of Cape Cod. The Groundfish Committee will also recommend initial action on a second framework adjustment to shorten the duration of the Cultivator Shoal and Small Mesh Area 2 exempted fisheries. There will be a discussion and possible action on other items including (a) options for regulating trawl ground gear, particularly ''street sweepers''; (b) a strategy to address overfished groundfish stocks listed in the above-mentioned NMFS report; (c) options to allow scalloping in groundfish closed areas; and (d) halibut management. The Mid-Atlantic Plans Committee will review its recommendations to the Mid-Atlantic Fishery Management Council concerning the management of mahogany quahogs in the Gulf of Maine. The Chairman of the Council's Lobster Committee will discuss the Atlantic States Marine Fisheries Commission's (ASMFC's) response to the Council about options for meeting the Federal mandate to develop a plan to end overfishing and to rebuild the lobster resource. There may be a decision on future Council involvement, including consideration of ASMFC's revised draft plan and possible Council development of a new amendment by October 1998.

Thursday, November 6, 1997

The Council may consider and approve monkfish management measures for inclusion in Amendment 9 to the Northeast Multispecies FMP. There may also be a request to the Secretary of Commerce to implement interim management measures for the monkfish fishery. The Sea Scallop Committee will provide an update on the Amendment 7 (consolidation of days-at-sea and closed area management) public hearings. There will be a presentation on the results of the 1997 NMFS sea scallop survey followed by possible action to adjust days-at-sea allocations for 1998. The Council will review and approve objectives and discuss potential management alternatives for the Herring Fishery Management Plan. After the mid-day break, NMFS staff will report on an experiment to evaluate vessel-monitoring system effectiveness. The Professional Standards and Practices Committee will recommend Council approval of standards for participation in experimental and exempted fisheries and mechanisms to establish an industry-funded fisheries observer program. The Enforcement Committee Report will include recommendations on the implementation and the use of vessel monitoring systems. Following this discussion, there will be reports from the Council Chairman, Executive Director, NMFS Regional Administrator, Northeast Fisheries Science Center and Mid-Atlantic Fishery Management Council liaisons, and representatives of the Coast Guard and the ASMFC. The meeting will adjourn after the conclusion of any other outstanding business.

Although other issues not contained in this agenda may come before this Council for discussion, in accordance with the Magnuson-Stevens Fishery Conservation and Management Act, those issues may not be the subject of formal Council action during this meeting. Council action will be restricted to those issues specifically listed in this notice.

Special Accommodations

This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Paul J. Howard (see **ADDRESSES**) at least 5 days prior to the meeting date.

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

Dated: October 16, 1997.

Bruce Morehead,

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

[FR Doc. 97–27967 Filed 10–22–97; 8:45 am]

BILLING CODE 3510–22–F

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 660

[I.D. 100397C]

Fisheries Off West Coast States and in the Western Pacific; West Coast Salmon Fisheries; Public Hearings

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

ACTION: Notice of public hearings.

SUMMARY: The Pacific Fishery Management Council (Council) will hold a series of public hearings on a proposed Amendment 13 to its Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California (FMP). The amendment proposes alternative management objectives for Oregon coastal natural coho.

DATES: The Council will hold hearings on Monday, October 27, 1997 at 7 p.m. and Tuesday, October 28, 1997 at 7 p.m. and will consider the amendment during its meeting Tuesday, November 4, 1997. Written comments must be received by the Council no later than noon, October 29, 1997, to assure time for processing and distribution before final consideration of the amendment by the Council.

ADDRESSES: The Monday, October 27 hearing will be held at the Red Lion Inn, Pacific Room, 400 Industry, Astoria, OR; telephone (503) 325–7373. The Tuesday, October 28 hearing will be held at the Pony Village Motor Inn, Ballroom, Virginia Avenue, North Bend, OR; telephone (541) 756–3191. The Council will meet Tuesday, November 4 at the Sheraton Portland Airport Hotel, 8235 NE Airport Way, Portland, OR. Send written comments to: Mr. Lawrence D. Six, Executive Director, Pacific Fishery Management Council, 2130 SW Fifth Avenue, Suite 224, Portland, OR 97201.

FOR FURTHER INFORMATION CONTACT: John Coon, Salmon Fishery Management Coordinator, Pacific Fishery Management Council, at (503) 326–6352.

SUPPLEMENTARY INFORMATION: The Council requests public comments on ''Draft Amendment 13 to the Fishery Management Plan for Commercial and Recreational Salmon Fisheries Off the Coasts of Washington, Oregon, and California.'' Amendment 13 proposes alternative management objectives for Oregon coastal natural coho that are complementary to the Oregon Coastal Salmon Restoration Initiative developed to assure protection of this stock without listing under the Endangered Species Act. The amendment document contains a brief description of the proposed amendment along with a draft environmental assessment, regulatory impact review/initial regulatory flexibility analysis, statement of consistency with coastal zone management programs, and review of other applicable law which could be affected by the amendment.

Copies of the amendment are available from the Council office. Those wishing to submit oral or written testimony may do so at the hearings, or in writing (See **ADDRESSES**). Written comments addressed to the Council office should be received no later than noon, October 29, 1997, to assure time for processing and distribution before final consideration of the amendment by the Council.

The public may also provide oral and written comments on the amendment during the Council session on Tuesday, November 4 in Portland (See **ADDRESSES**).

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Eric W. Greene at (503) 326–6352 at least 5 days prior to the meeting date.

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

Dated: October 17, 1997.

Bruce Morehead,

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

[FR Doc. 97–28133 Filed 10–22–97; 8:45 am]

BILLING CODE 3510–22–F

Notices

Federal Register
Vol. 62, No. 205
Thursday, October 23, 1997

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Research, Education, and Economics

Notice of Strategic Planning Task Force Meeting

AGENCY: Research, Education, and Economics, USDA.

ACTION: Notice of meeting.

SUMMARY: The United States Department of Agriculture announces a meeting of the Strategic Planning Task Force on Research Facilities.

SUPPLEMENTARY INFORMATION: The Strategic Planning Task Force on Research Facilities, currently consisting of 14 members, is scheduled to meet for the third of eight planned meetings. The meeting is scheduled to be held at the Presidio of San Francisco Military Reserve, San Francisco, California, beginning at 1 p.m. on December 2 and concluding at 5 p.m. on Thursday, December 4. The meeting will be a review of progress of the Task Force and will devote 1 day to a discussion regarding Federal, state and private roles in agricultural research. Anticipated is a tour of the Western Region Nutrition Laboratory and presentations by Agricultural Research Service, Forest Service, and university officials.

Times and Dates: December 2, 1997, 1 p.m.–5 p.m.; December 3, 1997, 8 a.m.–5 p.m.; and December 4, 1997, 8 a.m.–5 p.m.

Place: Presidio of San Francisco Military Reserve, San Francisco, CA 94133.

Type of Meeting: Open to the Public.

Comments: The public may file written comments before or after the meeting with the contact person listed below.

FOR FURTHER INFORMATION CONTACT: Mitch Geasler, Project Director, Strategic Planning Task Force on Research Facilities, Room 212–W, Jamie L. Whitten Building, USDA, 1400 Independence Avenue, S.W., Washington, D.C. 20250. Telephone (202) 720–3803.

Done at Washington, D.C., this 7th day of October 1997.

I. Miley Gonzalez,

Under Secretary, Research, Education, and Economics.

[FR Doc. 97–28008 Filed 10–22–97; 8:45 am]

BILLING CODE 3410–22–P

DEPARTMENT OF AGRICULTURE

Agricultural Research Service

Notice of Intent To Grant Exclusive License

AGENCY: Agricultural Research Service, USDA.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the U.S. Department of Agriculture, Agricultural Research Service, intends to grant to Great Lakes IPM, Inc., of Vestaburg, Michigan, an exclusive license to U.S. Patent 5,607,670, issued March 4, 1997, entitled ''Sex Attractant for the Cranberry Fruitworm.'' Notice of Availability was published in the **Federal Register** on December 14, 1995.

DATES: Comments must be received on or before December 22, 1997.

ADDRESSES: Send comments to: USDA, ARS, Office of Technology Transfer, Room 415, Building 005, BARC—West, Beltsville, Maryland 20705–2350.

FOR FURTHER INFORMATION CONTACT: June Blalock of the Office of Technology Transfer at the Beltsville address given above; telephone: 301–504–5989.

SUPPLEMENTARY INFORMATION: The Federal Government's patent rights to this invention are assigned to the United States of America, as represented by the Secretary of Agriculture. It is in the public interest to so license this invention as Great Lakes IPM, Inc., has submitted a complete and sufficient application for a license. The prospective license will be royalty-bearing and will comply with the terms and conditions of 35 U.S.C. 209 and 37 CFR 404.7. The prospective license may be granted unless, within sixty (60) days from the date of this published Notice, the Agricultural Research Service receives written evidence and argument which establishes that the grant of the license would not be consistent with the requirements of 35 U.S.C. 209 and 37 CFR 404.7.

Richard M. Parry, Jr.,

Assistant Administrator.

[FR Doc. 97–28007 Filed 10–22–97; 8:45 am]

BILLING CODE 3410–03–P

DEPARTMENT OF AGRICULTURE

Food and Consumer Service

Agency Information Collection Activities: Proposed Collection; Comment

Request—Report of Coupon Issuance and Commodity Distribution for Disaster Relief

AGENCY: Food and Consumer Service, USDA.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Food and Consumer Service (FCS) is publishing for public comment a summary of a proposed information collection. The proposed collection is an extension of a collection currently approved for the Food Stamp Program and the Food Distribution Program.

DATES: Comments on this notice must be received by December 22, 1997 to be assured of consideration.

ADDRESSES: Send comments and requests for copies of this information collection to Alan Rich, Data Base Monitoring Branch, Program Information Division, Food and Consumer Service, USDA, 3101 Park Center Drive, Alexandria, VA 22302.

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on those who are to respond, including use of appropriate, automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments will be summarized and included in the request for Office of Management and Budget approval of the information collection. All comments will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Alan Rich, (703) 305–2113.

SUPPLEMENTARY INFORMATION:

Title: Report of Coupon Issuance and Commodity Distribution for Disaster Relief

OMB Number: 0584–0037.

Expiration Date: December 30, 1997

Type of Request: Extension of a currently approved collection

Abstract: Food Distribution in disaster situations is authorized under Section 32 of the Act of August 24, 1935 (7 U.S.C. 612c); Section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); Section 709 of the Food and Agriculture Act of 1965 (7 U.S.C. 1446a–l); Section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c note); and by Sections 412 and 413 of the Disaster Relief and Emergency Assistance Act (42 U.S.C. 5179, 5180). Program implementing regulations are contained in 7 CFR part 250. In accordance with Section 250.43(f), distributing agencies shall provide a summary report to the agency within 45 days following termination of the disaster assistance.

Respondents: State agencies that administer USDA disaster relief activities.

Number of Respondents: 55.

Estimated Number of Responses per Respondent: The number of responses is estimated to be 1.82 responses per State agency per year.

Estimate of Burden: Public reporting burden for this collection of information is estimated to average 25 minutes per respondent for each submission.

Estimated Total Annual Burden on Respondents: 97 hours.

Dated: October 12, 1997.

Yvette S. Jackson,

Acting Administrator, Food and Consumer Service.

[FR Doc. 97–28131 Filed 10–22–97; 8:45 am]

BILLING CODE 3410–30–U

ARMS AND DISARMAMENT AGENCY

The Director's Advisory Committee; Notice of Closed Meetings

October 17, 1997.

In accordance with the Federal Advisory Committee Act, Public Law No. 92–463, 86 Stat 770 (1972) (codified at 5 U.S.C. App. 2 510(a)(1) (1996)), the U.S. Arms Control and Disarmament Agency (ACDA) announces the following Advisory Committee meetings:

Name: The Director's Advisory, Committee (DirAC).

Dates: October 27 and 28, 1997; December 11 and 12, 1997.

Time: 8:30 a.m.

Place: For the October meeting: Sandia National Laboratory, Albuquerque, NM.

For the December meeting: State Department Building, 320 21st Street, N.W., Room 4930, Washington, D.C.

Type of Meetings: Closed.

Contact: Robert Sherman, Executive Director, Director's Advisory Committee, Room 5844, Washington, D.C. 20451, (202) 647–4622.

Purpose of Advisory: To advise the Director of the U.S. Arms Control and Disarmament Agency respecting scientific, technical, and policy matters affecting arms control, nonproliferation, and disarmament.

Purpose of the Meeting: The Committee will review specific arms control, nonproliferation, and verification issues. Members will be briefed on current U.S. policy and issues regarding agreements including the Comprehensive Test Ban Treaty and the Conventional Weapons Convention. Members will also be briefed on issues regarding the Chemical and Biological Weapons Conventions. Members will exchange information and concepts with key ACDA personnel. All meetings will be held in Executive Session.

Reason for Closing: The DirAC members will be reviewing and discussing matters specifically authorized by Executive Order 12958 to be kept secret in the interest of national defense or foreign policy.

Authority to Close Meetings: The closing of the meetings is in accordance with a determination by the Director of the U.S. Arms Control and Disarmament Agency dated October 16, 1997 made pursuant to the provisions of Section 10(d) of the Federal Advisory Committee Act Pub. L. No. 92–463, 86 Stat 770 (1972) (codified at 5 U.S.C. App. 2 510(a)(1) 1996).

Notice: This notice is being published less than 15 days before the first meeting, in order to enable more committee members to attend.

Cathleen Lawrence,

Director of Administration.

[FR Doc. 97–28191 Filed 10–20–97; 4:16 am]

BILLING CODE 6820–32–M

DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

[A–570–832]

Pure Magnesium From the People's Republic of China: Preliminary Results of Antidumping Duty New Shipper Administrative Review

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

SUMMARY: In response to a request from one manufacturer/exporter, Taiyuan Heavy Machinery Import and Export Corporation, the Department of Commerce is conducting a new shipper administrative review of the antidumping duty order of Pure Magnesium from the People's Republic of China. The review covers the period May 1, 1996, through October 31, 1996.

We have preliminarily determined that U.S. sales have been made below the normal value (''NV''). If these preliminary results are adopted in our final results of administrative review, we will instruct the U.S. Customs Service to assess antidumping duties based on the difference between Export Price (''EP'') and NV.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Everett Kelly or Brian Smith, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–4194 or (202) 482–1766, respectively.

SUPPLEMENTARY INFORMATION: 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, as amended (''the Act''), by the Uruguay Round Agreements Act (''URAA''). In addition, unless otherwise indicated, all citations to the Department's regulations are to those codified at 19 CFR Part 353 (April 1997). Where appropriate, references are made to the Department's final regulations, codified at 19 CFR 351 (62 FR 27296), as a statement of current departmental practice.

Background

On November 3, 1997, the Department of Commerce (''the Department'') received a request from Taiyuan Heavy Machinery Import and Export Corporation (''Taiyuan'') for a new shipper review pursuant to section

751(a)(2)(B) of the Act and section 19 CFR 353.22(h) of the Department's regulations.

Section 751(a)(2) of the Act and section 19 CFR 353.22(h) of the Department's regulations govern determinations of antidumping duties for new shippers. These provisions state that, if the Department receives a request for review from an exporter or producer of the subject merchandise stating that it did not export the merchandise to the United States during the period covered by the original less-than-fair-value investigation (the ''POI'') and that such exporter or producer is not affiliated with any exporter or producer who exported the subject merchandise during that period, the Department shall conduct a new shipper review to establish an individual weighted-average dumping margin for such exporter or producer, if the Department has not previously established such a margin for the exporter or producer. The regulations require that the exporter or producer shall include in its request, with appropriate certifications: (i) the date on which the merchandise was first entered, or withdrawn from warehouse, for consumption, or, if it cannot certify as to the date of first entry, the date on which it first shipped the merchandise for export to the United States or if the merchandise has not yet been shipped or entered, the date of sale; (ii) a list of the firms with which it is affiliated; and (iii) a statement from such exporter or producer, and from each affiliated firm, that it did not, under its current or a former name, export the merchandise during the POI (19 CFR 353.22(h)(2)).

Taiyuan's request was accompanied by information and certifications establishing the effective date on which it first shipped and entered pure magnesium. Taiyuan also has no affiliated companies and therefore is not affiliated with any person or corporation which exported pure magnesium from the People's Republic of China (''PRC'') during the POI. Based on the above information, the Department initiated this new shipper review of Taiyuan (Notice of Initiation of New Shipper Antidumping Duty Administrative Review: Pure Magnesium from the People's Republic of China (61 FR 69067 December 31, 1996)). The Department is now conducting this review in accordance with section 751 of the Act and section 19 CFR 353.22.

Taiyuan submitted responses to the Department's antidumping questionnaire and the Department attempted to verify this information at the facilities of Taiyuan and its supplier in May 1997.

Scope of Review

The product covered by this review is pure primary magnesium regardless of chemistry, form or size, unless expressly excluded from the scope of this investigation. Primary magnesium is a metal or alloy containing by weight primarily the element magnesium and produced by decomposing raw materials into magnesium metal. Pure primary magnesium is used primarily as a chemical in the aluminum alloying, desulfurization, and chemical reduction industries. In addition, pure primary magnesium is used as an input in producing magnesium alloy.

Pure primary magnesium encompasses:

(1) Products that contain at least 99.95% primary magnesium, by weight (generally referred to as ''ultra-pure'' magnesium);

(2) Products containing less than 99.95% but not less than 99.8% primary magnesium, by weight (generally referred to as ''pure'' magnesium); and

(3) Products (generally referred to as ''off-specification pure'' magnesium) that contain 50% or greater, but less than 99.8% primary magnesium, by weight, and that do not conform to ASTM specifications for alloy magnesium.

''Off-specification pure'' magnesium is pure primary magnesium containing magnesium scrap, secondary magnesium, oxidized magnesium or impurities (whether or not intentionally added) that cause the primary magnesium content to fall below 99.8% by weight. It generally does not contain, individually or in combination, 1.5% or more, by weight, of the following alloying elements: aluminum, manganese, zinc, silicon, thorium, zirconium and rare earths.

Excluded from the scope of this investigation are alloy primary magnesium (that meets as specifications for alloy magnesium), primary magnesium anodes, granular primary magnesium (including turnings, chips and powder), having a maximum physical dimension (i.e., length or diameter) of one inch or less, secondary magnesium (which has pure primary magnesium content or less than 50% by weight), an remelted magnesium whose pure primary magnesium content is less than 50% by weight.

Pure magnesium products covered by this order are currently classifiable under Harmonized Tariff Schedule of the United States (HTSUS) subheadings 8104.11.00, 8104.19.00, 8104.20.00, 8104.30.00, 8104.90.00, 3824.90.11, 3824.90.19 and 9817.00.90. Although the HTSUS subheadings are provided for convenience and customs purposes, our written description of the scope is dispositive.

Separate Rates

In proceedings involving non-market-economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and thus should be assessed a single antidumping duty deposit rate. To establish whether a firm is sufficiently independent from government control to be entitled to a separate rate, the Department analyzes each exporting entity under a test arising out of the Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China (56 FR 20588, May 6, 1991) and amplified in Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China (59 FR 22585, May 2, 1994) (''Silicon Carbide''). Under the separate rates criteria, the Department assigns separate rates in nonmarket economy cases only if the respondent can demonstrate the absence of both de jure and de facto governmental control over export activities.

1. De Jure Control

Taiyuan has placed on the administrative record documents to demonstrate absence of de jure control; the ''Law of the People's Republic of China on Industrial Enterprises Owned by the Whole People,'' adopted on April 13, 1988, (the Industrial Enterprises Law), and the 1992 regulations that supplemented it, ''Regulations for Transformation of Operational Mechanisms of State-Owned Industrial Enterprises'' (Business Operation Provisions). We have analyzed these laws in previous cases and have found them to sufficiently establish an absence of de jure control of companies ''owned by the whole people,'' such as Taiyuan. (See, e.g., Final Determination of Sales at Less than Fair Value: Furfuryl Alcohol from the People's Republic of China (''Furfuryl Alcohol'') 60 FR 22544 (May 8, 1995)). The Industrial Enterprises Law provides that enterprises owned by ''the whole people'' shall make their own management decisions, be responsible for their own profits and losses, choose their own suppliers, and purchase their own goods and materials. The Business Operation Provisions confer upon state-owned enterprises the responsibility for making investment decisions, the right to dispose of retained capital and assets, and the authority to form joint ventures and to merge with other enterprises. Taiyuan also states that pure magnesium does not appear on any government lists regarding export

provisions or export licensing, and that no quotas are imposed on pure magnesium. In sum, in prior cases, the Department examined both the Industrial Enterprises Law and the Business Operations Provisions, and found that they establish an absence of de jure control. We have no new information in this proceedings which would cause us to reconsider this determination with regard to Taiyuan.

2. De Facto Control

The Department typically considers four factors in evaluating whether each respondent is subject to *de facto* governmental control of its export functions: (1) Whether the EPs are set by or subject to the approval of a governmental authority; (2) whether the respondent has authority to negotiate and sign contracts and other agreements; (3) whether the respondent has autonomy from the government in making decisions regarding the selection of management; and (4) whether the respondent retains the proceeds of its export sales and makes independent decisions regarding disposition of profits or financing of losses (see Silicon Carbide and Furfuryl Alcohol).

Taiyuan asserted the following: (1) It establishes its own EPs; (2) it negotiates contracts, without guidance from any governmental entities or organizations; (3) it makes its own personnel decisions; and (4) it retains the proceeds of its export sales, uses profits according to its business needs and has the authority to sell its assets and to obtain loans. During verification proceedings, Department officials viewed such evidence as sales documents that showed Taiyuan sales prices were negotiated solely by Taiyuan and its customer. In addition, the Department generally noted no significant indication of government involvement in Taiyuan's business operations. Taiyuan officials are appointed by a bureau of the provincial government, not the central government and there are no other known exporters under the control of the provincial government. Sales documents reviewed indicated that Taiyuan sales prices were negotiated solely by Taiyuan and its customer. In addition, the Department reviewed sales payments, bank statements and accounting documentation that provided evidence that Taiyuan received payment in U.S. dollars, which was deposited into its bank account after being converted to RMB (*see* Taiyuan Sales Verification Report at pg 7). This information, taken in its entirety, supports a finding that there is de facto an absence of governmental control of export functions. Consequently, we have preliminarily determined that Taiyuan has met the criteria for the application of separate rates (see Notice of Final Determination at Less Than Fair Value: Persulfates from the Peoples Republic of China, 62 FR 27222, May 19, 1997).

Fair Value Comparisons

To determine whether sales of the subject merchandise by Taiyuan to the United States were made at less than fair value, we compared the EP to the NV, as described in the ''Export Price and Constructed Export Price'' and ''Normal Value'' sections of this notice, below.

Export Price and Constructed Export Price

The Department used EP, in accordance with section 772(a) of the Act, because the subject merchandise was sold directly by the PRC exporter to unrelated parties in the United States prior to importation into the United States and the constructed EP methodology was not warranted based on the facts of record.

We calculated EP based on packed, FOB foreign-port prices to unrelated purchasers in the United States. We made deductions for foreign inland freight, loading, and port handling expenses, valued in a surrogate country. To value freight, we used Indonesia freight rates from a 1991 cable from the U.S. Embassy in Jakarta (*see* Preliminary Determination of Sales at Less Than Fair Value: Certain Carbon Steel Butt-Weld Pipe Fittings from the PRC, 56 FR 66831, December 26, 1991). We selected India as the primary surrogate country for reasons explained in the ''Normal Value'' section below.

Normal Value

In every case conducted by the Department involving the PRC, the PRC has been treated as an non-market economy (''NME'') country. None of the parties to this proceeding has contested such treatment. Accordingly, we calculated NV in accordance with section 773(c) of the Act, which applies to non-market economy countries. In accordance with section 773(c)(4) of the Act, we must, to the extent possible, value the factors of production in one or more market economy countries that (1) are at a level of economic development comparable to that of the non-market economy country, and (2) are significant producers of comparable merchandise. We first determined that India, Pakistan, Egypt, Sri Lanka and Indonesia are each at a level of economic development comparable to the PRC in terms of per capita gross national product (''GNP''), the growth rate in per capita income, and the national distribution of labor. However, none of the countries are significant producers of the subject merchandise. Accordingly, we considered whether any of the potential surrogates produce comparable merchandise. As stated in previous cases, the material inputs used to produce magnesium and aluminum are different. However, according to both U.S. Bureau of Mines and Department of Commerce experts, both (1) are light metals in terms of molecular weight; (2) are produced using an electrolytic process, and (3) share some common end uses (*e.g.*, dye casting) (see Notice of Final Determination: Pure and Alloy Magnesium from the Peoples Republic of China (60 FR 16437,16440, March 30, 1995) (''the PRC Magnesium Investigation'')). Therefore, in this administrative review, we have determined that aluminum constitutes comparable merchandise in the context of surrogate selection.

The Department has determined that Indonesia and India are the countries most comparable to the PRC in terms of overall economic development and both are significant producers of comparable merchandise (aluminum) (see the PRC Magnesium Investigation). We have selected India as a reasonable surrogate country because it meets the Department's criteria for surrogate country selection. Where we could not find surrogate values from India, we valued those factors using values from Indonesia.

Petitioner and respondent submitted publicly available information on surrogate values for the Department's consideration. The factors used to produce pure magnesium include materials, labor, and energy. To calculate NV, the reported factor quantities were multiplied by the appropriate surrogate values from India for the different inputs. To value each factor of production, we used, where possible, publicly available information. We have preliminarily accepted Taiyuan's reporting of its suppliers' factors of production based on its entire fiscal year rather than the POR because POR production was limited. For purposes of calculating NV, we valued reported PRC factors of production (adjusted based on verification findings) as follows, in accordance with section 773(c) of the Act:

The factors of production for which we used surrogate values included: raw materials, packing materials, labor, diesel fuel, electricity, truck freight, factory overhead, selling, general and administrative and profit we used

public information from various sources. *See* October 16, 1997, Calculation Memorandum for details. Reported raw materials include: ferrosilicon, dolomite, calcinate dolomite, flux (powder), flux (lump), sulphuric acid, fluorite powder, sulphur powder, and barium chloride. Reported packing materials include: wooden crates, plastic bags, and steel straps.

With regard to labor, the Department has concluded that, while wages and per-capita GNP are positively correlated, there is a great variation in the wage rates of the market economy countries that the Department treats as being economically comparable. As a practical matter, this means that the result of an NME case can vary widely depending on which of several economically comparable countries is selected as the surrogate. In order to eliminate the variability of wage rates in countries with similar per capita GNPs, we used a regression-based wage rate.

See October 16, 1997, Calculation Memorandum for details of valuation of factors of Production.

Verification

As provided in section 782(i) of the Act, we verified information provided by the respondent by using standard verification procedures, including on-site inspection of the respondent's facilities, the examination of relevant sales and financial records, and selection of original documentation containing relevant information. Our verification findings are outlined in the verification report.

Currency Conversion

We made currency conversions pursuant to section 773A(a) of the Act and section 353.60 of the Department's regulations based on the rates certified by the Federal Reserve Bank.

Preliminary Results of the Review

As a result of this review, we preliminarily determine that the following margin exists for the period May 1, 1996, through October 31, 1996:

Manufacturer/producer/exporter	Percent margin
Taiyuan Heavy Machinery Import and Export Corporation	83.92

Interested parties may request disclosure within 5 days of the date of publication of this notice and may request a hearing within 10 days of publication. Any hearing, if requested, will be held at the earliest convenience of the parties but not later than 34 days after the date of publication or the first business day thereafter. Case briefs from interested parties may be submitted not later than 20 days after the date of publication. Rebuttal briefs, limited to issues raised in the case briefs, may be filed not later than 27 days after the date of publication. The Department will issue the final results of this new shipper administrative review, including the results of its analysis of issues raised in any such written comments or at a hearing, within 90 days of issuance of these preliminary results. Upon completion of this new shipper review, the Department will issue appraisement instructions directly to the Customs Service. The results of this review shall be the basis for the assessment of antidumping duties on entries of merchandise covered by this review and for future deposits of estimated duties.

Furthermore, upon completion of this review, the posting of a bond or security in lieu of a cash deposit, pursuant to section 751(a)(2)(B)(iii) of the Act and section 353.22(h)(4) of the Department's interim regulations, will no longer be permitted and, should the final results yield a margin of dumping, a cash deposit will be required for each entry of the merchandise.

The following deposit requirements will be effective upon publication of the final results of this new shipper antidumping duty administrative review for all shipments of pure magnesium from the PRC entered, or withdrawn from warehouse, for consumption on or after the publication date, as provided by section 751(a)(1) of the Act: (1) The cash deposit rate for the reviewed company will be that established in the final results of this new shipper administrative review; (2) the cash deposit rate for all other PRC exporters will continue to be 108.26 percent, the PRC-wide rate established in the LTFV and (3) the cash deposit rate for non-PRC exporters of subject merchandise will be the rate applicable to the PRC supplier of that exporter. investigation.

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

This notice serves as a preliminary reminder to importers of their responsibility under 19 CFR 353.36 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 new shipper administrative review and notice are in accordance with section 751(a)(2)(B) of the Act (19 U.S.C. 1675(a)(2)(B)) and Section 19 CFR 353.22(h) 1996.

Dated: October 16, 1997.

Robert S. LaRussa,

Assistant Secretary for Import Administration.

[FR Doc. 97–28154 Filed 10–22–97; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–583–507]

Malleable Cast Iron Pipe Fittings From Taiwan: Termination of Antidumping Duty Administrative Review

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

ACTION: Notice of termination of antidumping duty administrative review.

SUMMARY: On June 19, 1997 the Department of Commerce initiated an administrative review of the antidumping duty order on malleable cast iron pipe fittings from Taiwan for De Ho Metal Industrial Co., Ltd., of Taiwan, a manufacturer of malleable cast iron pipe fittings. This administrative review was requested by Amco Metal Industrial Corp., an importer of the subject merchandise, and is for the period covering May 1, 1996 through April 30, 1997. The Department of Commerce is terminating the review after receiving from Amco Metal Industrial Corp. a withdrawal of its request for a review.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Mark Manning or James Terpstra, Office of AD/CVD Enforcement, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th and Constitution Avenue, N.W., Washington, D.C. 20230; telephone: (202) 482–3936 and (202) 482–3965, respectively.

SUPPLEMENTARY INFORMATION:

Applicable Statute and Regulations

Unless otherwise indicated, all citations to the stature are references to the provisions effective January 1, 1995, the effective date of the amendments made to the Tariff Act of 1930 (the Act) by the Uruguay Round Agreements Act (URAA). In addition, unless otherwise indicated, all citations to the Department of Commerce's (the

Department's) regulations are to the current regulations as codified at 19 CFR 353 (1997).

Background

On May 1, 1997, Amco Metal Industrial Corp. (Amco), requested on behalf of De Ho Metal Industrial Co., Ltd. (De Ho Metal) that the Department conduct an administrative review of the subject merchandise exported by De Ho Metal from Taiwan for the period May 1, 1996 through April 30, 1997.

On June 19, 1997, the Department published in the **Federal Register** (62 FR 33394) a notice of initiation of administrative review with respect to De Ho Metal for the period May 1, 1996 through April 30, 1997. On September 16, 1997, Amco requested that it be allowed to withdraw its request for a review and that the review be terminated.

Pursuant to 19 CFR 353.22(a)(5), the Department may allow a party that requests an administrative review to withdraw such request no later than 90 days after the date of publication of the notice of initiation of the requested review. Because Amco's request for termination was submitted within the 90-day time limit, and there were no requests for review from other interested parties, we are terminating this review for De Ho Metal. See Certain Welded Stainless Steel Pipe from Korea, Termination of Antidumping Duty Administration Review, 62 FR 47460, (September 9, 1997). We will issue appropriate appraisement instructions directly to the U.S. Customs Service.

This notice is in accordance with § 353.22(a)(5) of the Department's regulations (19 CFR 353.22(a)(5)).

Dated: October 10, 1997.

Richard W. Moreland,

Acting Deputy Assistant Secretary, Group II Import Administration.

[FR Doc. 97–28153 Filed 10–22–97; 8:45 am]

BILLING CODE 3510–DS–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 101697C]

Marine Mammals; Public Display Permit (PHF# 852–1356)

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

ACTION: Notice of withdrawal.

SUMMARY: Notice is hereby given that the Dallas World Aquarium, 1801 North Griffin, Dallas, TX 75202, has withdrawn its application to import Amazon River dolphin (*Inia geoffrensis*), for purposes of public display.

ADDRESSES: The documents related to this action are available for review upon written request or by appointment in the following offices:

Permits and Documentation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13130, Silver Spring, MD 20910 (301/713–2289); and

Regional Administrator, Southeast Region, NMFS, 9731 Executive Center Drive North, St. Petersburg, FL 33702 (206/526–6150).

FOR FURTHER INFORMATION CONTACT: Ann Hochman, (301) 713–2289.

SUPPLEMENTARY INFORMATION: On Thursday, August 14, 1997, notice was published in the **Federal Register** (62 FR 433516) that an application had been filed by the Dallas World Aquarium. A public display permit was requested to import four Amazon River dolphins (*Inia geoffrensis*) from Valencia, Venezuela. The applicant was issued a collection license from the Venezuelan Service Agency PROFAUNA and the dolphins were to be collected from the Apure River near San Fernando, Venezuela.

In its October 7, 1997, letter of withdrawal, The Dallas World Aquarium stated it would not capture any wild dolphins in Venezuela and would surrender its collection license to PROFAUNA.

Dated: October 16, 1997.

Ann D. Terbush,

Chief, Permits and Documentation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 97–28134 Filed 10–22–97; 8:45 am]

BILLING CODE 3510–22–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Bangladesh

October 20, 1997.

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

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

EFFECTIVE DATE: October 23, 1997.

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

SUPPLEMENTARY INFORMATION:

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

At the request of the Government of Bangladesh, a previous increase for special shift to Category 634 from Category 334 is being reduced.

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 68241, published on December 27, 1996; and 62 FR 53319, published on October 14, 1997.

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 20, 1997.

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

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 20, 1996, as amended, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Bangladesh and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 23, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
334	125,822 dozen.
634	552,364 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 to the rulemaking provisions of 5 U.S.C.553(a)(1).

Sincerely,

Troy H. Cribb,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 97–28173 Filed 10–20–97; 3:26 pm]

BILLING CODE 3510–DR–F

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

October 20, 1997.

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

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

EFFECTIVE DATE: October 22, 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 certain categories are being adjusted for swing.

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 64505, published on December 5, 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 20, 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 29, 1996, by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Indonesia and exported during the twelve-month period which began on January 1, 1997 and extends through December 31, 1997.

Effective on October 22, 1997, you are directed to adjust the limits for the following categories, as provided for under the Uruguay Round Agreements Act and the Uruguay Round Agreement on Textiles and Clothing:

Category	Adjusted twelve-month limit [1]
Levels in Group I	
225	5,673,333 square meters.
314	54,554,996 square meters.
334/335	247,089 dozen.
350/650	127,267 dozen.
443	97,513 numbers.
445/446	64,769 dozen.
448	24,016 dozen.
645/646	829,657 dozen.
Group II Subgroup	
400, 410, 414, 431, 432, 434, 435, 436, 438, 439, 440, 442, 444, 459, 464, 465 and 469, as a group.	3,442,498 square meters equivalent.
In Group II subgroup	
435	54,037 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. 97–28172 Filed 10–20–97; 3:26 pm]

BILLING CODE 3510–DR–F

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission, Washington, DC 20207.

''Federal Register'' Citation of Previous Announcement: [insert FR citation].

Previously Announced Time and Date of Meeting: 10:00 a.m., October 22, 1997.

Changes in Meeting: The meeting concerning the FY 1998 Operating Plan has been canceled and rescheduled for October 29, 1997.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: October 21, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97–28289 Filed 10–21–97; 3:19 pm]

BILLING CODE 6355–01–M

CONSUMER PRODUCT SAFETY COMMISSION

Sunshine Act Meeting

AGENCY: U.S. Consumer Product Safety Commission; Washington, DC 20207.

Time and Date: Wednesday, October 29, 1997. 10:00 a.m.

Location: Room 420, East West Towers, 4330 East West Highway, Bethesda, Maryland.

Status: Open to the Public.

Matters to be Considered:

FY 1998 Operating Plan: The staff will brief the Commission and the Commission will consider issues related to the Commission's Operating Plan for Fiscal Year 1998.

For a recorded message containing the latest agenda information, call (301) 504–0709.

CONTACT PERSON FOR ADDITIONAL INFORMATION: Sadye E. Dunn, Office of the Secretary, 4330 East West Highway, Bethesda, MD 20207 (301) 504–0800.

Dated: October 21, 1997.

Sadye E. Dunn,

Secretary.

[FR Doc. 97–28290 Filed 10–21–97; 3:19 pm]

BILLING CODE 6355–01–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Submission for 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: Department of Defense Security Agreement, Appendage to the Security Agreement, Certificate Pertaining to Foreign Interests; DD Form 441, 441–1, 441s (SF X322); OMB Number 0704–0194.

Type of Request: Reinstatement.

Number of Respondents: 6,225.

Responses per Respondents: 1.

Annual Responses: 6,225.

Average Burden per Response: 36 minutes.

Annual Burden Hours: 3,735.

Needs and Uses: The execution of DD Forms 441, 441–1, and 441S (to become a Standard Form) is a factor in making a determination as to whether a contractor is eligible to have a facility security clearance. It is also the legal basis for imposing security requirements on eligible contractors. These requirements are necessary to preserve and maintain the security of the United States through the establishment of standards to prevent the improper disclosure of classified information. Executive Order 12829 stipulates that the Secretary of Defense shall serve as the Executive Agent for inspecting and monitoring the contractors, licensees, and grantees who require access to classified information and for determining eligibility for access to classified information. The specific requirements necessary to protect classified information released to private industry are set forth in DoD 5220.22–M, ''National Industrial Security Program (NISP). DD Form 441, ''Department of Defense Security Agreement,'' is the initial contract between industry and the government. This legally binding document details the responsibility of both parties and obligates the contractor to fulfill the requirements outlined in DoD 5220.22–M. The DD Form 441–1, ''Appendage to the Department of Defense Agreement,'' is used to extend the agreement to separately located branches and offices of the contractor. DD Form 441S (to become SF X322), ''Certificate Pertaining to Foreign Interests,'' must be submitted to provide certification regarding elements of Foreign Ownership, Control, and Influence (FOCI).

Affected Public: Business or Other For-Profit.

Frequency: On Occasion.

Respondent's Obligation: Required to Obtain or Retain Benefits.

OMB Desk Officer: Mr. Edward 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 request 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 17, 1997.

Patricia L. Toppings,

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

[FR Doc. 97–28098 Filed 10–22–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Meeting of the Defense Environmental Response Task Force (DERTF)

AGENCY: Office of the Deputy Under Secretary of Defense (Environmental Security.

ACTION: Notice of business meeting and hearing.

SUMMARY: Pursuant to Pub. L. 92–463, notice is hereby given of a business meeting and hearing of the Defense Environmental Response Task Force (DERTF). The DERTF is charged with studying and providing findings and recommendations on environmental response actions at military installations being closed or realigned. This meeting is a follow-up to the June 17–19, 1997 meeting. The DERTF will discuss issues related to natural and cultural resources at BRAC installations, optimization of long-term operation and maintenance of cleanup remedies, information management for BRAC properties, Superfund reform, other matters related to cleanup at closing military installations, and the DERTF's 1998 Report to Congress. The DERTF will also be briefed on the cleanup program at Williams Air Force Base, Arizona. The business meeting and hearing will be open to the public. Public witnesses desiring to speak before the DERTF should contact Shah Choudhury, Executive Secretary, and prepare a written statement that can be summarized orally before the DERTF at the time to be fixed for public witnesses. Written statements must be received by the close of business, December 19, 1997, at the Office of the Under Secretary of Defense (Environmental Security).

DATES: January 27, 1998; 9:30 a.m. to 8 p.m.; January 28, 1998; 9 a.m. to 4:30 p.m.; January 29, 1998; 9 a.m. to 3:30 p.m.

PUBLIC COMMENT PERIOD: A public comment period is scheduled for January 27, 1998, from 7:00 p.m. to 8:00 p.m., at the Arizona State University—East Campus in Mesa, Arizona.

ADDRESS OF MEETING SITE: The business meeting will be held in the Embassy Suites Hotel, 1515 N. 44th Street, Phoenix, AZ 85008.

FOR FURTHER INFORMATION CONTACT: Mr. Shah Choudhury, Executive Secretary, Office of the Deputy Under Secretary of Defense (Environmental Security), 3400 Defense Pentagon, Washington, DC 20301–3400; telephone (703) 697–7475; e-mail choudhsa@acq.osd.mil.

Dated: October 16, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–28094 Filed 10–22–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

Dates: 23 and 24 October 1997 (800 a.m. to 1600 p.m.).

Addresses: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340–5100.

For Further Information Contact: Maj Michael WE. Lamb, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

Supplementary Information: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: October 16, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 97–28093 Filed 10–22–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Public Law 94–409, notice is hereby given that a closed meeting of the DIA Scientific Advisory Board has been scheduled as follows:

Dates: November 4–5, 1997 (8 a.m. to 5 p.m.).

Addresses: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340–5100.

For Further Information Contact: Maj Michael W. Lamb, USAF, Executive Secretary, DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328 (202) 231–4930.

Supplementary Information: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters.

Dated: October 16, 1997.

L.M. Bynum,

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

[FR Doc. 97–28096 Filed 10–22–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

Defense Intelligence Agency, Science and Technology Advisory Board Closed Meeting

AGENCY: Department of Defense, Defense Intelligence Agency.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of Subsection (d) of Section 10 of Pub. L. 92–463, as amended by Section 5 of Pub. L. 94–409, notice is hereby given that a closed meeting of the DIA Science and Technology Advisory Board has been scheduled as follows:

Dates: November 3, 1997 (1 p.m. to 5 p.m).

Addresses: The Defense Intelligence Agency, Bolling AFB, Washington, D.C. 20340–5100.

For Further Information Contact: Maj Michael W. Lamb, USAF, Executive Secretariat , DIA Science and Technology Advisory Board, Washington, D.C. 20340–1328, (202) 231–4930.

Supplementary Information: The entire meeting is devoted to the discussion of classified information as defined in Section 552b(c)(I), Title 5 of the U.S. Code and therefore will be closed to the public. The Board will receive briefings on and discuss several current critical intelligence issues and advise the Director, DIA, on related scientific and technical matters

Dated: October 16, 1997.

L.M. Bynum,

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

[FR Doc. 97–28097 Filed 10–22–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Office of the Secretary

National Defense Panel Meeting

AGENCY: DoD, National Defense Panel.

ACTION: Notice.

SUMMARY: This notice sets forth the schedule and summary for agenda for the meeting of the National Defense Panel on October 27 and 28, 1997. In accordance with Section 10(d) of the Federal Advisory Committee Act, Public Law No. 92–463, as amended (5 U.S.C. App. II, (1982)), it has been determined that this National Defense Panel meeting concerns matters listed in 5 U.S.C. 552b(c)(1) (1982), and that accordingly this meeting will be closed to the public from 0900–1700, October 27 and 28, 1997 in order for the Panel to discuss classified material.

DATES: October 27 and 28, 1997.

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

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

Proposed Schedule and Agenda

The National Defense Panel will meet in closed session from 0900–1700 on October 27. The Panel will hear the NDP staff presentations on Status Updates of Issue Reviews and Report Status on Projects at the Crystal Mall 3 office. During the closed session on October 28 from 1300–1500, the National Defense Panel staff will meet with the Defense Reform Task Force at the Crystal Mall 3 office. The remainder of the Panel's time will be used to discuss the NDP staff presentations on various future strategies, desired capabilities, and developing force elements.

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

This Notification also is written verification that the Panel was unable to provide notice of this meeting 15 days prior to the date of the meeting, as a result of a delay in processing with OSD due to the federal holiday on October 13th.

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

Dated: October 17, 1997.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer Department of Defense.

[FR Doc. 97–28095 Filed 10–22–97; 8:45 am]

BILLING CODE 5000–04–M

DEPARTMENT OF DEFENSE

Defense Logistics Agency

Privacy Act of 1974; Notice of a Computer Matching Program Between the Small Business Administration and the Defense Manpower Data Center of the Department of Defense

AGENCY: Defense Manpower Data Center, Defense Logistics Agency, Department of Defense.

ACTION: Notice of a computer matching program between the Small Business

Administration (SBA) and the Department of Defense (DoD) for public comment.

SUMMARY: Subsection (e)(12) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a) requires agencies to publish advance notice of any proposed or revised computer matching program by the matching agency for public comment. The DoD, as the matching agency under the Privacy Act is hereby giving constructive notice in lieu of direct notice to the record subjects of a computer matching program between SBA and DoD that their records are being matched by computer. The record subjects are SBA delinquent debtors who may be current or former Federal employees receiving Federal salary or benefit payments and who are delinquent in their repayment of debts owed to the United States Government under programs administered by SBA so as to permit SBA to pursue and collect the debt by voluntary repayment or by administrative or salary offset procedures under the provisions of the Debt Collection Act of 1982.

DATES: This proposed action will become effective November 24, 1997 and the computer matching will proceed accordingly without further notice, unless comments are received which would result in a contrary determination or if the Office of Management and Budget or Congress objects thereto. Any public comment must be received before the effective date.

ADDRESSES: Any interested party may submit written comments to the Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502.

FOR FURTHER INFORMATION CONTACT: Mr. Aurelio Nepa, Jr. at telephone (703) 607–2943.

SUPPLEMENTARY INFORMATION: Pursuant to subsection (o) of the Privacy Act of 1974, as amended, (5 U.S.C. 552a), the DMDC and SBA have concluded an agreement to conduct a computer matching program between the agencies. The purpose of the match is to exchange personal data between the agencies for debt collection. The match will yield the identity and location of the debtors within the Federal government so that SBA can pursue recoupment of the debt by voluntary payment or by administrative or salary offset procedures. Computer matching appeared to be the most efficient and effective manner to accomplish this task with the least amount of intrusion of personal privacy of the individuals concerned. It was therefore concluded and agreed upon that computer matching would be the best and least obtrusive manner and choice for accomplishing this requirement.

A copy of the computer matching agreement between SBA and DMDC is available upon request to the public. Requests should be submitted to the address caption above or to the Deputy Director, Office of Borrower and Lending Service, Small Business Administration, 409 Third Street, SW, Suite 8300, Washington, DC 20416. Telephone 202–205–6481.

Set forth below is a public notice of the establishment of the computer matching program required by paragraph (e)(12) of the Privacy Act.

The matching agreement, as required by 5 U.S.C. 552a(r) of the Privacy Act, and an advance copy of this notice was submitted on October 7, 1997 to the Committee on Government Reform and Oversight of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget pursuant to paragraph 4d of Appendix I to OMB Circular No. A–130, 'Federal Agency Responsibilities for Maintaining Records about Individuals,' dated Febaruary 8, 1996 (61 FR 6435, February 20, 1996). The matching program is subject to review by OMB and Congress and shall not become effective until that review period of 40 days has elapsed.

Dated: October 14, 1997

L. M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NOTICE OF A COMPUTER MATCHING PROGRAM BETWEEN THE SMALL BUSINESS ADMINISTRATION AND THE DEPARTMENT OF DEFENSE FOR DEBT COLLECTION

A. *Participating Agencies:* Participants in this computer matching program are the Small Business Administration (SBA) and the Defense Manpower Data Center (DMDC) of the Department of Defense (DoD). The SBA is the source agency, i.e., the activity disclosing the records for the purpose of the match. The DMDC is the specific recipient activity or matching agency, i.e., the agency that actually performs the computer matching.

B. *Purpose of the match:* Upon the execution of this agreement, SBA will provide and disclose debtor records to DMDC to identify and locate any matched Federal personnel, employed or retired, who owe delinquent debts to the Federal Government under certain programs administered by SBA. SBA will use this information to initiate independent collection of those debts under the provisions of the Debt Collection Act of 1982 when voluntary payment is not forthcoming. These collection efforts will include requests by the SBA of the employing agency to apply administrative and/or salary offset procedures until such time as the obligation is paid in full.

C. *Authority for conducting the match:* The legal authority for conducting the matching program is contained in the Debt Collection Act of 1982 (Pub. L. 97–365), as amended by the Debt Collection Improvement Act of 1996 (Pub. L. 104–134, section 31001); 31 U.S.C. Chapter 37, Subchapter I (General) and Subchapter II (Claims of the United States Government); 31 U.S.C. 3711, Collection and Compromise; 31 U.S.C. 3716, Administrative Offset; 5 U.S.C. 5514, as amended, Installment Deduction for Indebtedness (Salary Offset); 10 U.S.C. 136, as amended, Under Secretary of Defense for Personnel and Readiness; 10 U.S.C. 138, as amended, Assistant Secretaries of Defense; section 101(l) of Executive Order 12731; 4 CFR Ch. II, Federal Claims Collection Standards (General Accounting Office - Department of Justice); 5 CFR 550.1101 - 550.1108 Collection by Offset from Indebted Government Employees (OPM); [**Note**: Insert Agency's CFR citation implementing 5 U.S.C. 5514(b)(1).]

D. *Records to be matched:* The systems of records described below ontain an appropriate routine use disclosure between the agencies of the information proposed in the match. The routine use provisions are compatible with the purpose for which the information was collected.

The SBA will use personal data from the Privacy Act record system identified as SBA 075, entitled, 'Loan Case File', last published in the **Federal Register** at 56 FR 8022 on February 26, 1991.

DMDC will use personal data from the record systems identified as S322.11 DMDC, entitled 'Federal Creditor Agency Debt Collection Data Base,' last published in the **Federal Register** at 61 FR 32779, June 25, 1996.

Sections 5 and 10 of the Debt Collection Act of 1982 (Public Law 97–365) authorize agencies to disclose information about debtors in order to effect salary or administrative offsets. Agencies must publish routine uses pursuant to subsection (b)(3) of the Privacy Act for those systems of records from which they intend to disclose this information. Sections 5 and 10 of the

Debt Collection Act will comprise the necessary authority to meet the Privacy Act's 'compatibility' condition.

E. *Description of Computer Matching Program:* SBA, as the source agency, will provide DMDC with an electronic file which contains the names of delinquent debtors in programs SBA administers. Upon receipt of the computer tape file of debtor accounts, DMDC will perform a computer match using all nine digits of the SSN of the SBA file against a DMDC computer database. The DMDC database, established under an interagency agreement between DOD, OPM, OMB, and the Department of the Treasury, consists of employment records of non-postal Federal employees and military members, active, and retired. Matching records ('hits'), based on the SSN, will produce the member's name, service or agency, category of employee, and current work or home address. The hits or matches will be furnished to SBA. SBA is responsible for verifying and determining that the data on the DMDC reply tape file are consistent with SBA's source file and for resolving any discrepancies or inconsistencies on an individual basis. SBA will also be responsible for making final determinations as to positive identification, amount of indebtedness and recovery efforts as a result of the match.

The electronic file tape provided by SBA will contain data elements of the debtor's name, SSN, internal account numbers and the total amount owed for eah debtor on approximately 10,000 delinquent debtors.

The DMDC computer database file contains approximately 10 million records of active duty and retired military members, including the Reserve and Guard, and the OPM government wide non-postal Federal civilian records of current and retired Federal employees.

F. *Inclusive dates of the Matching Program:* This computer matching program is subject to review by the Office of Management and Budget and Congress. If no objections are raised by either, and the mandatory 30 day public notice period for comment has expired for this **Federal Register** notice with no significant adverse public comments in receipt resulting in a contrary determination, then this computer matching program becomes effective and the respective agencies may begin the exchange of data 30 days after the date of this published notice at a mutually agreeable time and will be repeated annually. Under no circumstances shall the matching program be implemented before the 30 day public notice period for comment has elapsed as this time period cannot be waived. By agreement between SBA and DMDC, the matching program will be in effect and continue for 18 months with an option to renew for 12 additional months unless one of the parties to the agreement advises the other by written request to terminate or modify the agreement.

G. *Address for receipt of public coments or inquiries:* Director, Defense Privacy Office, Crystal Mall 4, Room 920, 1941 Jefferson Davis Highway, Arlington, VA 22202–4502. Telephone (703) 607–2943.

[FR Doc. 97–27643 Filed 10–22–97; 8:45 am]

BILLING CODE 5000–04–F

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Savannah River Site

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) notice is hereby given of the following Advisory Committee meeting: Environmental Management Site-Specific Advisory Board (EM SSAB), Savannah River Site.

Dates and Times:

Monday, November 17, 1997:
- 5:00 p.m.–6:30 p.m. (Issues-based Subcommittee Meetings)
- 6:30 p.m.–7:00 p.m. (Public Comment Session)
- 7:00 p.m.–9:00 p.m. (Special Meeting of the Full Board)

Tuesday, November 18, 1997: 8:30 a.m.–4:00 p.m.

Addresses:

The November 17, 1997, meetings will be held at:
- The First Baptist Church, 1803 Allen Street, Barnwell, South Carolina.

The November 18, 1997, meeting will be held at:
- Barnwell County State Park, Route 2, Highway 3, Blackville, South Carolina.

FOR FURTHER INFORMATION CONTACT: Gerri Flemming, Public Accountability Specialist, Environmental Restoration and Solid Waste Division, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802 (803) 725–5374.

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

Tentative Agenda

Monday, November 17, 1997

5:00 p.m. Issues-based subcommittee meetings
6:30 p.m. Public comment session (5-minute rule)
7:00 p.m. Special Meeting of Full Board (vote on draft motions presented in Sept.)
8:00 p.m. Adjourn

Tuesday, November 18 1997

8:30 a.m.
- Approval of minutes, agency updates (~15 minutes)
- Public comment session (5-minute rule) (~10 minutes)
- Nuclear materials management subcommittee (~1 hour 30 minutes)
- Administrative subcommittee report (~45 minutes)
- -Includes by-laws amendments proposal
- Risk management & future use subcommittee report (~30 minutes)
- Public comment session (5-minute rule) (~10 minutes)

12:00 p.m.
- Lunch

1:00 p.m.
- Public comment session (5-minute rule) (~10 minutes)
- Environmental restoration and waste management subcommittee report (~1 hour 30 minutes)
- Budget subcommittee report (~15 minutes)
- SSAB Chair trip report (~15 minutes)
- Facilitator update (~15 minutes)
- Public comment session (5-minute rule) (~10 minutes)

4:00 p.m. Adjourn

If necessary, time will be allotted after public comments for items added to the agenda, and administrative details. A final agenda will be available at the meetings on Monday, November 17, 1997, and Tuesday, November 18, 1997.

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

Minutes: The minutes of this meeting will be available for public review and copying at the Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585 between 9:00 a.m. and 4 p.m., Monday-Friday except Federal holidays. Minutes will also be available by writing to Gerri Flemming, Department of Energy Savannah River Operations Office, P.O. Box A, Aiken, S.C. 29802, or by calling her at (803) 725–5374.

Issued at Washington, DC on October 17, 1997.

Rachel Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–28155 Filed 10–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

National Electric and Magnetic Fields Advisory Committee

AGENCY: Department of Energy.

ACTION: Notice of open meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770), notice is hereby given of a meeting of the National Electric and Magnetic Fields Advisory Committee.

DATES: Thursday, November 13, 1997: 1:30 p.m.–4:45 p.m.; Friday, November 14, 1997: 9:00 a.m.–12:45 p.m.

ADDRESS: Maritime Museum, 1306 N. Harbor Drive, San Diego, CA 92101.

FOR FURTHER INFORMATION CONTACT: Dr. Imre Gyuk, EMF Program Manager, EE–14, Department of Energy, 1000 Independence Avenue, SW, Washington, DC 20585, (202) 586–1482.

SUPPLEMENTARY INFORMATION: Purpose of the Committee: The National Electric and Magnetic Fields Advisory Committee (NEMFAC) advises the Department of Energy and the National Institute of Environmental Health Sciences on the design and implementation of a five-year, national electric and magnetic fields (EMF) research and public information dissemination (RAPID) program. The Secretary of Energy, pursuant to Section 2118 of the Energy Policy Act of 1992, Pub. L. No.102–486, has overall responsibility for establishing the national program which includes health effects research, development of technologies to assess and manage exposures, and dissemination of information.

Tentative Agenda

Thursday, November 13, 1997

1:30 p.m Welcome and opening remarks
1:45 p.m. RAPID program budget status
2:00 p.m. National Cancer Institute childhood leukemia study and NIEHS meta-analysis
2:45 p.m. Status of RAPID health research
3:15 p.m. Break
3:40 p.m. Health research, continued
4:10 p.m. Discussion
4:45 p.m. Adjourn

Friday, November 14, 1997

9:00 a.m. Status of RAPID engineering research
9:20 a.m. Status of RAPID communication activities
9:35 a.m. Progress on science symposia and workshop
10:05 a.m. Break
10:45 a.m. NEMFAC business
11:45 a.m. Open time for public comments
12:45 p.m. Adjourn

A final agenda will be available at the meeting.

Public Participation: The meeting is open to the public. Written statements may be filed with the Committee either before or after the meeting. Members of the public who wish to make oral statements pertaining to agenda items should contact Dr. Gyuk at the address or telephone number listed above in the **FOR FURTHER INFORMATION CONTACT** section. Requests must be received 5 days prior to the meeting and reasonable provision will be made to include the presentation on the agenda. Depending on the number of requests, comments may be limited to five minutes. The Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business.

Transcript and Minutes: A transcript and minutes of this meeting will be available for public review and copying at the Department of Energy, Freedom of Information Public Reading Room, 1E–190, Forrestal Building, 1000 Independence Avenue, SW, Washington, DC 20585, between 9:00 a.m. and 4:00 p.m., Monday through Friday, except Federal holidays. Copies of the minutes will also be available by request.

Issued at Washington, DC, on October 17, 1997.

Rachel M. Samuel,

Deputy Advisory Committee Management Officer.

[FR Doc. 97–28156 Filed 10–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Bonneville Power Administration

Upper Grande Ronde Supplementation Program

AGENCY: Bonneville Power Administration (BPA), Department of Energy (DOE).

ACTION: Notice of Floodplain and Wetlands Involvement.

SUMMARY: This notice announces BPA's proposal to construct acclimation ponds for the Grande Ronde River spring chinook in floodplain and wetlands located in Union and Wallowa Counties, Oregon. A total of three acclimation sites would be developed in the Upper Grande River, the Lostine River and Catherine Creek tributaries within the Grande Ronde Subbasin of the Snake River Drainage in northeastern Oregon. It is the intent of the BPA, the Nez Perce Tribe, the Confederated Tribes of the Umatilla Indian Reservation, the Oregon Department of Fish and Wildlife, and the National Marine Fisheries Service to prevent the extinction and restore the population of the spring chinook within the tributaries.

In accordance with DOE regulations for compliance with floodplain and wetlands environmental review requirements, BPA will prepare a floodplain and wetlands assessment and would perform this proposed action in a manner so as to avoid or minimize potential harm to or within the affected floodplain and wetlands. The assessment will be included in the environmental assessment being prepared for the proposed project in accordance with the requirements of the National Environmental Policy Act. A floodplain statement of findings will be included in any finding of no significant impact that may be issued following the completion of the environmental assessment.

DATE: Comments are due to the address below no later than November 7, 1997.

ADDRESS: Submit comments to Communications, Bonneville Power Administration—ACS–7, P.O. Box 12999, Portland, Oregon 97212. Internet address: comment@bpa.gov.

FOR FURTHER INFORMATION, CONTACT: Kenneth C. Kirkman, EC–4, Bonneville Power Administration, P.O. Box 3621, Portland, Oregon, 97208–3621, phone number 503–230–5557, fax number 503–230–4089.

SUPPLEMENTARY INFORMATION: The juvenile spring chinook captive broodstock acclimation facilities most likely would be located on floodplains and/or wetlands because they need to be

constructed close to the stream or river banks to be able to utilize the rivers for a source of flow through water. The acclimation ponds will be constructed of metal and some earth work, cutting and filling, will be required; maybe a total of 140 cubic yards. The acclimation facilities are located at the following sites: (1) the Lostine River at T1S, R43E, Section 27 (Lostine, OR quad); (2) the Catherine Creek at the T5S, R 41E, Section 21 (Medical Springs, OR quad); and (3) the Upper Grande Ronde at T6S, R 36E, Section 5 (Limber Jim Creek, OR quad).

Maps and further information are available from BPA at the address above.

Issued in Portland, Oregon, on October 15, 1997.

Thomas C. McKinney,

NEPA Compliance Officer.

[FR Doc. 97–28157 Filed 10–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Energy Information Administration

Agency Information Collection Under Review by the Office of Management and Budget

AGENCY: Energy Information Administration, Department of Energy.

ACTION: Submission for OMB review; comment request.

SUMMARY: The Energy Information Administration (EIA) has submitted the energy information collection(s) listed at the end of this notice to the Office of Management and Budget (OMB) for review under provisions of the Paperwork Reduction Act of 1995 (Pub. L. 104–13). The listing does not include collections of information contained in new or revised regulations which are to be submitted under section 3507(d)(1)(A) of the Paperwork Reduction Act, nor management and procurement assistance requirements collected by the Department of Energy (DOE).

Each entry contains the following information: (1) collection number and title; (2) summary of the collection of information (includes sponsor (the DOE component)), current OMB document number (if applicable), type of request (new, revision, extension, or reinstatement); response obligation (mandatory, voluntary, or required to obtain or retain benefits); (3) a description of the need and proposed use of the information; (4) description of the likely respondents; and (5) estimate of total annual reporting burden (average hours per response x proposed frequency of response per year x estimated number of likely respondents.)

DATES: Comments must be filed within 30 days of publication of this notice. If you anticipate that you will be submitting comments but find it difficult to do so within the time allowed by this notice, you should advise the OMB DOE Desk Officer listed below of your intention to do so as soon as possible. The Desk Officer may be telephoned at (202) 395–3084. (Also, please notify the EIA contact listed below.)

ADDRESS: Address comments to the Department of Energy Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, 726 Jackson Place NW, Washington, D.C. 20503. (Comments should also be addressed to the Statistics and Methods Group at the address below.)

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be directed to Jay Casselberry, Statistics and Methods Group, (EI–70), Forrestal Building, U.S. Department of Energy, Washington, D.C. 20585. Mr. Casselberry may be telephoned at (202) 426–1116, FAX (202) 426–1081, or e-mail at Jay.Casselberry@eia.doe.gov.

SUPPLEMENTARY INFORMATION:

The energy information collections submitted to OMB for review were:

1. EIA–23, 23P, and 64A, ''Oil and Gas Reserves System Surveys.''

2. Energy Information Administration; 1905–0057; Extension with changes; Mandatory.

3. EIA's Oil and Gas Reserves System Surveys collect data used to estimate reserves of crude oil, natural gas, and natural gas liquids, and to determine the status and approximate levels of production. Data are published and are used by public and private analysts. Respondents are operators of oil wells, natural gas wells, and natural gas processing plants.

EIA proposes no substantive revision to the current forms. However, the original **Federal Register** notice did request comments on substantive changes to the Form EIA–23, ''Annual Survey of Domestic Oil and Gas Reserves.'' As a result of comments received and discussions with members of various trade associations it was decided to delay the implementation of the originally proposed changes until all the government organizations involved had the opportunity to revise their own programs, so that all Government agencies would have consistent definitions in place before EIA changed its reserves definitions and data collection process.

4. Business or other for-profit.

5. 107,084 hours (16.360 hours x 0.802 responses per year x 8161 respondents).

Statutory Authority: Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 (Pub. L. No. 104–13).

Issued in Washington, D.C., October 17, 1997.

Jay H. Casselberry,

Agency Clearance Officer, Statistics and Methods Group, Energy Information Administration.

[FR Doc. 97–28159 Filed 10–22–97; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–156–001]

Baltimore Gas and Electric Company; Notice of Filing

October 17, 1997.

Take notice that on August 15, 1997, Baltimore Gas and Electric Company (BGE) submitted a compliance filing in accordance with the requirements of FERC's July 31, 1997 Order in Allegheny Power System, Inc., et al., 80 FERC ¶61,143 (1997). Included in the filing is a revised Schedule 9, Real Power Losses, of BGE's Open Access Transmission Tariff, designated as FERC Electric Tariff, Original Volume No. 4.

Any person desiring to be heard or to protest such filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions and protests should be filed on or before October 27, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28049 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–97–002]

Chandeleur Pipe Line Company; Notice of Proposed Changes in FERC Gas Tariff

October 17, 1997.

Take notice on October 14, 1997, Chandeleur Pipe Line Company (Chandeleur) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, Second Substitute Seventh Revised Sheet No. 5, with an effective date of October 1, 1997.

Chandeleur states that the filing is being made to correct its September 12, 1997 filing. Chandeleur states that it is replacing one of the two maximum rate columns with the appropriate minimum rate column consistent with the effective Sixth Revised Sheet No. 5.

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. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. 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. 97–28108 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–15–000]

Columbia Gas Transmission Corporation; Notice of Request Under Blanket Authorization

October 17, 1997.

Take notice that on October 9, 1997, Columbia Gas Transmission Corporation (Columbia), 1700 MacCorkle Avenue, SE., Charleston, West Virginia 25314–1599, filed in the above docket, a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations, and Columbia's authorization in Docket No. CP83–76–000, for authorization to construct and operate the facilities necessary to establish ten additional points of delivery to existing customers for firm transportation service, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Specifically, Columbia proposes to construct and operate new points of delivery to Columbia Gas of Ohio (COH) in Medina County, Ohio; Lorain County, Ohio; and Richland County, Ohio, which will involve construction of interconnecting facilities located between Columbia's existing right-of-way to provide the service. COH will install a meter within Columbia's existing right-of-way to provide this service.

Columbia also proposes to construct and operate new points of delivery to Mountaineer Gas Company (MGC) in Marshall County, West Virginia; Kanawah County, West Virginia; Roane County, West Virginia; Mercer County, West Virginia; Clay County, West Virginia (two points of delivery); and in Upshur County, West Virginia, which will involve the construction of interconnecting facilities located on Columbia's existing right-of-way to provide this service. MGC will install a meter within Columbia's existing right-of-way to provide this service.

Columbia states that neither COH nor MGC have requested an increase in their peak day entitlements in conjunction with this request for these new points of delivery. Therefore, there is no impact of Columbia's peak day obligation to its other customers as a result of the establishment of the proposed new facilities.

Columbia states that the interconnecting facilities for each new point of delivery vary according to conditions encountered at each location; however, because the proposed points of delivery to COH and MGC relate to routine residential taps, the following facilities are representative of what will be installed at each location: a 4-inch by 1-inch tap saddle (depending on the size of the pipeline for each requested point); a 1-inch valve, nipple, and less than 20 feet of pipe on Columbia's existing right-of-way. Columbia indicates that COH and MGC will set the meter and regulator at each location.

Columbia states that the quantities to be provided through the new points of delivery will be within Columbia's authorized level of services. Therefore, there is no impact on its existing design day and annual obligations to the Customers as a result of the construction and operation of the new points of delivery for firm transportation service.

Columbia further states that it will comply with the environmental requirements of Section 157.206(d) of the Commission's regulations prior to the construction and operation of the proposed facilities.

Columbia estimated that the cost to install the new taps to be approximately $150 per tap and will be treated as an O&M expense.

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. 97–28035 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. GT97–65–001]

K N Interstate Gas Transmission Co.; Notice of Tariff Filing

October 17, 1997.

Take notice that on October 14, 1997, K N Interstate Gas Transmission Co. (KNI) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1–A, Substitute First Revised Sheet No. 2, the following revised tariff sheet, to be effective September 28, 1997:

Substitute First Revised Sheet No. 2

KNI states that the above referenced tariff sheet is being filed to correct a deletion of reference to the state of Nebraska within its Preliminary Statement. The reference to the state of Nebraska was in the Original Sheet No. 2 and should not have been taken out of the Preliminary Statement. KNI has submitted Substituted First Revised Sheet No. 2 to reinstate the include of the state of Nebraska as a place of doing business.

KNI states that copies of the filing were served upon KNI's jurisdictional customers, interested public bodies and all parties to the proceeding.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests must be filed as provided in Section 154.210 of the Commission's Regulations. 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. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28043 Filed 10–22–97; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT98–4–00]

K N Interstate Gas Transmission Co.; Notice of Tariff Filing

October 17, 1997.

Take notice that on October 14, 1997, K N Gas Transmission Company (KNI) tendered for filing as part of its FERC Gas Tariff, the following tariff sheets, to be effective November 14, 1997:

Third Revised Volume No. 1–B

First Revised Sheet No. 55

First Revised Volume No. 1–D

First Revised Sheet No. 48

KNI states that these tariff sheets are being filed pursuant to Section 154.204 of the Commission's regulations. KNI is submitting for filing and acceptance the above revised tariff sheet(s) and other information as required by the Commission's Orders issued on December 24, 1996 and August 6, 1997, in Docket No. MG96–13– et. al.

KNI states that copies of the filing were served upon KNI's jurisdictional customers, interested public bodies and all parties to the proceeding.

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–28047 Filed 10–22–97; 8:45 am]

BILLING CODE 6712–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MT98–3–000]

K N Wattenberg Transmission Limited Liability Co.; Notice of Tariff Filing

October 17, 1997.

Take notice that on October 14, 1997, K N Wattenberg Transmission L.L.C. (K N Wattenberg) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, First Revised Sheet No. 63, to be effective November 14, 1997.

K N Wattenberg states that these tariff sheets are being filed pursuant to section 154.204 of the Commission's regulations. K N Wattenberg is submitting for filing and acceptance the above revised tariff sheet(s) and other information as required by the Commission's Orders issued on December 24, 1996 and September 15, 1997, in Docket No. MG96–14 et. al.

K N Wattenberg states that copies of the filing were served upon K N Wattenberg's jurisdictional customers, interested public bodies and all parties to the proceeding.

Any person desiring to be heard or to make any protest with reference to this filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protest must be filed in accordance with Section 154.210 of the Commission's Regulations. All such 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 must file a petition to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28046 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–17–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

October 17, 1997.

Take notice that on October 9, 1997, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–17–000 a request pursuant to Sections 157.205, 157.211, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, 157.216) for approval to abandon three delivery taps and establish two new delivery taps, under the blanket certificate issued in Docket No. CP82–430–000 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.

Koch Gateway states that the certificate authorization for the construction and operation of the taps which Koch Gateway now seeks abandonment authorization was issued in FPC Docket No. G–232. Koch Gateway states that these taps are used for delivery of natural gas to end-users on behalf of Louisiana Gas Service Company (LGS) a local distribution Company, in St. Tammany Parish, Louisiana. Service will be continued to the affected end-users through new taps on an adjacent Koch Gateway pipeline. Koch Gateway asserts that LGC concurs with the proposed abandonment and tie-over measures.

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 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. 97–28036 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–19–000]

Koch Gateway Pipeline Company; Notice of Request Under Blanket Authorization

October 17, 1997.

Take notice that on October 9, 1997, Koch Gateway Pipeline Company (Koch Gateway), P.O. Box 1478, Houston, Texas 77251–1478, filed in Docket No. CP98–19–000 a request pursuant to Sections 157.205, 157.211, and 157.216 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205, 157.211, 157.216) for approval to abandon three delivery taps and establish new delivery taps, under the blanket certificate issued in Docket No. CP82–430–000 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.

Koch Gateway states that the certificate authorization for the construction and operation of the taps which Koch Gateway now seeks abandonment authorization was issued in FPC Docket No. G–232. Koch Gateway states that these taps are used for delivery of natural gas to end-users on behalf of Entex, Inc. (Entex) a local distribution Company, in St. Tammany Parish, Louisiana. Koch Gateway asserts that Entex concurs with the proposed abandonment and tie-over measures.

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. 97–28037 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–373–003]

Koch Gateway Pipeline Company; Notice of Proposed Changes in FERC Gas Tariff

Ocotober 17, 1997.

Take notice that on October 14, 1997, Koch Gateway Pipeline Company (Koch) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, to become effective December 1, 1997:

2nd Sub Third Revised Sheet No. 1501
Fourth Revised Sheet No. 1807

Koch states that it is submitting the above listed tariff sheets to correct certain omissions from the May 30, 1997, filing in this proceeding. Specifically, Koch states that it has revised Sections 8.3 and 11.4(c)(4) of the General Terms and Conditions to reflect the correct procedures applicable under zone based rates.

Koch states that it has served copies of the instant filing upon each person on the official service list compiled by the Secretary in this proceeding.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's rules and regulations. All such protests must be filed as provided by 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. 97–28053 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. MG98–1–000]

National Fuel Gas Supply Corporation; Notice of Filing

October 17, 1997.

Take notice that on October 10, 1997, National Fuel Gas Supply Corporation (National) filed revised standards of conduct under Order Nos. 497 *et al.*[1] and Order No. 566.[2]

National further states that copies of this filing were served upon its customers and interested state Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 or 214 of the Commission's Rules of Practice and Procedure, 18 CFR 385.211 or 385.214. All such motions to intervene or protest should be filed on or before November 3, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28045 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

[1] Order No. 497, 53 FR 22139 (June 14, 1988), III FERC Stats. & Regs. ¶ 30,820 (1988); Order No. 497–A, *order on rehearing,* 54 FR 52781 (December 22, 1989), III FERC Stats. & Regs. 30,868 (1989); Order No. 497–B, *order extending sunset date,* 55 FR 53291 (December 28, 1990), III FERC Stats. & Regs. ¶ 30,908 (1990); Order No. 497–C, *order extending sunset date,* 57 FR 9 (January 2, 1992), III FERC Stats. & Regs. ¶ 30,934 (1991), rehearing denied, 57 FR 5815 (February 18, 1992), 58 FERC ¶ 61,139 (1992); Tenneco Gas v. FERC (affirmed in part and remanded in part), 969 F. 2d 1187 (D.C. Cir. 1992); Order No. 497–D, *order on remand and extending sunset date,* III FERC Stats. & Regs. ¶ 30,958 (December 4, 1992), 57 FR 58978 (December 14, 1992); Order No. 497–E, *order rehearing and extending sunset date,* 59 FR 243 (January 4, 1994), 65 FERC ¶ 61,381 (December 23, 1993); Order No. 497–F, *order denying rehearing and granting clarification,* 59 FR 15336 (April 1, 1994), 66 FERC ¶ 61,347 (March 24, 1994); and Order No. 497–G, *order extending sunset date,* 59 FR 32884 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,996 (June 17, 1994).

[2] Standards of Conduct and Reporting Requirements for Transportation and Affiliate Transactions, Order No. 566, 59 FR 32885 (June 27, 1994), III FERC Stats. & Regs. ¶ 30,997 (June 17, 1994), Order No. 566–A, *order on rehearing,* 59 FR 52896 (October 20, 1994), 69 FERC ¶ 61,044 (October 14, 1994).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–20–000]

Natural Gas Pipeline Company of America; Notice of Application

October 17, 1997.

Take notice that on October 10, 1997, Natural Gas Pipeline Company of America (Natural), 701 East 22nd Street, Lombard, Illinois 60148–5072, filed an application pursuant to Section 7(b) of the Natural Gas Act for an order permitting the abandonment of its Buffalo Wallow Residue Lateral (Residue Lateral) and the related gathering facilities known as Gageby Creek, Washita Creek and Buffalo Wallow laterals (Gathering Facilities),[1] which consist of certificated and non-certificated facilities located in Hemphill and Wheeler Counties, Texas, by sale to American Processing, L.P. (American), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Natural is also requesting a determination that such facilities will be exempt from the Commission's jurisdiction following their transfer to American. Natural notes that American is not an affiliate. Natural states that the approximately 49 miles of pipe being sold varies in diameter from 3 to 16 inches. According to Natural, approximately 39 miles of this pipe has been certificated, while the remainder is not certificated. Natural notes that there is one non-certificated field booster station also being sold. Natural contends that American purchased the processing plant form Natural pursuant to a Purchase and Sale Agreement dated December 30, 1996 (Agreement). According to Natural, the Agreement also provides for the sale and transfer of the Residue Lateral and the Gathering Facilities to American.

Natural states that the Buffalo Wallow and Gageby Creek laterals operate at approximately 350 psig. Gas from these laterals is compressed by Booster Station 91 prior to being processed at Purification Plant No. 163 (PP163), which is the processing plant that Natural sold to American on December 30, 1996.[2] Gas from the Washita Creek lateral enters PP163 downstream of Booster Station 91 and, therefore, must operate at approximately 680 psig. The Residue Lateral operates at approximately 650 psig and free-flows into Natural's Oklahoma Extension in Wheeler County, Texas, which is a part of Natural's Amarillo Mainline System.

Natural notes that pursuant to prior rate cases filings, the Residue Lateral and the Gathering Facilities have been classified for rate purposes as transmission facilities, and Natural charges no separate gathering rate for services provided by means of the facilities. Therefore, Natural claims that there is no requirement to make an NGA Section 4 filing for ''termination of services.'' Natural notes that the purchase price for all of the facilities is $4,000,000. American paid a total of $3,200,000 to Natural on December 30, 1996. The remaining $800,000 will be paid to Natural when ownership of the Residue Lateral and the Gathering Facilities is transferred to American. According to Natural, the net book value of the certificated facilities was approximately $362,574 as of September 1, 1997.

Any person desiring to be heard or to make a protest with reference to said application should, on or before November 7, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission is filed within the time required herein, if the Commission on its own review of the matter finds that permission and approval for the proposed abandonment are required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–28107 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

[1] The Residue Lateral is located downstream of a processing plant owned by American, while the Gathering Facilities are located upstream of the processing plant.

[2] Natural contends that such plants are non-jurisdictional, and this plant was never certificated.

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–3401–001]

Northern States Power Company (Minnesota) and Northern States Power Company (Wisconsin); Notice of Filing

October 17, 1997.

Take notice that on August 27, 1997, Northern States Power Company tendered for filing its compliance filing in the above-referenced docket.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 29, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28042 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP90–2158–004]

Northwest Pipeline Corporation; Notice of Application To Amend Order

October 17, 1997.

Take notice that on October 10, 1997, Northwest Pipeline Corporation (Northwest), 295 Chipeta Way, Salt Lake City, Utah 84108, filed in Docket No. CP90–2158–004, an application under Sections 7 (b) and (c) of the Natural Gas

Act to amend its existing certificate and abandonment authorizations to grant a three-year extension beyond the currently authorized April 30, 1998 expiration date, until April 30, 2001, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northwest requests authorization for:

(1) A limited-term, partial abandonment of Northwest's Rate Schedule SGS–1 storage service for The Washington Water Power Company (Water Power), corresponding to a limited-term release of the Jackson Prairie storage capacity by Water Power to Cascade Natural Gas Corporation (Cascade); and

(2) A limited-term certificate of public convenience and necessity, with pregranted abandonment, authorizing Northwest to provide additional Rate Schedule SGS–1 storage service for Cascade in place of the temporarily abandoned SGS–1 service for Water Power.

Northwest states that under an agreement dated July 23, 1990 and amended April 28, 1995 (Release Agreement), Water Power released 480,000 Dth of storage capacity, 15,000 Dth per day of firm deliverability and 5,533 Dth per day of best-efforts deliverability to Cascade for a limited term expiring April 30, 1998. Northwest further states that consistent with the release, Northwest was authorized to correspondingly reduce its existing Rate Schedule SGS–1 storage service obligations to Water Power and to provide replacement Rate Schedule SGS–1 storage service to Cascade for a limited term expiring on April 30, 1998.

Northwest explains that Water Power and Cascade have agreed to extend the storage release for an additional three years pursuant to a July 30, 1997 amendment to the Release Agreement. Northwest states that superseding Rate Schedule SGS–1 storage service agreements have been executed with both Water Power and Cascade to reflect this three-year extension.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 1997, file with the Federal Energy Regulatory Commission, 888 First Street, NE, Washington, D.C. 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–28034 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–55–001]

Questar Pipeline Company; Notice of Tariff Filing

October 17, 1997.

Take notice that on October 14, 1997, Questar Pipeline Company, (Questar) tendered for filing, as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Eighth Revised Sheet No. 5A and Substitute Sixth Revised Sheet No. 6A, to be effective October 1, 1997.

Questar states that these tariff sheets are filed in compliance with the September 29, 1997, Order of the Director Accepting, Rejecting and Allowing Withdrawal of Tariff Sheets, in Docket No. TM98–1–55.

Questar states further that copies of this filing were served upon its customers, the Public Service Commission of Utah and the Wyoming Public Service Commission.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedure. All such protests should be filed in accordance with Section 154.210 of the Commission's Regulations. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28057 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–411–003]

Sea Robin Pipeline Company; Notice of Proposed Changes to FERC Gas Tariff

October 17, 1997.

Take notice that on October 14, 1997, Sea Robin Pipeline Company (Sea Robin) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the revised tariff sheets set forth on Appendix A to the filing.

Sea Robin has requested to place the tariff sheets into effect August 4, 1997.

On July 1, 1997, Sea Robin submitted a filing with the Commission in the above-captioned docket to create a new rate schedule on Sea Robin's system to provide a new, flexible firm service for any eligible shipper. Such new, firm service, Rate Schedule FTS–2, provides firm transportation at a volumetric rate provided that shippers maintain a throughput level of 80% of Maximum Daily Quantity (MDQ). In the Commission's ''Order Accepting and Suspending Tariff Sheets Subject to Conditions'' dated July 31, 1997, the Commission accepted Sea Robin's filing subject to certain conditions. Sea Robin made a compliance filing with the Commission on August 15, 1997. By Order dated September 26, 1997, the Commission accepted Sea Robin's compliance filing but required Sea Robin to place the tariff sheets into effect on August 4, 1997. This is the date Sea Robin filed a motion with the Commission to place the sheets into effect.

In addition, the Commission required Sea Robin to clarify the following to its tariff language in its new Rate Schedule FTS–2:

(i) That the priorities of service are the same for FTS shippers and FTS–2 shippers (Sheet No. 118);

(ii) To eliminate reference to the words ''at minimum'' when evaluating requests under Rate Schedule FTS–2 to determine net present value, if necessary, to allocate capacity (Sheet No. 130o);

(iii) To include references to Rate Schedule FTS–2 in order to incorporate the rate schedule into the General Terms and Conditions of the Tariff (Sheet Nos. 30a, 32 and 33).

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedures. 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. 97–28054 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–182–008]

South Georgia Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

October 17, 1997.

Take notice that on October 14, 1997, South Georgia Natural Gas Company (South Georgia) tendered for filing as part of its FERC Gas Tariff, Second Revised Volume No. 1, the following revised Tariff sheets in compliance with the Commission's letter order issued on June 24, 1997, in this docket, to become effective on November 1, 1997, except as otherwise noted:

Second Revised Sheet No. 13
Fourth Revised Sheet No. 15
First Revised Sheet No. 15a
Fourth Revised Sheet No. 16
Seventh Revised Sheet No. 32
Fifth Revised Sheet No. 33
Second Revised Sheet No. 45
Third Revised Sheet No. 46
Second Revised Sheet No. 98 (Effective August 1, 1997)
Third Revised Sheet No. 98
Original Sheet No. 98a

On June 24, 1997, the Commission issued an unpublished letter order conditionally approving South Georgia's tariff filing made in this proceeding on May 1, 1997, to comply with Order No. 587–C in Docket No. RM96–1–000 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow certain standardized business practices issued by the Gas Industry Standards Board (GISB) and adopted by the Commission in said order. The letter order required South Georgia to make minor modifications to its May 1 filing and to submit in October 1997 actual tariff sheets to implement the GISB standards effective November 1, 1997. Accordingly, South Georgia submits the above-listed Tariff sheets to comply with this order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedures. 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. 97–28052 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–137–010]

Southern Natural Gas Company; Notice of Proposed Changes to FERC Gas Tariff

October 17, 1997.

Take notice that on October 14, 1997, Southern Natural Gas Company (Southern) tendered for filing as part of its FERC Gas Tariff, Seventh Revised Volume No. 1, the following revised Tariff sheets in compliance with the Commission's letter order issued on June 24, 1997, in this docket, to become effective on November 1, 1997:

Fourth Revised Sheet No. 42
First Revised Sheet No. 53b
Third Revised Sheet No. 62
Third Revised Sheet No. 71
Fourth Revised Sheet No. 86
Second Revised Sheet No. 96
Fifth Revised Sheet No. 98
Original Sheet No. 98a
Sixth Revised Sheet No. 124
Fifth Revised Sheet No. 126
Second Revised Sheet No. 212h
Original Sheet No. 212i
Fifth Revised Sheet No. 236
Fifth Revised Sheet No. 237
Third Revised Sheet No. 249

On June 24, 1997, the Commission issued an unpublished letter order conditionally approving Southern's tariff filing made in this proceeding on May 1, 1997, to comply with Order No. 587–C in Docket No. RM96–1–000 which revised the Commission's regulations governing interstate natural gas pipelines to require such pipelines to follow certain standardized business practices issued by the Gas Industry Standards Board (GISB) and adopted by the Commission in said order. The letter order required Southern to make minor modifications to its May 1 filing and to submit in October 1997 actual tariff sheets to implement the GISB standards effective November 1, 1997. Accordingly, Southern submits the above-listed Tariff sheets to comply with this order.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules of Practice and Procedures. 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. 97–28051 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IN97–2–001]

Tennessee Gas Pipeline Company; Notice of Refund Report

October 17, 1997.

Take notice that on October 3, 1997, Tennessee Gas Pipeline Company (Tennessee) tendered for filing a refund report pursuant to a Stipulation and Consent Agreement approved by the Commission's August 7, 1997, order in Docket No. IN97–2–000.

Tennessee states that on September 2, 1997, it made refunds of $85,899 to ten shippers or their successors to resolve an investigation into the discounts Tennessee gave to its marketing affiliates. On September 12, 1997, Tennessee notified Enforcement Staff that the refund check of $3,968 for GasMark Ltd. was returned to Tennessee. Tennessee stated that it attempted to effectuate the refund to GasMark Ltd. Liquidating Trust, Inc., a trust that was established to liquidate the companies assets, but the Trust is no longer in operation.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed on or before October 24, 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. 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. 97–28044 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP98–16–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

October 17, 1997.

Take notice that on October 14, 1997, Tennessee Gas Pipeline Company (Tennessee), tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following revised tariff sheets, with an effective date of December 1, 1997:

Second Revised Sheet No. 95B
Second Revised Sheet No. 96
Second Revised Sheet No. 106
Fifth Revised Sheet No. 204
First Revised Sheet No. 361

Tennessee states that it is submitting these revised tariff sheets in order to effectuate changes to its tariff that would (i) tailor Tennessee's Maximum Allowed Volume (MAV) tariff provisions to provide for a more targeted approach to implementation of Unauthorized Overrun charges; (ii) allow for a greater tolerance for small volume customers who have minimal operational impact on Tennessee's system; (iii) increase the penalties to be assessed for MAV unauthorized overruns and for failure to comply with Operational Flow Orders (OFOs); and (iv) modify certain tariff provisions relating to firm and interruptible storage service.

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

Lois D. Cashell,

Secretary.

[FR Doc. 97–28056 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–25–000]

Texas Eastern Transmission Corporation; Notice of Request Under Blanket Authorization

October 17, 1997.

Take notice that on October 14, 1997, Texas Eastern Transmission Corporation (Texas Eastern), 5400 Westheimer Court, Houston, Texas 77056–5310, in Docket No. CP98–25–000, filed a request pursuant to Section 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to construct, own and operate a new point of delivery (Hershey Mills) in Chester County, Pennsylvania, under the authorization issued in Docket No. CP82–535–000 pursuant to Section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Texas Eastern proposes to construct and install one 8-inch tap on Texas Eastern's existing Line No. 1–H, at approximate Mile Post 10.07, so that Texas Eastern may provide natural gas deliveries to PECO Energy Company (PECO), an existing Texas Eastern customer. The proposed facilities will consist of an 8–inch tap valve, two 8-inch check valves and approximately 40 feet of 8-inch piping (Tap). Texas Eastern states that it will own, operate and maintain the Tap.

It is stated that PECO will construct and own the related meter station consisting of dual 8-inch turbine meters, dual 4-inch regulators, heat exchangers, odorant facilities and EGM (Meter Station). Texas Eastern states that it will operate and maintain the Meter Station.

Texas Eastern states that PECO will reimburse it for 100 percent of the costs and expenses that Texas Eastern will incur for installing the Tap. Such costs and expenses are estimated to be approximately $94,000.

The proposed facilities will allow Texas Eastern to deliver up to 45 MMcf/d to PECO at Hershey Mills under Texas Eastern's existing open access service agreements with PECO on file as part of Texas Eastern's FERC Gas Tariff, Sixth Revised Volume No. 1. Texas Eastern contends that its tariff does not prohibit the addition of this facility. Texas Eastern further states that the addition of the delivery point will have no effect on its peak day or annual deliveries. Texas Eastern submits that its proposal will be accomplished without detriment or disadvantage to Texas Eastern's other customers.

Texas Eastern states that the Hershey Mills delivery point proposed herein is currently part of the Joint Stipulation and Agreement in Docket Nos. RP96–265, *et al.* (Settlement) and proposed to be constructed in Docket No. CP97–276–000. Texas Eastern contends that it makes this filing at the request of PECO, one of the parties to receive service under the Settlement, so that PECO may utilize the Hershey Mills delivery point this winter heating season. It is stated that the design of the Hershey Mills delivery point proposed herein is the

same as proposed in the settlement. In addition, it is stated that the costs for the Hershey Mills delivery point are included in the cost of the facilities proposed in the Settlement. Texas Eastern states that PECO will reimburse Texas Eastern for 100 percent of the costs of the Hershey Mills delivery point through the Settlement rate once authorized. However, in the event that the Settlement does not become effective under its terms, Texas Eastern states that PECO will reimburse Texas Eastern directly for the costs of the Hershey Mills delivery point. Notwithstanding that the Hershey Mills delivery point proposed herein is part of the Settlement, Texas Eastern states that this filing does not amend, modify, alter or otherwise affect or disturb the terms and conditions of the Settlement as filed.

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. 97–28039 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97–490–001]

Trailblazer Pipeline Company; Notice of Compliance Filing

October 17, 1997.

Take notice that on October 14, 1997, Trailblazer Pipeline Company (Trailblazer) tendered for filing as part of its FERC Gas Tariff, Third Revised Volume No. 1, Substitute First Revised Sheet No. 112 and Original Sheet No. 112A, to be effective October 1, 1997.

Trailblazer states that the purpose of this filing is to comply with the Commission's order issued September 29, 1997 in Docket No. RP97–490–000, which required Trailblazer to clarify that when a constraint occurs on a secondary path, shippers utilizing within-the-primary-path secondary service shall have priority over shippers utilizing outside-the-primary-path secondary service.

Trailblazer states that copies of the filing have been mailed to its customers, interested state regulatory agencies and all parties on the official service list in Docket No. RP97–490–000.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules 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. 97–28055 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP98–21–000]

Transcontinental Gas Pipe Line Corporation; Notice of Request Under Blanket Authorization

October 17, 1997.

Take notice that on October 10, 1997, Transcontinental Gas Pipe Line Corporation (Transco). P.O. Box 1396, Houston, Texas 77251–1396, filed in Docket No. CP98–021–000 a request pursuant to Sections 157.205 and 157.211 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205 and 157.211) for authorization to construct, own and operate a new sales tap and for BASF Corporation (BASF), a manufacturer of chemicals and related products, under the blanket certificate issued in Docket No CP82–426–000, pursuant to Section 7(c) of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Transco proposes to install a 4-inch valve tap assembly, a meter station with a three-inch meter run and other appurtenant facilities at or near milepost 1157.89 on Transco's mainline in Anderson County, South Carolina. According to Transco, BASF proposes to construct or cause to be constructed, appurtenant facilities to enable it to receive gas from Transco and to move the gas to BASF's plant facilities. BASF will receive up to 4,000 Dth from Transco on a capacity release, secondary firm or interruptible basis at the new sales tap. BASF will use the gas as fuel for its plant. Transco states that BASF is not currently a transportation customer of Transco. According to Transco, BASF is currently being served by Piedmont Natural Gas Company, a local distribution company. Transco will provide transportation service to BASF pursuant to its Rate Schedules FT, FT–R or IT and Part 284(G) of the Commission's Regulations.

Transco asserts that the addition of the sales tap will have no significant impact on Transco's peak day or annual deliveries, and is not prohibited by Transco's FERC Gas Tariff. Transco estimates that the total costs of the proposed facilities to be approximately $221,000, which BASF will use Transco to be reimbursed for all costs associated with the proposed facilities. Transco claims that it will obtain the required environmental clearances prior to the commencement of construction.

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 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. 97–28038 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP97–92–001]

Transcontinental Gas Pipe Line Corporation; Notice of Site Visit

October 17, 1997.

On October 28, 1997, beginning at 2:00 p.m., the Office of Pipeline Regulation (OPR) staff will conduct a site inspection of the onshore facilities of Transcontinental Gas Pipe Line Corporation's Mobile Bay Lateral Extension and Expansion Project in Mobile County, Alabama. The first proposed facility to be visited will be compressor station 83, near the city of Citronelle. In the morning of the following day we will see the Coden area facilities.

All parties may attend. Those planning to attend must provide their own transportation and should meet the staff at the JR Food Mart in Citronelle at the intersection of Jefferies Highway (Route 96) and US 45.

For further information, please contact Paul McKee at (202) 208–1088.

Robert J. Cupina,

Deputy Director, Office of Pipeline Regulation.

[FR Doc. 97–28041 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TM98–1–126–001]

Tuscarora Gas Transmission Company; Notice of Compliance Filing

October 17, 1997.

Take notice that on October 15, 1997, Tuscarora Gas Transmission Company (Tuscarora) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 1, Sub First Revised Sheet No. 5, to become effective October 1, 1997.

Tuscarora states that the filing is being made in compliance with the Commission's Order dated September 29, 1997. Tuscarora asserts that the purpose of this filing is to eliminate the volumetric charge for capacity release from the IT rate sheet.

Tuscarora states that copies of this filing were mailed to all parties on the service list, customers of Tuscarora and interested state regulatory agencies.

Any person desiring to protest this filing should file a protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Section 385.211 of the Commission's Rules and Regulations. All such protests must be filed 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. 97–28109 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP90–1849–006]

The Washington Water Power Company; Notice of Application To Amend Order

October 17, 1997.

Take notice that on October 10, 1997, The Washington Water Power Company (Water Power), East 1411 Mission Avenue, Spokane, Washington 99202, filed in Docket No. CP90–1849–006, an application under Section 7 of the Natural Gas Act to amend its existing certificate to allow for the continuation, for a limited term, of the release of a portion of its Jackson Prairie Underground Storage Project deliverability and capacity to Cascade Natural Gas Corporation (Cascade), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Water Power states that it first entered into an Agreement dated July 23, 1990, entitled ''Release of Jackson Prairie Storage Capacity'' (Release Agreement) which called for the release by Water Power to Cascade of 150,000 therms per day of firm deliverability, 55,328 therms per day of best efforts deliverability, and 4,800,000 therms of seasonal capacity, for a five-year term ending on April 30, 1995. Water Power further states that the Commission issued an order on November 23, 1990, providing the necessary certificate and abandonment authority to Water Power and Northwest Pipeline Corporation, in order to effectuate the original release to Cascade (53 FERC ¶ 61,238).

Water Power explains that Water Power and Cascade sought to continue the release of the deliverability and capacity for an additional limited term expiring on April 30, 1998, with pregranted abandonment (First Amendment to the Release Agreement), with the same terms and conditions as were previously approved by the Commission. On October 16, 1995, the Commission issued an order in Docket No. CP90–1849–003 (73 FERC ¶ 61,080) amending the certificate to continue the release for a limited term.

Water Power states that Water Power and Cascade, by means of a Second Amendment to the Release Agreement, have elected to again continue the release of the deliverability and capacity for an additional three-year term expiring on April 30, 2001, with pregranted abandonment, with the same terms and conditions as were previously approved by the Commission. Water Power further states that this application simply seeks an amended certificate authority to allow this three-year extension to occur.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 7, 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 or 385.211) and the Regulations under the NGA (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by Sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be

unnecessary for Water Power to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28033 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. OA96–79–001]

Wisconsin Public Service Corporation; Notice of Filing

October 17, 1997.

Take notice that on August 15, 1997 Wisconsin Public Service Corporation tendered for filing revised indices of its service agreements under its open access transmission tariff pursuant to the Commission's order in Allegheny Power System, Inc., 80 FERC ¶ 61,143 (1997).

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before October 27, 1997. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28048 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–3–000, et al.]

Black Hills Corporation, et al.; Electric Rate and Corporate Regulation Filings

October 16, 1997.

Take notice that the following filings have been made with the Commission:

1. Black Hills Corporation

[Docket No. EC98–3–000]

Take notice that on October 9, 1997, Black Hills Corporation, which operates its electric utility under the assumed name of Black Hills Power and Light Company (BHC), pursuant to Section 203(a) of the Federal Power Act, 16 U.S.C. 824b, tendered for filing an application for an order authorizing BHC (I) to sell an undivided interest in the Yellow Creek-to-Osage 230 kV Addition (approximately 43.18 miles of 230 kV electric transmission line located in Lawrence County, South Dakota, referred to herein as the 230 kV Addition) to Basin Electric Power Cooperative (BEPC), a rural electric generation and transmission cooperative; and (ii) to sell an undivided interest in the Spearfish-to-Yellow Creek 69 kV Underbuild (approximately 5.7 miles of 69 kV electric transmission line underbuild located in Lawrence County, South Dakota, referred to herein as the 69 kV Underbuild) to Black Hills Electric Cooperative, Inc. (BHEC), and Butte Electric Power Cooperative, Inc. (BEC), both rural electric distribution cooperatives. The 230 kV Addition and the 69 kV Underbuild are new additions to BHC's 230 kV and 69 kV transmission systems which are used by BHC, BEPC, BHEC and BEC to serve their respective customers in the transmission area consisting of the Black Hills area of western South Dakota, the northeastern area of Wyoming and a small area in southeastern Montana.

BHC has requested that further notice be waived and the application be expedited.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Louisville Gas and Electric Company, LG&E Energy Marketing Inc., and Kentucky Utilities Company

[Docket Nos. EC98–2–000 and ER98–111–000]

Take notice that on October 9, 1997, Louisville Gas and Electric Company (LG&E) and LG&E Energy Marketing Inc. (LEM), on behalf of themselves and their non-utility parent holding company, LG&E Energy Corp. (LEC), and Kentucky Utilities Company (KU), on behalf of itself and its non-utility parent holding company, KU Energy Corporation (KEC) (LG&E, LEM and KU, being hereinafter referred to collectively as the Applicants), tendered for filing pursuant to Section 203 of the Federal Power Act (the FPA), 16 U.S.C. 824b, Part 33 of the Commission's Regulations, 18 CFR Part 33, and 18 CFR 2.26, an Application for an order approving the proposed merger of LG&E's non-utility holding company parent, LEC, with KU's non-utility holding company parent, KEC, and any consequent transfer of control over KU, LG&E, and LEM resulting from such merger.

Applicants state that pursuant to an Agreement and Plan of Merger dated as of May 20, 1997, KEC will merge into LEC, with LEC surviving the merger and KEC ceasing to exist. After consummation of the merger, KU will become, and LG&E and LEM will remain, wholly-owned subsidiaries of LEC. The merger will result in no sale, assignment, pledge, or transfer of LG&E's or LEM's public utility assets or franchises. Subject to Commission approval, at the time of the merger KU and LG&E will enter into: (1) A Power Supply System Agreement pursuant to which they will jointly dispatch their power supply resources, jointly plan for new generation, and establish the terms for intercompany exchanges of capacity and energy, and (2) a Transmission Coordination Agreement pursuant to which they will plan and operate their combined transmission facilities as a single integrated system. Simultaneous with this filing, the Applicants also filed with the Commission, pursuant to Section 205 of the FPA, a single system Open Access Transmission Tariff.

The Applicants state that they have submitted the information required by Part 33 of the Commission's Regulations, and by the Commission's Merger Policy Statement (Inquiry Concerning the Commission's Merger Policy Under the Federal Power Act; Policy Statement, Order No. 592, 61 FR 68,595 (1996), to be codified at 18 CFR 2.26), in support of the Application. The Applicants also represent that, as required by 18 CFR 33.6, copies of the Application and related testimony and exhibits have been served on each of the wholesale sales and firm transmission customers of LG&E and KU, and on the Kentucky Public Service Commission, the Virginia State Corporation Commission, and the Tennessee Regulatory Authority.

Comment date: December 8, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Brooklyn Navy Yard Cogeneration Partners, L.P.

[Docket No. EG98–3–000]

On October 8, 1997, Brooklyn Navy Yard Cogeneration Partners, L.P., 366 Madison Avenue, Suite 1103, New York, New York 10017, filed with the Federal Energy Regulatory Commission an application for determination of exempt wholesale generator status pursuant to section 32(a)(1) of the Public Utility Holding Company Act of 1935, as amended by section 711 of the Energy Policy Act of 1992.

The applicant is a corporation that will be engaged directly and exclusively in owning and operating an eligible facility in Brooklyn, New York. The facility consists of a 315 MW (net) topping-cycle cogeneration facility fueled primarily by natural gas. The facility includes such interconnection components as are necessary to interconnect the facility with the facilities of the applicant's wholesale customers. Applicant has previously been found to be an exempt wholesale generator. This filing requests a new determination of status, in light of applicant's intent to sell a small amount of the output of its facility to a power marketer for resale to applicant's steam host.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice. The Commission will limit its consideration of comments to those that concern the adequacy or accuracy of the application.

4. Toledo Edison Company

[Docket No. ER97–1517–000]

Take notice that on October 9, 1997, Toledo Edison Company tendered for filing an amendment in the above-referenced docket.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Consolidated Edison Company of New York, Inc.

[Docket No. ER97–2970–001]

Take notice that on October 8, 1997, Consolidated Edison Company of New York, Inc. (Con Edison), tendered for filing with the Commission, its Refund Report made in compliance with the Commission's Order issued September 8, 1997 in the above referenced docket.

Con Edison states that on October 7, 1997, a refund was sent to Valero Power Services Company. The refund included interest up, but not including, July 15, 1997 in accordance with the Order and Section 35.19A of the Commission's Regulations.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Pennsylvania Power & Light Company

[Docket No. ER97–3055–001]

Take notice that on August 1, 1997, Pennsylvania Power & Light Company tendered for filing its compliance filing in the above-referenced docket.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. New York State Electric & Corporation

[Docket No. ER97–4501–000]

Take notice that New York State Electric & Gas Corporation (NYSEG) on October 10, 1997, tendered for filing pursuant to Part 35 of the Federal Energy Regulatory Commission's Rules of Practice and Procedure, 18 CFR Part 35, a withdrawal of its request for a December 1, 1983, effective date for an amendment (the Amendment) to a power purchase agreement (PPA) between NYSEG and the Power Authority of the State of New York (NYPA) filed on August 19, 1997 in Docket No. ER97–4501–000. The Amendment effects a revision to Article 6 of the PPA, whereby bills will be rendered on or before the fifteenth day of the next succeeding month, and the payment due date shall be either (a) ten days after NYPA's receipt of the bill, or (b) the first banking day following the nineteenth of the month, whichever is later.

NYSEG hereby requests that the Amendment be given an effective date of October 20, 1997, which is sixty (60) days after the Amendment's August 19th filing date.

NYSEG has served copies of the filing upon the New York State Public Service Commission and the Power Authority of the State of New York.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Columbus Southern Power Company

[Docket No. ER97–4685–000]

Take notice that on September 19, 1997, Columbus Southern Power Company (CSP), tendered for filing with the Commission a Letter Agreement dated August 6, 1997, between CSP, Buckeye Power, Inc. (Buckeye), and South Central Power Cooperative (SCP). SCP is an Ohio electricity cooperative and a member of Buckeye Power, Inc.

SCP has requested CSP provide a new delivery point pursuant to provisions of the Power Delivery Agreement between CSP, Buckeye, The Cincinnati Gas & Electric Company, The Dayton Power and Light Company, Monongahela Power Company, Ohio Power Company and Toledo Edison Company, dated January 1, 1968.

CSP states that copies of its filing were served upon the South Central Power Cooperative, Buckeye Power, Inc., and the Public Utilities Commission of Ohio.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. New England Power Pool

[Docket No. ER97–4727–000]

Take notice that on September 22, 1997, the New England Power Pool tendered for filing two Service Agreements for Through or Out Service or Other Point-to-Point Transmission Service pursuant to the provisions of the NEPOOL Open Access Transmission Tariff.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Central Illinois Light Company

[Docket No. ER97–4756–000]

Take notice that on September 25, 1997, Central Illinois Light Company (CILCO), 300 Liberty Street, Peoria, Illinois 61602, tendered for filing with the Commission a substitute Index of Point-To-Point Transmission Service Customers under its Open Access Transmission Tariff and service agreements for three new customers, NYSEG-New York State Electric & Gas Corporation, Proliance Energy, LLC and Southern Energy Trading and Marketing, Inc.

CILCO requested an effective date of September 15, 1997.

Copies of the filing were served on the affected customers and the Illinois Commerce Commission.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. New York State Electric & Gas Corporation

[Docket No. ER97–4757–000]

Take notice that on September 25, 1997, New York State Electric & Gas Corporation (''NYSEG''), filed Service Agreements between NYSEG and Entergy Power Marketing Corporation and ProMark Energy, Inc. (''Customers''). These Service Agreements specify that the Customers have agreed to the rates, terms and conditions of the NYSEG open access transmission tariff filed and effective on June 11, 1997, in Docket No. OA97–571–000.

NYSEG requests waiver of the Commission's sixty-day notice requirements and an effective date of September 26, 1997 for the Service Agreements. NYSEG has served copies of the filing on The New York State Public Service Commission and on the Customer.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Duke Energy Corporation

[Docket No. ER97–4758–000]

Take notice that on September 26, 1997, Duke Power, a division of Duke Energy Corporation (''Duke''), tendered for filing Transmission Service Agreements between Duke, on its own behalf and acting as agent for its wholly-owned subsidiary, Nantahala Power and Light Company, and Duke Energy Trading & Marketing, LLC, dated as of August 28, 1997 (firm point-to-point transmission service); between Duke and NP Energy, Inc., dated as of August 28, 1997 (non-firm point-to-point transmission service); and between Duke and Oglethorpe Power Corporation, dated as of August 29, 1997 (non-firm transmission service). Duke requests that the TSAs be made effective as rate schedules as of August 29, 1997.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Duke Energy Corporation

[Docket No. ER97–4759–000]

Take notice that on September 26, 1997, Duke Power, a division of Duke Energy Corporation (''Duke''), tendered for filing Market Rate Service Agreements (the ''MRSAs'') between Duke and Delhi Energy Services, Inc., dated as of August 14, 1997, and between Duke and Western Resources, Inc., dated as of August 28, 1997. As of the September 1, 1997, the parties had not engaged in any transactions under the MRSAs. Duke requests that the MRSAs be made effective as of September 1, 1997.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Southern California Edison Company

[Docket No. ER97–4760–000]

Take notice that on September 25, 1997, Southern California Edison Company (Edison), tendered for filing a Memorandum of Understanding and revised transmission system capacity tables dated April 14, 1997, which affect or relate to the Mutual Assistance Transmission Agreement (MATA) between San Diego Gas & Electric Company (SDG&E), Arizona Public Service Company (APS), Imperial Irrigation District (IID), and Edison. Included in the filing were Certificates of Concurrence from SDG&E and APS.

Edison requests waiver of the Commission's 60-day notice requirement and an effective date of April 15, 1997.

Copies of this filing were served upon the Public Utilities Commission of the State of California and all interested parties.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Niagara Mohawk Power Corporation

[Docket No. ER97–4761–000]

Take notice that on September 25, 1997, Niagara Mohawk Power Corporation (''NMPC''), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Cinergy Operating Companies (The Cincinnati Gas & Electric Company and PSI Energy, Inc.). This Transmission Service Agreement specifies that Cinergy Operating Companies has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Cinergy Operating Companies to enter into separately scheduled transactions under which NMPC will provide transmission service for Cinergy Operating Companies as the parties may mutually agree.

NMPC requests an effective date of September 19, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Cinergy Operating Companies.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Wisconsin Electric Power Company

[Docket No. ER97–4762–000]

Take notice that on September 25, 1997, Wisconsin Electric Power Company (''Wisconsin Electric''), tendered for filing Transmission Service Agreements between itself and Southern Energy Trading and Marketing, Inc. (''Southern''). The Transmission Service Agreements allow Southern to receive short term firm and non-firm transmission services under Wisconsin Electric's FERC Electric Tariff, Volume No. 7, which is pending Commission acceptance in Docket No. OA97–578.

Wisconsin Electric requests an effective date coincident with its filing and waiver of the Commission's notice requirements in order to allow for economic transactions as they appear. Copies of the filing have been served on Southern, the Public Service Commission of Wisconsin and the Michigan Public Service Commission.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. New Century Services, Inc.

[Docket No. ER97–4763–000]

Take notice that on September 26, 1997, New Century Services, Inc., on behalf of Cheyenne Light, Fuel and Power Company, Public Service Company of Colorado, and Southwestern Public Service Company (collectively Companies) tendered for filing a Service Agreement under their Joint Open Access Transmission Service Tariff for Non-Firm Point-to-Point Transmission Service between the Companies and Williams Energy Services Company.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Southern Company Services, Inc.

[Docket No. ER97–4764–000]

Take notice that on September 26, 1997, Southern Company Services, Inc. (SCSI), acting on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company, Mississippi Power Company and Savannah Electric and Power Company (collectively referred to as Southern Company) filed two (2) service agreements under Southern Companies' Market-Based Rate Power Sales Tariff (FERC Electric Tariff, Original Volume No. 4) with the following entity: (I) AIG Trading Corporation; and (ii) Consumers Energy Company and the Detroit Edison Company. Southern Company states that the service agreements will enable it to engage in short-term market-based rate transactions with these entities.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. The Dayton Power and Light Company

[Docket No. ER97–4765–000]

Take notice that on September 26, 1997, The Dayton Power and Light Company (Dayton), submitted service agreements establishing e prime, USGen Power Services, L.P., as a customer under the terms of Dayton's Market-Based Sales Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of the filing were served upon e prime, USGen Power Services, L.P., and the Public Utilities Commission of Ohio.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

20. UtiliCorp United Inc.

[Docket No. ER97–4766–000]

Take notice that on September 26, 1997, UtiliCorp United Inc. (UtiliCorp), filed service agreements with Cinergy Services, Inc., for service under its non-firm point-to-point open access service tariff for its operating divisions, Missouri Public Service, WestPlains Energy-Kansas and WestPlains Energy-Colorado.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

21. Louisville Gas and Electric Company

[Docket No. ER97–4767–000]

Take notice that on September 26, 1997, Louisville Gas and Electric Company, tendered for filing copies of service agreements between Louisville Gas and Electric Company and Electric Clearinghouse, Inc., under Rate GSS.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

22. Consumers Energy Company

[Docket No. ER97–4768–000]

Take Notice that on September 26, 1997, Consumers Energy Company (Consumers), tendered for filing four service agreements for Non-Firm Point-to-Point Transmission Service pursuant to the Joint Open Access Transmission Tariff filed on December 31, 1996, by consumers and The Detroit Edison Company (Detroit Edison). The four transmission customers are WPS Energy Services, Inc., NP Energy Inc., New York State Electric & Gas Corporation and Public Service Electric and Gas Company.

A copy of the filing was served on the Michigan Public Service Commission, Detroit Edison and the four transmission customers.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

23. Virginia Electric and Power Company

[Docket No. ER97–4769–000]

Take notice that on September 22, 1997 and September 23, 1997, Virginia Electric and Power Company tendered for filing amendments to its FERC Electric Tariff, First Revised Volume No. 4, to preclude sales of electric energy and/or capacity for delivery to loads within its service territory. Virginia Power has requested waiver of notice to allow this amendment to become effective as of August 31, 1997.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

24. Ohio Valley Electric Corporation Indiana-Kentucky Electric Corporation

[Docket No. ER97–4770–000]

Take notice that on September 29, 1997, Ohio Valley Electric Corporation (including its wholly-owned subsidiary, Indiana-Kentucky Electric Corporation) (''OVEC'') tendered for filing a Service Agreement for Non-Firm Point-To-Point Transmission Service, dated September 11, 1997 (the ''Service Agreement'') between Public Service Electric and Gas Company (''PSE&G'') and OVEC. OVEC proposes an effective date of September 11, 1997 and requests waiver of the Commission's notice requirement to allow the requested effective date. The Service Agreement provides for non-firm transmission service by OVEC to PSE&G.

In its filing, OVEC states that the rates and charges included in the Service Agreement are the rates and charges set forth in OVEC's Open Access Transmission Tariff.

Copies of this filing were served upon New Jersey Board of Public Utilities and PSE&G.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

25. Pennsylvania Power & Light Company

[Docket No. ER97–4771–000]

Take notice that on September 29, 1997, Pennsylvania Power & Light Company (''PP&L''), filed a Service Agreement dated September 18, 1997 with Old Dominion Electric Cooperative (ODEC) under PP&L's FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds ODEC as an eligible customer under the Tariff. On October 3, 1997, PP&L also filed a Service Agreement dated September 18, 1997 with Old Dominion Electric Cooperative (ODEC) under PP&L's FERC Electric Tariff, Original Volume No. 5.

PP&L requests an effective date of September 29, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to ODEC and to the Pennsylvania Public Utility Commission.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

26. Pennsylvania Power & Light Company

[Docket No. ER97–4772–000]

Take Notice that on September 29, 1997, Pennsylvania Power & Light Company (''PP&L''), filed a Service Agreement dated May 27, 1997 with Entergy (Entergy) under PP&L's FERC Electric Tariff, Original Volume No. 1. The Service Agreement adds Entergy as an eligible customer under the Tariff.

PP&L requests an effective date of September 29, 1997, for the Service Agreement.

PP&L states that copies of this filing have been supplied to Entergy and to the Pennsylvania Public Utility Commission.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

27. Carolina Power & Light Company

[Docket No. ER97–4773–000]

Take notice that on September 29, 1997, Carolina Power & Light Company (CP&L), tendered for filing Service Agreements for Short-Term Firm and Non-Firm Point-to-Point Transmission Service executed between CP&L and Carolina Power & Light Company—Merchant Operations. Service provided to Merchant Operations will be in accordance with the terms and conditions of Carolina Power & Light Company's Open Access Transmission Tariff.

Copies of the filing were served upon the North Carolina Utilities Commission and the South Carolina Public Service Commission.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

28. Florida Power Corporation

[Docket No. ER97–4774–000]

Take notice that on September 29, 1997, Florida Power Corporation (Florida Power), tendered for filing a service agreement between The Energy Authority, Inc. and Florida Power for service under Florida Power's Market-Based Wholesale Power Sales Tariff (MR–1), FERC Electric Tariff, Original Volume Number 8. This Tariff was accepted for filing by the Commission on June 26, 1997, in Docket No. ER97–2846–000. The service agreement is proposed to be effective September 25, 1997.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

29. Central Hudson Gas and Electric Corporation

[Docket No. ER97–4775–000]

Take notice that on September 29, 1997, Central Hudson Gas and Electric Corporation (CHG&E), tendered for filing pursuant to § 35.12 of the Federal Energy Regulatory Commission's (Commission) Regulations in 18 CFR, a Service Agreement between CHG&E and New Energy Ventures, Inc. The terms and conditions of service under this Agreement are made pursuant to CHG&E's FERC Electric Rate Schedule, Original Volume 1 (Power Sales Tariff) accepted by the Commission in Docket No. ER97–890–000. CHG&E also has requested waiver of the 60-day notice provision pursuant to 18 CFR 35.11.

A copy of this filing has been served on the Public Service Commission of the State of New York.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

30. Cinergy Services, Inc.

[Docket No. ER97–4776–000]

Take notice that on September 29, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing on behalf of its operating companies, The Cincinnati Gas & Electric Company (CG&E) and PSI Energy, Inc. (PSI), an Interchange Agreement, dated August 1, 1997 between Cinergy, CG&E, PSI and Michigan South Central Power Agency (MSCPA).

The Interchange Agreement provides for the following service between Cinergy and MSCPA:

1. Exhibit A—Power Sales by MSCPA
2. Exhibit B—Power Sales by Cinergy

Cinergy and MSCPA have requested an effective date of one day after this initial filing of the Interchange Agreement.

Copies of the filing were served on Michigan South Central Power Agency, Michigan Public Service Commission, the Kentucky Public Service Commission, the Public Utilities Commission of Ohio and the Indiana Utility Regulatory Commission.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

31. Cinergy Services, Inc.

[Docket No. ER97–4777–000]

Take notice that on September 29, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Open Access Transmission Service Tariff (the Tariff) entered into between Cinergy and USGen Power Services, L.P. (USGen).

Cinergy and USGen are requesting an effective date of September 1, 1997.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

32. Cinergy Services, Inc., The Cincinnati Gas & Electric Company and PSI Energy, Inc.

[Docket No. ER98–3–000]

Take notice that on October 1, 1997, Cinergy Services, Inc. (Cinergy), on behalf of The Cincinnati Gas & Electric Company and PSI Energy, Inc., filed a Firm Power Purchase Agreement with Indianapolis Power & Light Company (IPL).

A copy of this filing has been served upon IPL and the Indiana Utility Regulatory Commission.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

33. Enron Power Marketing Inc.

[Docket No. ER98–33–000]

Take notice that on October 3, 1997, Enron Power Marketing Inc. (EPMI), submitted a Rate Schedule for Sale, Assignment, or Transfer of Transmission Rights (Rate Schedule). The Rate Schedule will allow EPMI to resell transmission rights in accordance with Order Nos. 888 and 888–A.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

34. PJM Interconnection, L.L.C.

[Docket No. ER98–41–000]

Take notice that on October 6, 1997, PJM Interconnection, L.L.C. (PJM), tendered for filing executed Service Agreements For Network Integration Transmission Service for the Pennsylvania Retail Electric Competition Pilot for Metropolitan Edison Company, Pennsylvania Electric Company, PECO Energy Company, and PP&L, Inc.

Copies of this filing were served upon Metropolitan Edison Company, Pennsylvania Electric Company, PECO Energy Company, PP&L, Inc., and the Pennsylvania Public Utility Commission.

PJM requests an effective date of November 1, 1997, for the service agreements.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28111 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER97–4750–000, et al.]

Northern Indiana Public Service Company, et al.; Electric Rate and Corporate Regulation Filings

October 15, 1997.

Take notice that the following filings have been made with the Commission:

1. Northern Indiana Public Service Company

[Docket No. ER97–4750–000]

Take notice that on September 25, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and ProLiance Energy, LLC.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to ProLiance Energy, LLC, pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of September 1, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. Entergy Services, Inc.

[Docket No. ER97–4740–000]

Take notice that on September 25, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Florida Power Corporation.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. Northern Indiana Public Service Company

[Docket No. ER97–4741–000]

Take notice that on September 25, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Southern Company Services, Inc.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Southern Company Services, Inc., pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of September 1, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Northern Indiana Public Service Company

[Docket No. ER97–4742–000]

Take notice that on September 25, 1997, Northern Indiana

Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and Public Service Electric and Gas Company.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to Public Service Electric and Gas Company pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of September 1, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Northern Indiana Public Service Company

[Docket No. ER97–4743–000]

Take notice that on September 25, 1997, Northern Indiana Public Services Company (Northern), filed a Service Agreement pursuant to its Power Sales Tariff with Madison Gas and Electric Company.

Copies of this filing have been sent to Madison Gas and Electric Company, to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. Northern Indiana Public Service Company

[Docket No. ER97–4744–000]

Take notice that on September 25, 1997, Northern Indiana Public Services Company (Northern), filed a Service Agreement pursuant to its Power Sales Tariff with Southern Company Services, Inc.

Copies of this filing have been sent to Southern Company Services, Inc., to the Indiana Utility Regulatory Commission, and to the Indiana Office of Utility Consumer Counselor.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. Great Bay Power Corporation

[Docket No. ER97–4746–000]

Take notice that on September 25, 1997, Great Bay Power Corporation (Great Bay), tendered for filing a service agreement between Tractebel Energy Marketing, Inc., and Great Bay for service under Great Bay's revised Tariff for Short Term Sales. This Tariff was accepted for filing by the Commission on May 17, 1996, in Docket No. ER96–726–000. The service agreement is proposed to be effective September 15, 1997.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Entergy Services, Inc.

[Docket No. ER97–4747–000]

Take notice that on September 25, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Oklahoma Gas and Electric Company.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Entergy Services, Inc.

[Docket No. ER97–4748–000]

Take notice that on September 25, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Western Farmers Electric Cooperative.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Northern Indiana Public Service Company

[Docket No. ER97–4749–000]

Take notice that on September 25, 1997, Northern Indiana Public Service Company, tendered for filing an executed Standard Transmission Service Agreement for Non-Firm Point-to-Point Transmission Service between Northern Indiana Public Service Company and AIG Trading Corporation.

Under the Transmission Service Agreement, Northern Indiana Public Service Company will provide Point-to-Point Transmission Service to AIG Trading Corporation pursuant to the Transmission Service Tariff filed by Northern Indiana Public Service Company in Docket No. OA96–47–000 and allowed to become effective by the Commission. Northern Indiana Public Service Company has requested that the Service Agreement be allowed to become effective as of September 1, 1997.

Copies of this filing have been sent to the Indiana Utility Regulatory

Commission and the Indiana Office of Utility Consumer Counselor.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Entergy Services, Inc.

[Docket No. ER97–4751–000]

Take notice that on September 25, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Oklahoma Gas and Electric Company.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Entergy Services, Inc.

[Docket No. ER97–4752–000]

Take notice that on September 25, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Short-Term Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and Florida Power Corporation.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. Entergy Services, Inc.

[Docket No. ER97–4753–000]

Take notice that on September 25, 1997, Entergy Services, Inc. (Entergy Services), on behalf of Entergy Arkansas, Inc., Entergy Gulf States, Inc., Entergy Louisiana, Inc., Entergy Mississippi, Inc., and Entergy New Orleans, Inc. (collectively, the Entergy Operating Companies), tendered for filing a Non-Firm Point-To-Point Transmission Service Agreement between Entergy Services, as agent for the Entergy Operating Companies, and e prime, Inc.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. The Dayton Power and Light Co.

[Docket No. ER97–4754–000]

Take notice that on September 25, 1997, The Dayton Power and Light Company (Dayton), submitted a service agreement establishing Dayton as a customer under the terms of Santee Cooper's Open Access Transmission Tariff.

Dayton requests an effective date of one day subsequent to this filing for the service agreements. Accordingly, Dayton requests waiver of the Commission's notice requirements. Copies of this filing were served upon Santee Cooper and the Public Utilities Commission of Ohio.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Wisconsin Power and Light Company

[Docket No. ER97–4755–000]

Take notice that on September 25, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing Form Of Service Agreement for Non-Firm Point-to-Point Transmission Service and a Form of Service Agreement for Firm Point-to-Point Transmission Service establishing Virginia Power as a point-to-point transmission customer under the terms of WP&L's transmission tariff.

WP&L requests an effective date of September 9, 1997, and; accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Lyon Rural Electric Cooperative

[Docket No. ER97–4813–000]

Take notice that on September 30, 1997, Lyon Rural Electric Cooperative (Lyon) submitted for filing its Amended Agreement for Purchase of Power and Maintenance of System Between Lyon Rural Electric Cooperative and Town of Larchwood, Iowa (Agreement) pursuant to § 205 of the Federal Power Act (FPA), 16 U.S.C. § 824d, and § 35.12 of the Regulations of the Federal Energy Regulatory Commission, 18 CFR 35.12. Lyon's filing is available for public inspection at its offices in Rock Rapids, Iowa.

Lyon requests that the Commission accept the Agreement with an effective date of November 20, 1997.

Comment date: October 29, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Edison Sault Electric Company

[Docket No. ES97–47–000]

Take notice that on September 30, 1997, Edison Sault Electric Company (Edison Sault) filed an application, under § 204 of the Federal Power Act, seeking authorization to issue (i) not more than $10 million of unsecured short-term notes during the period January 1, 1998 through December 31, 2000, and (ii) not more than $4 million of unsecured debt under a loan agreement, with a final maturity date not later than December 31, 1999.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28110 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EC98–4–000, et al.]

SEMASS Partnership, et al.; Electric Rate and Corporate Regulation Filings

October 17, 1997.

Take notice that the following filings have been made with the Commission:

1. SEMASS Partnership, American Ref-Fuel Company of SEMASS, L.P., Air Products Ref-Fuel of SEMASS, Inc., Air Products Ref-Fuel Operations of SEMASS, Inc., Duke/UAE Ref-Fuel LLC, Duke/UAE of SEMASS, LLC, Duke/UAE Operations of SEMASS, LLC

[Docket No. EC98–4–000]

Take notice that SEMASS Partnership, Air Products Ref-Fuel of SEMASS, Inc., Air Products Ref-Fuel Operations of SEMASS, Inc., Duke/UAE Ref-Fuel LLC, Duke/UAE Operations of SEMASS, LLC, Duke/UAE SEMASS, LLC, and American Ref-Fuel Company of SEMASS, L.P. on October 14, 1997

tendered for filing a request that the Commission approve a disposition of facilities under Section 203 of the Federal Power Act in connection with a proposed sale of the indirect interests held in SEMASS by Air Products Ref-Fuel of SEMASS, Inc. and Air Products Ref-Fuel Operations of SEMASS, Inc.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

2. American Ref-fuel Company of Hempstead, Air Products Ref-fuel of Hempstead, Inc., Duke/UAE Ref-Fuel LLC, Duke/UAE Hempstead LLC

[Docket No. EC98–5–000]

Take notice that American Ref-fuel Company of Hempstead, Air Products Ref-fuel of Hempstead, Inc., Duke/UAE Ref-Fuel LLC, and Duke/UAE Hempstead LLC on October 14, 1997 tendered for filing a request that the Commission approve a disposition of facilities under Section 203 of the Federal Power Act in connection with a proposed sale of the interest held in American Ref-fuel Company of Hempstead by Air Products Ref-fuel of Hempstead, Inc. to Duke/UAE Hempstead LLC.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

3. American Ref-fuel Company of Essex County, Air Products Ref-fuel of Essex County, Inc., Duke/UAE Ref-Fuel LLC, Duke/UAE Essex LLC

[Docket No. EC98–6–000]

Take notice that American Ref-fuel Company of Essex County, Air Products Ref-fuel of Essex County, Inc., Duke/UAE Ref-Fuel LLC, and Duke/UAE Essex LLC, on October 14, 1997, tendered for filing a request that the Commission approve a disposition of facilities under Section 203 of the Federal Power Act in connection with a proposed sale of the interest held in American Ref-fuel Company of Essex County by Air Products Ref-fuel of Essex County, Inc. to Duke/UAE Essex LLC.

Comment date: November 13, 1997, in accordance with Standard Paragraph E at the end of this notice.

4. Idaho Power Company

[Docket No. ER97–4778–000]

Take notice that on September 29, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission an Agreement for the Sale and Purchase of Firm Capacity and Associated Energy Between Idaho Power Company and Oregon Trail Electric Consumers Cooperative, Inc.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

5. Cinergy Services, Inc.

[Docket No. ER97–4779–000]

Take notice that on September 29, 1997, Cinergy Services, Inc. (Cinergy), tendered for filing a service agreement under Cinergy's Power Sales Standard Tariff (the Tariff) entered into between Cinergy and Northeast Utilities Service Company (NU).

Cinergy and NU are requesting an effective date of September 30, 1997.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

6. The Detroit Edison Company

[Docket No. ER97–4780–000]

Take notice that on September 29, 1997, The Detroit Edison Company (''Detroit Edison''), tendered for filing Service Agreements for wholesale power sales transactions (the ''Service Agreements'') under Detroit Edison's Wholesale Power Sales Tariff (WPS–2), FERC Electric Tariff No. 3 (the ''WPS–2 Tariff''), between Detroit Edison and Aquila Power Corporation, dated as of September 4, 1997; between Detroit Edison and Market Responsive Energy, Inc., dated as of September 4, 1997; between Detroit Edison and NorAm Energy Services, Inc., dated as of September 4, 1997; and between Detroit Edison and PacifiCorp Power Marketing, Inc., dated as of September 8, 1997. Detroit Edison requests that the Service Agreements with Aquila Power Corporation, Market Responsive Energy, Inc., and NorAm Energy Services, Inc., be made effective as of September 4, 1997. Detroit Edison requests that the Service Agreement with PacifiCorp Power Marketing, Inc., be made effective as of September 8, 1997.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

7. The Detroit Edison Company

[Docket No. ER97–4781–000]

Take notice that on September 29, 1997, The Detroit Edison Company (''Detroit Edison''), tendered for filing Service Agreements for wholesale power sales transactions (the ''Service Agreements'') under Detroit Edison's Wholesale Power Sales Tariff (WPS–1), FERC Electric Tariff No. 4 (the ''WPS–1 Tariff''), between Detroit Edison and Aquila Power Corporation, dated as of September 4, 1997, and between Detroit Edison and Market Responsive Energy, Inc., dated as of September 4, 1997. Detroit Edison requests that the Service Agreements be made effective as of September 4, 1997.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

8. Niagara Mohawk Power Corporation

[Docket No. ER97–4782–000]

Take notice that on September 29, 1997, Niagara Mohawk Power Corporation (''NMPC''), tendered for filing with the Federal Energy Regulatory Commission an executed Transmission Service Agreement between NMPC and Entergy Power Marketing Corp. This Transmission Service Agreement specifies that Entergy Power Marketing Corp. has signed on to and has agreed to the terms and conditions of NMPC's Open Access Transmission Tariff as filed in Docket No. OA96–194–000. This Tariff, filed with FERC on July 9, 1996, will allow NMPC and Entergy Power Marketing Corp. to enter into separately scheduled transactions under which NMPC will provide transmission service for Entergy Power Marketing Corp. as the parties may mutually agree.

NMPC requests an effective date of September 24, 1997. NMPC has requested waiver of the notice requirements for good cause shown.

NMPC has served copies of the filing upon the New York State Public Service Commission and Entergy Power Marketing Corp.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

9. Idaho Power Company

[Docket No. ER97–4783–000]

Take notice that on September 26, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a letter to Lois Cashell requesting an extension of deadline regarding the Agreement for Supply of Power to the City of Weiser, Idaho between Idaho Power Company and the City of Weiser, Idaho.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

10. Wisconsin Power and Light Company

[Docket No. ER97–4784–000]

Take notice that on September 26, 1997, Wisconsin Power and Light Company (WP&L), tendered for filing Form Of Service Agreement for Firm Point-to-Point Transmission Service and Form Of Service Agreement for Non-Firm Point-to-Point Transmission Service establishing New York State Electric & Gas Corporation as a point-to-

point transmission customer under the terms of WP&L's transmission tariff.

WP&L requests an effective date of September 9, 1997, and; accordingly, seeks waiver of the Commission's notice requirements. A copy of this filing has been served upon the Public Service Commission of Wisconsin.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

11. Idaho Power Company

[Docket No. ER97–4785–000]

Take notice that on September 26, 1997, Idaho Power Company (IPC), tendered for filing with the Federal Energy Regulatory Commission a Second Amendment to the Agreement for the Sale and Purchase of Capacity and Energy Between Idaho Power Company and Oregon Trail Electric Consumers Cooperative, Inc.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

12. Allegheny Power Service Corporation on behalf of Monongahela Power Company, The Potomac Edison Company, West Penn Power Company (Allegheny Power)

[Docket No. ER97–4786–000]

Take notice that on September 25, 1997, Monongahela Power Company, The Potomac Edison Company and West Penn Power Company (Allegheny Power) filed a revision of Attachment, Methodology to Access Available Transmission Capability for Allegheny Power's Open Access Transmission Tariff to add additional language as requested by Staff.

Copies of the filing have been provided to the Public Utilities Commission of Ohio, the Pennsylvania Public Utility Commission, the Maryland Public Service Commission, the Virginia State Corporation Commission, the West Virginia Public Service Commission, and all affected parties.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

13. High Island Marketing, Inc.

[Docket No. ER97–4787–000]

Take notice that on September 29, 1997, High Island Marketing, Inc. (''High Island'') applied to the Commission for acceptance of High Island Rate Schedule FERC No. 1; the granting of certain blanket approvals, including the authority to sell electricity at market-based rates; and the waiver of certain Commission regulations.

High Island intends to engage in wholesale electric power and energy purchases and sales as a marketer.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

14. Washington Water Power

[Docket No. ER97–4788–000]

Take notice that on September 29, 1997, Washington Water Power, tendered for filing with the Federal Energy Regulatory Commission pursuant to 18 CFR 35.13, executed Service Agreements and Certificates of Concurrence under WWP's FERC Electric Tariff First Revised Volume No. 9, with Cook Inlet Energy Supply, LP and Utah Municipal Power Agency. WWP requests waiver of the prior notice requirement and requests an effective date of September 1, 1997.

Also tendered for filing are Certificates of Concurrence for E Prime, Inc. and Tractebel Energy Marketing, Inc. for which Service Agreements were filed January 14, 1997 and February 26, 1997, respectively.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

15. Illinois Power Company

[Docket No. ER97–4789–000]

Take notice that on September 29, 1997, Illinois Power Company (''Illinois Power''), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Granite City Steel, Division of National Steel Corporation will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 20, 1997.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

16. Illinois Power Company

[Docket No. ER97–4790–000]

Take notice that on September 29, 1997, Illinois Power Company (''Illinois Power''), 500 South 27th Street, Decatur, Illinois 62526, tendered for filing firm transmission agreements under which Caterpillar Inc. will take transmission service pursuant to its open access transmission tariff. The agreements are based on the Form of Service Agreement in Illinois Power's tariff.

Illinois Power has requested an effective date of September 19, 1997.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

17. Texas Utilities Electric Company

[Docket No. ER97–4791–000]

Take notice that on September 29, 1997, Texas Utilities Electric Company (TU Electric), tendered for filing an executed transmission service agreement (TSA) with Tenaska Power Services Company for certain Economy Energy Transmission Service transactions under TU Electric's Tariff for Transmission Service To, From and Over Certain HVDC Interconnections.

TU Electric requests an effective date for the TSA that will permit it to become effective on or before the service commencement date under the TSA. Accordingly, TU Electric seeks waiver of the Commission's notice requirements. Copies of the filing were served on Tenaska Power Services Company, as well as the Public Utility Commission of Texas.

Comment date: October 31, 1997, in accordance with Standard Paragraph E at the end of this notice.

18. Fall River Rural Electric Cooperative, Inc.

[Docket No. ES98–1–000]

Take notice that on October 8, 1997, Fall River Rural Electric Cooperative, Inc. (Fall River) filed an application pursuant to section 204 of the Federal Power Act for authorization to issue a promissory note in the amount of $11,735,000 to National Rural Utilities Cooperative Finance Corporation.

Comment date: November 7, 1997, in accordance with Standard Paragraph E at the end of this notice.

19. Lyon Rural Electric Cooperative

[Docket No. OA97–723–000]

Take notice that on September 30, 1997, Lyon Rural Electric Cooperative (Lyon) filed a request for waiver of the requirements of Order No. 888 and Order No. 889 pursuant to 18 CFR 35.28(d) of the Federal Energy Regulatory Commission's (Commission) Regulations. Lyon's filing is available for public inspection at its offices in Rock Rapids, Iowa.

Comment date: October 30, 1997, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 888 First Street, N.E., Washington, D.C. 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 18 CFR 385.214). All such motions or protests should be filed on or before

the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28113 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–U

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2663–004]

Minnesota Power & Light Company; Notice of Availability of Draft Environmental Assessment

October 17, 1997.

In accordance with the National Environmental Policy Act of 1969 and the Federal Energy Regulatory Commission's (Commission) regulations, 18 CFR Part 380 (Order No. 486, 52 FR 47897), the Office of Hydropower Licensing has reviewed the application for a new license for the Pillager Hydroelectric Project, located on the Crow Wing River in Cass and Morrison Counties, Minnesota, and has prepared a Draft Environmental Assessment (DEA) for the project.

Copies of the DEA are available for inspection at the Public Reference Branch, Room 2–A, of the Commission's offices at 888 First Street, NE., Washington, D.C. 20426.

Any comments should be filed within 30 days from the date of this notice and should be addressed to Lois D. Cashell, Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, D.C. 20426. For further information, contact Chris Metcalf at (202) 219–2810.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28050 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PL98–1–000]

Symposium on Process and Reform: Public Access to Information and Electronic Filings; Notice of Conference

October 17, 1997.

Take notice that the Chairman of the Federal Energy Regulatory Commission will host a round table forum on Friday, November 7, 1997, at 9:00 a.m., 888 First Street, N.E., Washington, D.C. 20426 in the Commission meeting room. All interested persons are invited to attend.

This forum is the first in a series of symposia on reform of regulatory processes at the Commission. It is designed to solicit proposals, strategies, and views from regulated industry, its customers, state regulators, and other interested persons that will assist the Commission in carrying out its mission in an environment increasingly characterized by competition, new entrants, market dynamics, and increased regulatory workload.

The agenda for this forum is divided between (1) public access to information and (2) standards for electronic filings. The Commission will, as time permits, also solicit comments on the tracking, processing, and retention of documents on electronic media within the Commission. The forum will first analyze FERC's website, how FERC might develop its internet capabilities, and how FERC can improve both the content and search capabilities of its public databases. The second half of the discussion will focus on the development and use of electronic filing, including how other governmental agencies employ this device. The Chairman is interested in hearing how the Commission might streamline the regulatory filing process, address access and format requirements and what the public and regulated industry believes they need with regard to electronic filings at FERC.

A more detailed agenda will be published in the near future, including a list of primary discussants selected by the Chairman to lead the discussion. Written comments are welcome at any time and should reference the above-captioned proceeding. For additional information, please contact Kathleen Sherman by telephone at 202–219–2834 or by electronic mail at ''kathleen.sherman@ferc.fed.us.'' If there is sufficient interest from those outside the Washington, D.C. metropolitan area, the Capitol Connection may broadcast the Symposium on Process and Reform via satellite for a fee. If there is interest in the Washington, D.C. area for this program, please call Shirley Al-Jarani or Julia Morelli at the Capitol Connection (703–993–3100) no later than October 31, 1997. In addition, National Narrowcast Network's Hearing-On-The-Line service covers all FERC meetings live by telephone so that interested persons can listen at their desks, from their homes, or from any phone, without special equipment. Billing is based on time on-line. Call 202–966–2211 for further details.

Lois D. Cashell,

Secretary.

[FR Doc. 97–28112 Filed 10–22–97; 8:45 am]

BILLING CODE 6717–01–M

DEPARTMENT OF ENERGY

Notice of Cases Filed With the Office of Hearings and Appeals; Week of July 14 Through July 18, 1997

During the Week of July 14 through July 18, 1997, the appeals, and applications, petitions or other requests listed in this Notice were filed with the Office of Hearings and Appeals of the Department of Energy.

Any person who will be aggrieved by the DOE action sought in any of these cases may file written comments on the application within ten days of publication of this Notice or the date of receipt of actual notice, whichever occurs first. All such comments shall be filed with the Office of Hearings and Appeals, Department of Energy, Washington, DC 20585–0107.

Dated: October 14, 1997.

George B. Breznay,

Director, Office of Hearings and Appeals.

LIST OF CASES RECEIVED BY THE OFFICE OF HEARINGS AND APPEALS

[Week of July 14 through July 18, 1997]

July 14, 1997	Charles L. Wilkinson, III, Augusta, GA 30907.	VFA–0312	Appeal of an information request denial. If granted: The June 11, 1997 Freedom of Information Request Denial issued by Savannah River Operations Office would be rescinded, and Charles L. Wilkinson, III would receive access to certain DOE information.
July 14, 1997	Janice C. Curry Gaithersburg, MD	VFA–0313	Appeal of an information request denial. If granted: The June, 1997 Freedom of Information Request Denial issued by the Office of Environmental Management would be rescinded, and Janice C. Curry would receive access to certain DOE information.
July 14, 1997	Patriot Petroleum, Inc. Newburyport, MA.	VEE–0045	Exception to the reporting requirements. If granted: Patriot Petroleum, Inc., would not be required to file Form EIA 782B Reseller's/Retailer's Monthly Petroleum Product Sales Report.
July 14, 1997	Public Service Electric & Gas Co. Newark, NJ.	VEE–0044	Exception to the Reporting Newark, NJ requirements. If granted: Electric utilities are required to submit information on form EIA–860, Annual Electric Generator Report. The Energy Information Administration customarily releases to the public information that is submitted on this form, and it denied Public service Electric & Gas Company's request to maintain confidentiality of some of that information (retirement date, heat rate, and summer and winter capability). The firm alleges that the release of this information would harm its competitive position, and has sought review of EIA's determination that this information should be released to the public. If granted, the EIA would be required to keep the information confidential.
July 14, 1997	Timothy E. Barton Miamitown, OH	VWA–0017	Request for Hearing under DOE Contractor Employee Protection Program. If granted: Timothy E. Barton would receive restitution under 10 C.F.R., part 708 for alleged reprisals taken against him by management officials of the R.E. Schweitzer Co. as a consequence of his having disclosed safety/health concerns to the DOE.
July 16, 1997	Personnel Security Hearing	VSO–0165	Request for hearing under 10 C.F.R., part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R., part 710.
July 18, 1997	Chamberlain Oil Co., Inc. Clontarf, MN	VEE–0046	Exception to the Reporting Requirements. If granted: Chamberlain Oil Co, Inc. would not be required to file Form EIA–782B Reseller's/Retailer's Monthly Petroleum Product Sales Report.
July 18, 1997	Personnel Security Hearing	VSO–0166	Request for hearing under 10 C.F.R., part 710. If granted: An individual employed by the Department of Energy would receive a hearing under 10 C.F.R., part 710.
July 18, 1997	W. L. McCullough Oak Ridge, TN	VFA–0314	Appeal of an information request denial. If granted: W. L. McCullough would receive a response to his Freedom of Information request from the Oak Ridge Operations Office and access to certain DOE information.

[FR Doc. 97–28158 Filed 10–22–97; 8:45 am]

BILLING CODE 6450–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5912–9]

Agency Information Collection Activities Under OMB Review; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Chromium Emissions From Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3507(a)(1)(D)), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: 40 CFR part 63 Subpart N—Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks, OMB Control Number 2060–0327, expiring 12/31/97. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

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

FOR FURTHER INFORMATION CONTACT: For a copy of the ICR, call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet at http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1611.03.

SUPPLEMENTARY INFORMATION:

Title: National Emission Standards for Chromium Emissions from Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks (OMB Control No.2060–0327; EPA ICR No 1611.03), expiring 12/31/97. This is a request for extension of a currently approved collection.

Abstract: The Administrator has judged that Hazardous Air Pollutants (HAP) emissions from chromium emissions from hard and decorative chromium electroplating and chromium anodizing tanks cause or contribute to air pollution that may reasonably be anticipated to endanger public health or welfare. Owners/operators of affected hard and decorative chromium electroplating and chromium anodizing operations must notify EPA of construction, modification, startups, shut downs, date and results of initial performance test and provide reports of excess emissions. They must also develop startup, shutdown, malfunction plans and develop an operation and maintenance plan for their control system. Affected facilities also must provide notification of compliance status and report monitoring exceedances.

In order to ensure compliance with the standards promulgated to protect public health, adequate reporting and recordkeeping is necessary. In the absence of such information enforcement personnel would be unable to determine whether the standards are being met on a continuous basis, as required by the Clean Air Act.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The Federal Register Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on June 18, 1997 and no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 15 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Operators of Hard and Decorative Chromium Electroplating and Chromium Anodizing Tanks.

Estimated Number of Respondents: 948.

Frequency of Response: 2.

Estimated Number of Responses: 1896.

Estimated Total Annual Hour Burden: 516,186 person hours.

Estimated Total Annualized Cost Burden: $75,300,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1611.03 and OMB Control No. 2060–0327 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460. (or E-Mail Farmer.Sandy@epamail.epa.gov)

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: October 17, 1997.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–28137 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5913–1]

Agency Information Collection Activities: Submission for OMB Review; Comment Request; National Emission Standards for Hazardous Air Pollutants (NESHAP) for Commercial Ethylene Oxide Sterilization and Fumigation Operations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this notice announces that the following Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval: Reporting and Recordkeeping Requirements for the National Emission Standards for Hazardous Air Pollutants (NESHAP) for Commercial Ethylene Oxide Sterilization and Fumigation Operations, OMB Control Number 2060–0283, expiration date December 31, 1997. The ICR describes the nature of the information collection and its expected burden and cost; where appropriate, it includes the actual data collection instrument.

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

FOR FURTHER INFORMATION CONTACT: Call Sandy Farmer at EPA, (202) 260–2740, or download off the Internet from http://www.epa.gov/icr/icr.htm and refer to EPA ICR No. 1666.03.

SUPPLEMENTARY INFORMATION:

Title: NESHAP Subpart O: National Emission Standards for Hazardous Air Pollutants (NESHAP) for Commercial Ethylene Oxide Sterilization and Fumigation Operations (OMB Control No. 2060–0283; EPA ICR No. 1666.03) expiring 12/31/97. This is a request for extension of a currently approved collection.

Abstract: The Agency is required under section 112(d) of the Clean Air Act, as amended, to regulate emissions of hazardous air pollutants listed in section 112(b).

In the Administrator's judgement, ethylene oxide (EO) emitted from commercial EO sterilization and fumigation operations causes, or contributes significantly to air pollution that may reasonably be anticipated to endanger public health or welfare. Consequently, the NESHAP for EO emissions have been developed for this source category.

Certain records and reports are necessary to enable the Administrator to: (1) identify new, modified, reconstructed, and existing sources subject to the standards and (2) ensure that the standards, which are based on maximum achievable control technology (MACT) and generally available control technology (GACT), are being achieved.

The NESHAP for Commercial Ethylene Oxide Sterilization and Fumigation Operations were promulgated on December 6, 1994. These standards apply to new and existing commercial EO sterilization and fumigation facilities that use air pollution control devices that are in operation after promulgation of the NESHAP.

Owners or operators of the affected facilities described must submit one-time reports of start of construction, anticipated or actual startup dates, and physical or operation changes to existing facilities. In addition, owners or operators of existing commercial EO sterilization and fumigation operations will submit one-time reports of actual annual EO use. Owners or operators of new commercial EO sterilization and fumigation operations will submit one-time reports of estimated annual EO use.

Reports of initial emissions testing are necessary to determine that the applicable emission limit is being met. The owner or operator of a commercial EO sterilization and fumigation operation that uses an air pollution control device to meet the emission limit is required to maintain records of the site-specific monitoring parameters as well as daily and monthly inspections of the control device.

All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA Regional Office. Notifications are used to inform the Agency or delegated authority when a source becomes subject to the standard. The reviewing authority may then inspect the source to check if the pollution control devices are properly installed and operated and the standard is being met. Performance test reports are needed as these are the Agency's record of a source's initial capability to comply with the emission standard. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR Chapter 15. The **Federal Register** Notice required under 5 CFR 1320.8(d), soliciting comments on this collection of information was published on 6/18/97 (62 FR 33068); no comments were received.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 75 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Commercial Ethylene Oxide Sterilization and Fumigation Operations.

Estimated Number of Respondents: 98.

Frequency of Response: Daily, Monthly, and Semi-annually.

Estimated Total Annual Hour Burden: 7,328 hours.

Estimated Total Annualized Cost Burden: $228,000.

Send comments on the Agency's need for this information, the accuracy of the provided burden estimates, and any suggested methods for minimizing respondent burden, including through the use of automated collection techniques to the following addresses. Please refer to EPA ICR No. 1666.03 and OMB Control No. 2060–0283 in any correspondence.

Ms. Sandy Farmer, U.S. Environmental Protection Agency, OPPE Regulatory Information Division (2137), 401 M Street, SW, Washington, DC 20460. (or E-Mail Farmer.Sandy@epamail.epa.gov)

and

Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for EPA, 725 17th Street, NW, Washington, DC 20503.

Dated: October 17, 1997.

Richard Westlund,

Acting Director, Regulatory Information Division.

[FR Doc. 97–28139 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5912–8]

Public Meetings Regarding Environmental Information

AGENCY: Environmental Protection Agency.

ACTION: Notice of public meetings and opportunity for public comment.

SUMMARY: The United States Environmental Protection Agency (EPA) is announcing a series of public meetings to solicit information from stakehodlers regarding their use of, and access to, environmental information and data.

DATES: EPA is scheduling up to twenty public meetings during October 1997 through December 1997. Specific dates and cities are listed in the tentative schedule under Supplementary Information below. Requests to attend the meetings and/or provide oral comments at the meetings must be received at least 7 days prior to the scheduled meetings. The final times and precise locations of the meetings will be available to interested persons from the EPA contact person, upon request, two weeks prior to each meeting.

ADDRESSES: Requests to attend the meetings and/or to provide oral comments should be made to Ms. Lisa M. Hunter; Center for Environmental Information and Statistics (MC: 2164); Office of Policy, Planning and Evaluation; U.S. Environmental Protection Agency; 401 M Street, SW; Washington, DC; 20460; (202) 260–4744.

FOR FURTHER INFORMATION CONTACT: Ms. Lisa M. Hunter, EPA Headquarters, (202) 260–4744, or e-mail, hunter.lisa@epamial.epa.gov.

SUPPLEMENTARY INFORMATION: EPA is undertaking a variety of customer survey efforts to learn how Agency stakeholders use and access environmental information and data. One of these efforts will consist of a series of twenty meetings throughout the country to better understand the views of particular individuals and groups that typically use environmental information. Each discussion session will focus on a particular stakeholder group or user's environmental information needs. The public is invited to attend these meetings as observers and/or to provide comment during a public comment period at the end of each meeting. The tentative schedule for the public meetings—including potential dates, cites,and intended stakeholder groups—is as follows:

1. October 23, 1997, Philadelphia, Pennsylvania, African American Community
2. October 23, 1997, Atlanta, Georgia, Groups Concerned with Water Quality
3. October 28, 1997, New York, New York, Environmental Organizations
4. October 30, 1997, Boston, Massachusetts, State Monitoring Agencies
5. October 30, 1997, Arlington, Texas, Public Health Community
6. November 4, 1997, Philadelphia, Pennsylvania, Researchers/Academic Groups
7. November 6, 1997, Kansas City, Kansas, Agricultural Community
8. November 6, 1997, Cleveland, Ohio, Manufacturers/Process Industries
9. November 12, 1997, Denver, Colorado, Manufacturers/Process Industries
10. November 12, 1997, Atlanta, Georgia, Groups Concerned with Air Quality
11. November 13, 1997, San Juan, Puerto Rico, Community/Regional Representatives
12. November 13, 1997, Fort Collins, Colorado, Agricultural Community
13. November 18, 1997, New Hampshire, Environmental Organizations
14. November 18, 1997, Seattle, Washington, Businesses
15. November 20, 1997, Albuquerque, New Mexico, Regional Tribes
16. November 20, 1997, St. Louis, Missouri, Public Health Community
17. December 2, 1997, Olympia, Washington, Regional Tribes
18. December 3, 1997, San Francisco, California, Community/Regional Representatives
19. December 4, 1997, Los Angeles, California, Local Ethnic Groups

Art Koines,

Deputy Director, Office of Strategic Planning and Environmental Data, Office of Policy, Planning and Evaluation.

[FR Doc. 97–28136 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

[FRL–5913–5]

Science Advisory Board; Notification of Public Advisory Committee Meetings; November 18–20, 1997

Pursuant to the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the Radiation Advisory Committee (RAC) and its Uncertainty in Radiogenic Risk Subcommittee (URRS) of the Science Advisory Board (SAB) will meet on the dates and times described below. All times noted are Eastern Time. All meetings are open to the public, however, seating is limited and available on a first come basis. Documents that are the subject of SAB reviews are normally available from the originating U.S. Environmental Protection Agency (EPA) office and are *not* available from the SAB Office. Public drafts of SAB reports are available to the Agency and the public from the SAB office. Details on availability are noted below.

1. Radiation Advisory Committee (RAC)

The Science Advisory Board's (SAB's) Radiation Advisory Committee (RAC) will conduct a public meeting on Tuesday and Wednesday, November 18 and 19, 1997. The meeting will convene both days at 9:00 a.m. in the Ramada Hotel, 901 N. Fairfax Street, Old Town Alexandria, Virginia 22314 (tel. 703–683–6000) and adjourn no later than 5:30 pm each day.

At this meeting, the RAC will briefly discuss projects that are planned to be reviewed in Fiscal Year (FY) 1998, as well as conduct an advisory of the Agency's Environmental Radiation Ambient Monitoring System (ERAMS), and a consultation on disposal of Federal low activity radioactive wastes. In addition to the projects that are currently under review by the RAC, the likely FY 1998 projects to be briefly discussed for planning purposes include a proposed consultation on the methodology for identifying high radon geographic areas, a discussion on the Biological Effects of Ionizing Radiation (BEIR) VI, an advisory on a white paper regarding estimating cancer risks for indoor radon as a basis for establishing cancer risks for radon, a revised radon risk assessment (which looks at the National Academy of Sciences recommendations for a model coming out of the final peer reviews), a consultation on the revised diffuse Naturally-Occurring Radioactive Material (NORM) draft scoping document being prepared by the Office of Radiation and Indoor Air (ORIA) staff, and a courtesy briefing on the Multi-Agency Radiation Laboratory Analytical Procedures (MARLAP) manual, which is under development. Other topics may be discussed as time permits.

At this meeting, the RAC will review the draft document entitled ''Reconfiguration Design of the Environmental Radiation Ambient Monitoring System,'' October 1997. The charge questions which focus on the technical issues pertinent to the ERAMS advisory are as follows: a) Will the proposed reconfiguration of the current ERAMS system enable it to meet the system's two basic objectives more effectively and efficiently as described in the attached document?; b) Are the criteria used for matrix selection, determination of sampling locations and sampling frequency and other network features appropriate given the reconfigured ERAMS stated mission and objectives? Are there other criteria that should be considered?; and c) Will the proposed changes to the system's current data dissemination and data evaluation practices increase the data's usefulness to governmental agencies, the scientific community and the public? Are there any other interpretation issues and/or practices that should be addressed?

2. Uncertainty in Radiogenic Risk Subcommittee

The Uncertainty in Radiogenic Risk Subcommittee (URRS) of the Science Advisory Board's (SAB) Radiation Advisory Committee (RAC) will meet Thursday, November 20, 1997 from 9:00 a.m. to no later than 4:00 p.m. at the Ramada Hotel, 901 N. Fairfax Street, Old Town Alexandria, Virginia 22314 (tel. 703–683–6000).

At this meeting, the RAC's URRS will review the draft document entitled ''Uncertainty Analysis for Estimating Radiogenic Cancer Risks,'' October, 1997. The charge questions pertaining to the review on uncertainty analysis for estimating radiogenic cancer risks are as follows: (a) Are the relevant major sources of uncertainties addressed?; (b) Is the overall approach to quantifying and combining uncertainties appropriate?, and (c) Are the mathematical functions used to characterize the various sources of uncertainty reasonable, in view of available scientific information?

For Further Information—Any member of the public wishing further information concerning the meeting, such as copies of the proposed meeting agenda, or who wish to submit comments should contact Mrs. Diana L. Pozun at Tel. (202) 260–8432; FAX (202) 260–7118, or via the Internet at: pozun.diana@epamail.epa.gov. Members of the public who wish to make a brief oral presentation to the Committee must contact Dr. K. Jack Kooyoomjian in writing (by letter or by fax—see previously stated information) no later than 12 noon Eastern Time, Wednesday, November 12, 1997 in order to be included on the Agenda. Public comments will be normally limited to five minutes per speaker or organization. The request should identify the name of the individual who

will make the presentation, the organization (if any) they will represent, any requirements for audio visual equipment (e.g., overhead projector, 35mm projector, chalkboard, easel, etc), and at least 35 copies of an outline of the issues to be addressed or the presentation itself. Further information pertaining to the meeting may be obtained directly from Dr. K. Jack Kooyoomjian, Designated Federal Official for the Radiation Advisory Committee, Science Advisory Board (1400), U.S. EPA, Washington, DC 20460, phone (202)–260–2560; fax (202)–260–7118; or via E-mail at: kooyoomjian.jack@epamail.epa.gov.

For questions pertaining to the review of uncertainty analysis for estimating radiogenic cancer risks, and to obtain copies of the draft document being reviewed, as well as background documents provided to the SAB's RAC, please contact Dr. Jerome S. Puskin, (6602J), ORIA/EPA at (202) 233–9212. To discuss any other aspects of this review or any supporting or background information, please contact Mr. Brian Littleton, (6601J), ORIA, U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, tel. (202) 233–9216; fax (202) 233–9651; or E-mail: littleton.brian@epamail.epa.gov. After November 1, 1997 please call Mr. Littleton at (202) 564–9216.

For questions pertaining to the ERAMS advisory review, and to obtain copies of the draft document being reviewed, as well as background documents provided to the SAB's RAC, please contact LT. Rhonda Cook, US Public Health Service (PHS)/EPA at (334) 270–3413. The SAB's RAC conducted an earlier advisory on ERAMS on July 13 and 14, 1995 and produced an SAB advisory (EPA–SAB–RAC–ADV–96–003, April 5, 1996). For copies of this earlier SAB report, please contact the SAB's Committee Evaluation Support Staff (CESS) at (202) 260–8414; FAX (202) 260–7118. For additional information or to discuss technical aspects of any of the other ORIA agenda topics, or any supporting or background information, please contact Mr. Brian Littleton, (6601J), Office of Radiation and Indoor Air (ORIA), U.S. Environmental Protection Agency, 401 M Street, SW, Washington, D.C. 20460, tel. (202) 233–9216; fax (202) 233–9651; or E-mail: littleton.brian@epamail.epa.gov. After November 1, 1997 please call Mr. Littleton at (202) 564–9216.

Providing Oral or Written Comments at SAB Meetings

The Science Advisory Board expects that public statements presented at its meetings will not be repetitive of previously submitted oral or written statements. In general, for meetings, opportunities for oral comment will usually be limited to no more than five minutes per speaker and no more than thirty minutes total. Written comments (at least 35 copies) received in the SAB Staff Office sufficiently prior to a meeting date (usually one week before the meeting), may be mailed to the relevant SAB committee or subcommittee; comments received too close to the meeting date will normally be provided to the committee at its meeting. Written comments may be provided to the relevant committee or subcommittee up until the time of the meeting.

Information concerning the Science Advisory Board, its structure, function, and composition, may be found in The FY1996 Annual Report of the Staff Director which is available from the SAB Committee Evaluation and Support Staff (CESS) by contacting US EPA, Science Advisory Board (1400), Attention: CESS, 401 M Street, SW, Washington, DC 20460 or via fax (202) 260–1889. Additional information concerning the SAB can be found on the SAB Home Page at: http://www.epa.gov/sab.

Dated: October 17, 1997.

Donald G. Barnes,

Staff Director, Science Advisory Board.

[FR Doc. 97–28145 Filed 10–22–97; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Submitted to OMB for Review and Approval

October 17, 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 24, 1997. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: Direct all comments to Judy Boley, Federal Communications Commission, Room 234, 1919 M St., N.W., Washington, DC 20554 or via internet to jboley@fcc.gov.

FOR FURTHER INFORMATION CONTACT: For additional information or copies of the information collection(s) contact Judy Boley at 202–418–0214 or via internet at jboley@fcc.gov.

SUPPLEMENTARY INFORMATION:

OMB Approval Number: 3060–0370.

Title: Part 32, Uniform System of Accounts for Telecommunications Companies.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents: 239.

Estimated Time Per Response: 12,685 hours per recordkeeper/response.

Cost to Respondents: N/A.

Total Annual Burden: 3,028,768 hours.

Needs and Uses: The Uniform System of Accounts is a historical financial accounting system which reports the results of operational and financial events in a manner which enables both management and regulators to assess these results within a specified accounting period. Subject respondents are telecommunications companies. Entities having annual revenues from regulated telecommunications operations of less than $100 million are designated as Class B companies and are subject to a less detailed accounting system than those designated as Class A companies. Part 32 imposes essentially recordkeeping requirements. The

reporting requirements contained in the rulepart are sporadic or initiated by the carriers. Part 32 has been revised. For example, in the Report and Order in CC Docket 95–60, the Commission raised the expense limit in Section 32.2000(a)(4) from $500 to $200, with one exception related to personal computers recorded in Account 2121, General purpose computers. This will reduce the Continuing Property Records required to be maintained by the carriers. By eliminating the requirement for detailed property records for certain items costing less than the new $2,000 threshold amount, the Commission has provided the carriers with substantial relief from the administrative cost previously proposed. Also, in the Report and Order, the Commission adopted a five-year amortization period during which incumbent local exchange carriers (ILECs) may recover the undepreciated portion of embedded assets affected by this rule change. The parties comments and replies were carefully considered in the formulation of the final rule.

Federal Communications Commission.

Shirley S. Suggs,

Chief, Publications Branch.

[FR Doc. 97–28089 Filed 10–22–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 97–2147]

800 MHz Specialized Mobile Radio Service; Minimum Opening Bid Requirements for Auction of 525 Licenses in Upper 10 MHz Band

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: By this Order, the Commission establishes minimum opening bid requirements for the auction of 525 licenses in the upper 10 MHz of the 800 MHz Specialized Mobile Radio Service (''SMR'') set to begin October 28, 1997. This Order effectuates directives of the Balanced Budget Act of 1997. Accordingly, the Commission adopts minimum opening bids subject to reduction; sets minimum opening bids equal to the established upfront payments; and declines to adopt caps on minimum opening bids.

EFFECTIVE DATE: October 23, 1997.

FOR FURTHER INFORMATION CONTACT: D. Anthony Mastando or Alice Elder at 202–418–0660.

SUPPLEMENTARY INFORMATION: This is a summary of an Order adopted October 6, 1997, and released October 6, 1997. The text of the Order is available for inspection and copying during normal business hours in the FCC Reference Center (Room 239), 1919 M Street, N.W., Washington, D.C. and also may be purchased from the Commission's copy contractor, International Transcription Services, Inc. (ITS, Inc.) 1231 20th Street, N.W., Washington, DC 20036, (202) 857–3800.

Synopsis of the Order

Background

1. The recently enacted Balanced Budget Act of 1997 directs the Commission to prescribe methods by which to establish reasonable reserve prices or minimum opening bids for licenses subject to auction, unless the Commission determines that such reserve prices or minimum opening bids are not in the public interest. The Commission recently announced the auction of 525 licenses in the upper 10 MHz of the 800 MHz SMR set to begin October 28, 1997. On September 5, 1997, the Commission sought comment by Public Notice regarding the establishment of reserve prices or minimum opening bids, 62 FR 49241 (September 19, 1997). The Commission received six sets of comments.

2. In the September 5th Public Notice, the Commission proposed that the licenses in the 800 MHz auction not be sold for less than the amount of the upfront payment specified for the licenses in the Public Notice released August 6, 1997, 62 FR 49228 (September 19, 1997). The Commission requested comment on whether the amount of the upfront payments should be considered reserve prices or minimum opening bids for this auction. Commenters were asked to address whether reserve prices or minimum opening bids should be capped to ensure that bidding is not deterred on high valuation markets. Assuming reserve prices were implemented, commenters were also asked to address whether these prices should be published.

3. On September 12, 1997, the Personal Communication Industry Association (''PCIA''), Nextel, the American Mobile Telecommunications Association (''AMTA'') Tel/Logic, Pass Word, Inc. (''Pass Word'') and Motorola submitted comments in response to the Public Notice. All commenting parties specifically opposed the establishment of reserve prices and more generally opposed minimum opening bids.

4. Commenters assert that minimum opening bids and reserve prices are inconsistent with the notion that market forces should determine the value of auctioned spectrum and are therefore contrary to the public interest. They believe that bidders—not the Commission—are in the best position to assess the value of the spectrum. Nextel posits that the spectrum's value should be determined by bidders' evaluations of each license on the basis of incumbency, not by what the Commission sees as the overall market for 800 MHz SMR spectrum.

5. AMTA contends that overvalued spectrum and, concomitantly, high reserve prices will preclude small businesses from participation in the auction. Pass Word cautions that reserve prices either will reduce small business participation or result in unsound economic decisions leading to a scenario similar to the one facing the Commission and the defaulting C-Block PCS winners. Nextel believes that a reserve price is justified where spectrum is plentiful and the price is therefore depressed, but that this is not true of the heavily encumbered 800 MHz spectrum. The variation in incumbent systems, according to Motorola, makes impossible the development of an arbitrary price floor with sufficient flexibility. Tel/Logic notes that neither the Commission nor bidders should be able to project demand or prices.

6. PCIA considers minimum bids to be ''inappropriate'' because incumbent licensees will be forced to pay substantial fees for spectrum on which they already have operating systems and for which there may be no competing bidders. Pass Word also believes that minimum opening bids are inappropriate and that the spectrum will be fairly valued by the bidders because, unlike the Wireless Communications Service auction, spectrum, technology and equipment usage is well-defined for 800 MHz SMR systems and potential bidders have received adequate notice of this auction.

7. Were the Commission to establish minimum opening bids, AMTA maintains that the Commission should reserve the right to lower them in the event it has overestimated the licenses' value. Tel/Logic adds that minimum opening bids should not be linked to upfront payment levels because the two are based on different policy objectives and, therefore, should be determined separately in order to maintain Commission policy and auction administration flexibility. It contends that the upfront payment amount is set in order to encourage the participation of smaller entities and to discourage frivolous bidders, whereas a minimum opening bid should be established in order to avoid selling licenses below value. Pass Word urges the Commission

to find that setting an opening bid equal to the upfront payment is not in the public interest. Nextel supports the use of a cap on minimum opening bids and contends that a cap of $50,000 would be appropriate because a higher cap would deter broad participation in the auction.

8. Pass Word claims that a fair auction, one without minimum opening bids or reserve prices, may be the last chance for small businesses in this market to survive, particularly in the face of Nextel's accumulation of frequencies.

Discussion

9. The Commission establishes minimum opening bids that are subject to reduction, and sets the initial amounts at the upfront payment levels specified in our Public Notice released August 6, 1997. The Commission notes that Congress has rejected the notion that minimum opening bids or reserve prices are inherently contrary to the public interest, as some commenters suggest. Moreover, the Commission rejects commenters' assertions that minimum opening bids disserve the public interest in this instance. The Commission agrees, however, that the market ultimately should determine the value of this spectrum. Indeed, due to the high level of incumbency of the 800 MHz spectrum, market valuation models are complex and may be subject to a higher degree of uncertainty than those for less encumbered spectrum. Therefore, the Commission adopts reducible minimum opening bids initially set equal to the amounts of the upfront payments for this auction.

10. The statutory mandate that the Commission prescribe methods by which to establish a reserve price or a minimum opening bid, absent a finding that they are not in the public interest, creates a presumption that reserve prices or minimum bids are required. The Commission does not find circumstances here that convinces it that establishing minimum open bids for this auction is contrary to the public interest objectives embodied in Section 309(j) of the Communications Act of 1934, as amended. These objectives include: fostering the rapid development and deployment of new technologies, products, and services; promoting competition by avoiding excessive concentration and disseminating licenses among a wide variety of applicants; recovering for the public a portion of the value of the spectrum resource and avoidance of unjust enrichment; fostering efficient use of the electromagnetic spectrum; and scheduling auctions so that potential bidders have adequate time to develop business plans and assess the market. The Commission believes the reserve price and minimum opening bid provision is intended to prevent licenses from being assigned via auction at nominal amounts. Such low prices might result, for example, from insufficient competition in the auction, which in turn might be due to the inability of potential bidders to assess the market adequately or develop business plans. Thus, the provision permits the Commission to withhold those licenses so that they may be offered again in the future to be acquired by licensees under circumstances that will more effectively benefit the public.

11. The Commission concludes that setting initial minimum opening bids equal to the amount of upfront payments will best further the objectives of its auction authority here. Because the reserve price and minimum opening bid provision is not a requirement to *maximize* the revenue earned in future auctions, but rather a protection against assigning licenses at unacceptably low prices and in noncompetitive markets, the Commission must balance this revenue raising objective against its other public interest objectives when selecting the exact level of the minimum bids. No formula exists to accomplish this balancing, and the Commission must inevitably rely on qualitative judgment.

12. In arriving at its decision here to set minimum opening bids equal to the amounts of upfront payments established for this auction, the Commission finds that establishing minimum opening bids in excess of these amounts may threaten the goals of wide and robust bidder participation. Further, as long as the amounts are not so high as to deter bidders from participation, the particular initial values are not critical because the Commission has chosen to construe them as minimum opening bids, which may be reduced at its discretion. Conversely, setting the initial minimum opening bid below the upfront payments may threaten the Commission's revenue protection obligation, to recover for the public a portion of the value of the public spectrum resource, without materially enhancing its other auction objectives. The Commission notes that its minimum opening bids effectively function as reserve prices unless or until it decides to lower them in any particular instance to spur bidding. In this regard, the Commission's approach is consistent with its treatment of minimum accepted bids where the Commission reduces prices in cases where there is a withdrawal and no subsequent bidding on a market.

13. Minimum opening bids that are subject to reduction will enable the Commission to react to market conditions as bidding unfolds. Thus, reducible minimum opening bids will allay concerns about artificially inflated spectrum values and their effect on bidders, small or otherwise. In addition, as a procedural mechanism, minimum opening bids facilitate the expeditious conduct of an auction by starting the bidding at an amount compatible with the objectives discussed in paragraph 11, above. Consequently, the Commission determines that establishing minimum opening bids initially set equal to the amounts of the upfront payments to be in the public interest.

14. The Commission rejects placing a cap on the amount of minimum opening bids. The absence of caps should not, as some commenters caution, significantly decrease bidder participation because minimum opening bids can be lowered if necessary. Further, any cap levels would be arbitrary and constitute an unfair benefit to those bidding for licenses serving densely populated areas, which may be viewed as more valuable.

15. Finally, the Commission finds that retaining authority to lower minimum opening bids, as suggested by commenters, serves the public interest and thus renders the imposition of reserve prices unnecessary for this auction. Reducible minimum opening bids better enable us to meet our revenue objectives while minimizing the possibility of retaining unsold licenses. Under a reserve price scenario the Commission would lack the flexibility to reduce acceptable bids if it were to have seriously misjudged market conditions by overestimating the value of these licenses.

16. *Regulatory Flexibility Act Certification*. As discussed above, in this Order the Commission sets the minimum opening bids for the auction of licenses in the upper 10 MHz band of the 800 MHz SMR service, subject to reduction but initially equal to the amount of the up-front payments. As such, there is no change in the economic status quo for bidders in this auction. Therefore, the Commission believes that this action will not have a significant economic impact on a substantial number of small entities, and consequently no further regulatory flexibility analysis is required, 5 U.S.C. § 605(b). The Commission will send a copy of this certification, along with the Order, in a report to Congress pursuant to the Small Business Regulatory

Enforcement Fairness Act of 1996, 5 U.S.C. § 801(a)(1)(A), and to the Chief Counsel for Advocacy of the Small Business Aministration, 5 U.S.C. § 605(b).

17. *Effective Date.* As noted in this Order, the minimum opening bids adopted herein effectuate the recently-enacted Balanced Budget Act of 1997. In addition, the 800 MHz SMR auction is scheduled to begin very shortly, on October 28, 1997. The Commission therefore finds, for good cause, that the minimum opening bids adopted herein should be made effective upon publication in the **Federal Register**, 5 U.S.C. § 553(d)(3).

18. Accordingly, *It Is Ordered* that, under the authority contained in Sections 0.131(c), 0.331 and 1.2104 of the Commission's Rules, 47 CFR §§ 0.131(c), 0.331, and 1.2104, and pursuant to the authority of Sections 4(i), 303(r), 309(j), and 332(a)(2) of the Communications Act of 1934, as amended, 47 U.S.C. §§ 154(i), 303(r), and 332(a), minimum opening bids subject to reduction are established for this auction as specified in this Order.

19. *It Is Further Ordered* that the amount of the minimum opening bid for each auctionable license is set equal to the amount of the respective upfront payment for each license specified in this Order.

Federal Communications Commission.

Daniel Phythyon,

Chief, Wireless Telecommunications Bureau.

Note: This attachment will not be published in the Code of Federal Regulations

Attachment

800 MHz Minimum Opening Bids

EA	Block	Name	Minimum opening bid
E001	A	Bangor, ME	$2,666
E001	B	Bangor, ME	7,998
E001	C	Bangor, ME	15,995
E002	A	Portland, ME	3,474
E002	B	Portland, ME	10,422
E002	C	Portland, ME	20,844
E003	A	Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH–RI–VT	37,226
E003	B	Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH–RI–VT	111,676
E003	C	Boston-Worcester-Lawrence-Lowell-Brockton, MA–NH–RI–VT	223,351
E004	A	Burlington, VT–NY	2,842
E004	B	Burlington, VT–NY	8,526
E004	C	Burlington, VT–NY	17,052
E005	A	Albany-Schenectady-Troy, NY	5,736
E005	B	Albany-Schenectady-Troy, NY	17,208
E005	C	Albany-Schenectady-Troy, NY	34,415
E006	A	Syracuse, NY–PA	9,674
E006	B	Syracuse, NY–PA	29,020
E006	C	Syracuse, NY–PA	58,039
E007	A	Rochester, NY–PA	7,290
E007	B	Rochester, NY–PA	21,868
E007	C	Rochester, NY–PA	43,736
E008	A	Buffalo-Niagara Falls, NY–PA	7,649
E008	B	Buffalo-Niagara Falls, NY–PA	22,947
E008	C	Buffalo-Niagara Falls, NY–PA	45,893
E009	A	State College, PA	3,995
E009	B	State College, PA	11,983
E009	C	State College, PA	23,965
E010	A	New York-No. New Jer.-Long Island, NY–NJ–CT–PA–MA–VT	119,596
E010	B	New York-No. New Jer.-Long Island, NY–NJ–CT–PA–MA–VT	358,786
E010	C	New York-No. New Jer.-Long Island, NY–NJ–CT–PA–MA–VT	717,571
E011	A	Harrisburg-Lebanon-Carlisle, PA	5,133
E011	B	Harrisburg-Lebanon-Carlisle, PA	15,397
E011	C	Harrisburg-Lebanon-Carlisle, PA	30,794
E012	A	Philadelphia-Wilmington-Atl. City, PA–NJ–DE–MD	34,580
E012	B	Philadelphia-Wilmington-Atl. City, PA–NJ–DE–MD	103,738
E012	C	Philadelphia-Wilmington-Atl. City, PA–NJ–DE–MD	207,476
E013	A	Washington-Baltimore, DC–MD–VA–WV–PA	37,274
E013	B	Washington-Baltimore, DC–MD–VA–WV–PA	111,820
E013	C	Washington-Baltimore, DC–MD–VA–WV–PA	223,639
E014	A	Salisbury, MD–DE–VA	2,500
E014	B	Salisbury, MD–DE–VA	4,362
E014	C	Salisbury, MD–DE–VA	8,724
E015	A	Richmond-Petersburg, VA	6,239
E015	B	Richmond-Petersburg, VA	18,715
E015	C	Richmond-Petersburg, VA	37,429
E016	A	Staunton, VA–WV	2,500
E016	B	Staunton, VA–WV	4,525
E016	C	Staunton, VA–WV	9,049
E017	A	Roanoke, VA–NC–WV	3,802
E017	B	Roanoke, VA–NC–WV	11,406
E017	C	Roanoke, VA–NC–WV	22,812
E018	A	Greensboro-Winston-Salem-High Point, NC–VA	8,022

EA	Block	Name	Minimum opening bid
E018	B	Greensboro-Winston-Salem-High Point, NC–VA	24,065
E018	C	Greensboro-Winston-Salem-High Point, NC–VA	48,130
E019	A	Raleigh-Durham-Chapel Hill, NC	7,062
E019	B	Raleigh-Durham-Chapel Hill, NC	21,185
E019	C	Raleigh-Durham-Chapel Hill, NC	42,370
E020	A	Norfolk-Virginia Beach-Newport News, VA–NC	7,941
E020	B	Norfolk-Virginia Beach-Newport News, VA–NC	23,823
E020	C	Norfolk-Virginia Beach-Newport News, VA–NC	47,646
E021	A	Greenville, NC	3,718
E021	B	Greenville, NC	11,152
E021	C	Greenville, NC	22,303
E022	A	Fayetteville, NC	2,500
E022	B	Fayetteville, NC	6,976
E022	C	Fayetteville, NC	13,951
E023	A	Charlotte-Gastonia-Rock Hill, NC–SC	8,133
E023	B	Charlotte-Gastonia-Rock Hill, NC–SC	24,398
E023	C	Charlotte-Gastonia-Rock Hill, NC–SC	48,796
E024	A	Columbia, SC	4,080
E024	B	Columbia, SC	12,238
E024	C	Columbia, SC	24,476
E025	A	Wilmington, NC–SC	3,581
E025	B	Wilmington, NC–SC	10,742
E025	C	Wilmington, NC–SC	21,483
E026	A	Charleston-North Charleston, SC	2,707
E026	B	Charleston-North Charleston, SC	8,119
E026	C	Charleston-North Charleston, SC	16,238
E027	A	Augusta-Aiken, GA–SC	2,685
E027	B	Augusta-Aiken, GA–SC	8,053
E027	C	Augusta-Aiken, GA–SC	16,105
E028	A	Savannah, GA–SC	2,754
E028	B	Savannah, GA–SC	8,260
E028	C	Savannah, GA–SC	16,519
E029	A	Jacksonville, FL–GA	7,790
E029	B	Jacksonville, FL–GA	23,369
E029	C	Jacksonville, FL–GA	46,738
E030	A	Orlando, FL	14,183
E030	B	Orlando, FL	42,548
E030	C	Orlando, FL	85,095
E031	A	Miami-Fort Lauderdale, FL	22,692
E031	B	Miami-Fort Lauderdale, FL	68,076
E031	C	Miami-Fort Lauderdale, FL	136,152
E032	A	Fort Myers-Cape Coral, FL	2,500
E032	B	Fort Myers-Cape Coral, FL	7,309
E032	C	Fort Myers-Cape Coral, FL	14,617
E033	A	Sarasota-Bradenton, FL	3,122
E033	B	Sarasota-Bradenton, FL	9,365
E033	C	Sarasota-Bradenton, FL	18,730
E034	A	Tampa-St. Petersburg-Clearwater, FL	10,340
E034	B	Tampa-St. Petersburg-Clearwater, FL	31,020
E034	C	Tampa-St. Petersburg-Clearwater, FL	62,039
E035	A	Tallahassee, FL–GA	3,051
E035	B	Tallahassee, FL–GA	9,152
E035	C	Tallahassee, FL–GA	18,304
E036	A	Dothan, AL–FL–GA	2,500
E036	B	Dothan, AL–FL–GA	4,606
E036	C	Dothan, AL–FL–GA	9,211
E037	A	Albany, GA	2,500
E037	B	Albany, GA	6,231
E037	C	Albany, GA	12,461
E038	A	Macon, GA	3,432
E038	B	Macon, GA	10,296
E038	C	Macon, GA	20,591
E039	A	Columbus, GA–AL	2,500
E039	B	Columbus, GA–AL	6,744
E039	C	Columbus, GA–AL	13,488
E040	A	Atlanta, GA–AL–NC	20,339
E040	B	Atlanta, GA–AL–NC	61,016
E040	C	Atlanta, GA–AL–NC	122,032
E041	A	Greenville-Spartanburg-Anderson, SC–NC	5,416
E041	B	Greenville-Spartanburg-Anderson, SC–NC	16,248
E041	C	Greenville-Spartanburg-Anderson, SC–NC	32,496
E042	A	Asheville, NC	2,500
E042	B	Asheville, NC	5,575

EA	Block	Name	Minimum opening bid
E042	C	Asheville, NC	11,150
E043	A	Chattanooga, TN–GA	3,178
E043	B	Chattanooga, TN–GA	9,534
E043	C	Chattanooga, TN–GA	19,067
E044	A	Knoxville, TN	4,202
E044	B	Knoxville, TN	12,606
E044	C	Knoxville, TN	25,212
E045	A	Johnson City-Kingsport-Bristol, TN–VA	2,622
E045	B	Johnson City-Kingsport-Bristol, TN–VA	7,865
E045	C	Johnson City-Kingsport-Bristol, TN–VA	15,729
E046	A	Hickory-Morganton, NC–TN	2,500
E046	B	Hickory-Morganton, NC–TN	6,687
E046	C	Hickory-Morganton, NC–TN	13,373
E047	A	Lexington, KY–TN–VA–WV	8,657
E047	B	Lexington, KY–TN–VA–WV	25,970
E047	C	Lexington, KY–TN–VA–WV	51,940
E048	A	Charleston, WV-KY-OH	5,981
E048	B	Charleston, WV-KY-OH	17,941
E048	C	Charleston, WV-KY-OH	35,882
E049	A	Cincinnati-Hamilton, OH–KY–IN	10,018
E049	B	Cincinnati-Hamilton, OH–KY–IN	30,053
E049	C	Cincinnati-Hamilton, OH–KY–IN	60,105
E050	A	Dayton-Springfield, OH	5,630
E050	B	Dayton-Springfield, OH	16,890
E050	C	Dayton-Springfield, OH	33,779
E051	A	Columbus, OH	10,504
E051	B	Columbus, OH	31,510
E051	C	Columbus, OH	63,019
E052	A	Wheeling, WV–OH	2,500
E052	B	Wheeling, WV–OH	5,196
E052	C	Wheeling, WV–OH	10,392
E053	A	Pittsburgh, PA–WV	15,016
E053	B	Pittsburgh, PA–WV	45,048
E053	C	Pittsburgh, PA–WV	90,096
E054	A	Erie, PA	2,564
E054	B	Erie, PA	7,691
E054	C	Erie, PA	15,381
E055	A	Cleveland-Akron, OH–PA	22,824
E055	B	Cleveland-Akron, OH–PA	68,470
E055	C	Cleveland-Akron, OH–PA	136,940
E056	A	Toledo, OH	6,394
E056	B	Toledo, OH	19,181
E056	C	Toledo, OH	38,362
E057	A	Detroit-Ann Arbor-Flint, MI	33,135
E057	B	Detroit-Ann Arbor-Flint, MI	99,404
E057	C	Detroit-Ann Arbor-Flint, MI	198,808
E058	A	Northern Michigan, MI	2,500
E058	B	Northern Michigan, MI	3,451
E058	C	Northern Michigan, MI	6,902
E059	A	Green Bay, WI–MI	3,123
E059	B	Green Bay, WI–MI	9,369
E059	C	Green Bay, WI–MI	18,738
E060	A	Appleton-Oshkosh-Neenah, WI	2,500
E060	B	Appleton-Oshkosh-Neenah, WI	5,710
E060	C	Appleton-Oshkosh-Neenah, WI	11,419
E061	A	Traverse City, MI	2,500
E061	B	Traverse City, MI	3,581
E061	C	Traverse City, MI	7,162
E062	A	Grand Rapids-Muskegon-Holland, MI	8,335
E062	B	Grand Rapids-Muskegon-Holland, MI	25,005
E062	C	Grand Rapids-Muskegon-Holland, MI	50,009
E063	A	Milwaukee-Racine, WI	10,598
E063	B	Milwaukee-Racine, WI	31,794
E063	C	Milwaukee-Racine, WI	63,587
E064	A	Chicago-Gary-Kenosha, IL–IN–WI	46,590
E064	B	Chicago-Gary-Kenosha, IL–IN—WI	139,770
E064	C	Chicago-Gary-Kenosha, IL–IN–WI	279,539
E065	A	Elkhart-Goshen, IN–MI	4,322
E065	B	Elkhart-Goshen, IN–MI	12,964
E065	C	Elkhart-Goshen, IN–MI	25,927
E066	A	Fort Wayne, IN	3,333
E066	B	Fort Wayne, IN	9,997
E066	C	Fort Wayne, IN	19,993

EA	Block	Name	Minimum opening bid
E067	A	Indianapolis, IN–IL	13,766
E067	B	Indianapolis, IN–IL	41,298
E067	C	Indianapolis, IN–IL	82,596
E068	A	Champaign-Urbana, IL	3,118
E068	B	Champaign-Urbana, IL	9,354
E068	C	Champaign-Urbana, IL	18,707
E069	A	Evansville-Henderson, IN–KY–IL	4,129
E069	B	Evansville-Henderson, IN–KY–IL	12,385
E069	C	Evansville-Henderson, IN–KY–IL	24,770
E070	A	Louisville, KY–IN	6,456
E070	B	Louisville, KY–IN	19,368
E070	C	Louisville, KY–IN	38,736
E071	A	Nashville, TN–KY	10,012
E071	B	Nashville, TN–KY	30,035
E071	C	Nashville, TN–KY	60,069
E072	A	Paducah, KY–IL	2,500
E072	B	Paducah, KY–IL	3,168
E072	C	Paducah, KY–IL	6,336
E073	A	Memphis, TN–AR–MS–KY	8,440
E073	B	Memphis, TN–AR–MS–KY	25,318
E073	C	Memphis, TN–AR–MS–KY	50,635
E074	A	Huntsville, AL–TN	4,426
E074	B	Huntsville, AL–TN	13,276
E074	C	Huntsville, AL–TN	26,551
E075	A	Tupelo, MS–AL–TN	2,887
E075	B	Tupelo, MS–AL–TN	8,659
E075	C	Tupelo, MS–AL–TN	17,318
E076	A	Greenville, MS	2,500
E076	B	Greenville, MS	3,859
E076	C	Greenville, MS	7,718
E077	A	Jackson, MS–AL–LA	6,644
E077	B	Jackson, MS–AL–LA	19,930
E077	C	Jackson, MS–AL–LA	39,860
E078	A	Birmingham, AL	7,253
E078	B	Birmingham, AL	21,757
E078	C	Birmingham, AL	43,514
E079	A	Montgomery, AL	2,500
E079	B	Montgomery, AL	6,604
E079	C	Montgomery, AL	13,207
E080	A	Mobile, AL	3,040
E080	B	Mobile, AL	9,120
E080	C	Mobile, AL	18,239
E081	A	Pensacola, FL	2,580
E081	B	Pensacola, FL	7,740
E081	C	Pensacola, FL	15,479
E082	A	Biloxi-Gulfport-Pascagoula, MS	2,500
E082	B	Biloxi-Gulfport-Pascagoula, MS	5,097
E082	C	Biloxi-Gulfport-Pascagoula, MS	10,194
E083	A	New Orleans, LA–MS	8,179
E083	B	New Orleans, LA–MS	24,536
E083	C	New Orleans, LA–MS	49,072
E084	A	Baton Rouge, LA–MS	3,282
E084	B	Baton Rouge, LA–MS	9,845
E084	C	Baton Rouge, LA–MS	19,689
E085	A	Lafayette, LA	2,774
E085	B	Lafayette, LA	8,320
E085	C	Lafayette, LA	16,640
E086	A	Lake Charles, LA	2,617
E086	B	Lake Charles, LA	7,850
E086	C	Lake Charles, LA	15,699
E087	A	Beaumont-Port Arthur, TX	2,500
E087	B	Beaumont-Port Arthur, TX	6,339
E087	C	Beaumont-Port Arthur, TX	12,677
E088	A	Shreveport-Bossier City, LA–AR	2,777
E088	B	Shreveport-Bossier City, LA–AR	8,331
E088	C	Shreveport-Bossier City, LA–AR	16,662
E089	A	Monroe, LA	2,500
E089	B	Monroe, LA	4,904
E089	C	Monroe, LA	9,807
E090	A	Little Rock-North Little Rock, AR	7,236
E090	B	Little Rock-North Little Rock, AR	21,707
E090	C	Little Rock-North Little Rock, AR	43,413
E091	A	Fort Smith, AR–OK	2,500

EA	Block	Name	Minimum opening bid
E091	B	Fort Smith, AR–OK	4,292
E091	C	Fort Smith, AR–OK	8,584
E092	A	Fayetteville-Springdale-Rogers, AR–MO–OK	2,500
E092	B	Fayetteville-Springdale-Rogers, AR–MO–OK	4,290
E092	C	Fayetteville-Springdale-Rogers, AR–MO–OK	8,579
E093	A	Joplin, MO–KS–OK	2,500
E093	B	Joplin, MO–KS–OK	3,506
E093	C	Joplin, MO–KS–OK	7,012
E094	A	Springfield, MO	3,563
E094	B	Springfield, MO	10,687
E094	C	Springfield, MO	21,373
E095	A	Jonesboro, AR–MO	2,500
E095	B	Jonesboro, AR–MO	4,352
E095	C	Jonesboro, AR–MO	8,704
E096	A	St. Louis, MO–IL	17,015
E096	B	St. Louis, MO–IL	51,043
E096	C	St. Louis, MO–IL	102,085
E097	A	Springfield, IL–MO	2,500
E097	B	Springfield, IL–MO	7,496
E097	C	Springfield, IL–MO	14,991
E098	A	Columbia, MO	2,500
E098	B	Columbia, MO	4,824
E098	C	Columbia, MO	9,647
E099	A	Kansas City, MO–KS	11,125
E099	B	Kansas City, MO–KS	33,374
E099	C	Kansas City, MO–KS	66,748
E100	A	Des Moines, IA–IL–MO	8,024
E100	B	Des Moines, IA–IL–MO	24,070
E100	C	Des Moines, IA–IL–MO	48,139
E101	A	Peoria-Pekin, IL	2,619
E101	B	Peoria-Pekin, IL	7,856
E101	C	Peoria-Pekin, IL	15,712
E102	A	Davenport-Moline-Rock Island, IA–IL	2,742
E102	B	Davenport-Moline-Rock Island, IA–IL	8,224
E102	C	Davenport-Moline-Rock Island, IA–IL	16,448
E103	A	Cedar Rapids, IA	2,500
E103	B	Cedar Rapids, IA	5,116
E103	C	Cedar Rapids, IA	10,231
E104	A	Madison, WI–IA–IL	4,187
E104	B	Madison, WI–IA–IL	12,559
E104	C	Madison, WI–IA–IL	25,117
E105	A	La Crosse, WI–MN	2,500
E105	B	La Crosse, WI–MN	3,308
E105	C	La Crosse, WI–MN	6,616
E106	A	Rochester, MN–IA–WI	2,500
E106	B	Rochester, MN–IA–WI	4,383
E106	C	Rochester, MN–IA–WI	8,766
E107	A	Minneapolis-St. Paul, MN–WI–IA	19,728
E107	B	Minneapolis-St. Paul, MN–WI–IA	59,182
E107	C	Minneapolis-St. Paul, MN–WI–IA	118,364
E108	A	Wausau, WI	2,500
E108	B	Wausau, WI	6,773
E108	C	Wausau, WI	13,546
E109	A	Duluth-Superior, MN–WI	2,500
E109	B	Duluth-Superior, MN–WI	5,111
E109	C	Duluth-Superior, MN–WI	10,221
E110	A	Grand Forks, ND–MN	2,500
E110	B	Grand Forks, ND–MN	3,613
E110	C	Grand Forks, ND–MN	7,225
E111	A	Minot, ND	2,500
E111	B	Minot, ND	2,500
E111	C	Minot, ND	3,482
E112	A	Bismarck, ND–MT–SD	2,500
E112	B	Bismarck, ND–MT–SD	2,584
E112	C	Bismarck, ND–MT–SD	5,167
E113	A	Fargo-Moorhead, ND–MN	2,500
E113	B	Fargo-Moorhead, ND–MN	5,216
E113	C	Fargo-Moorhead, ND–MN	10,431
E114	A	Aberdeen, SD	2,500
E114	B	Aberdeen, SD	2,500
E114	C	Aberdeen, SD	2,541
E115	A	Rapid City, SD–MT–ND–NE	2,500
E115	B	Rapid City, SD–MT–ND–NE	2,997

EA	Block	Name	Minimum opening bid
E115	C	Rapid City, SD–MT–ND–NE	5,994
E116	A	Sioux Falls, SD–IA–MN–NE	2,500
E116	B	Sioux Falls, SD–IA–MN–NE	7,175
E116	C	Sioux Falls, SD–IA–MN–NE	14,350
E117	A	Sioux City, IA–NE–SD	2,500
E117	B	Sioux City, IA–NE–SD	3,593
E117	C	Sioux City, IA–NE–SD	7,186
E118	A	Omaha, NE–IA–MO	4,795
E118	B	Omaha, NE–IA–MO	14,383
E118	C	Omaha, NE–IA–MO	28,765
E119	A	Lincoln, NE	2,500
E119	B	Lincoln, NE	5,126
E119	C	Lincoln, NE	10,251
E120	A	Grand Island, NE	2,500
E120	B	Grand Island, NE	4,163
E120	C	Grand Island, NE	8,326
E121	A	North Platte, NE–CO	2,500
E121	B	North Platte, NE–CO	2,500
E121	C	North Platte, NE–CO	2,500
E122	A	Wichita, KS–OK	5,472
E122	B	Wichita, KS–OK	16,414
E122	C	Wichita, KS–OK	32,827
E123	A	Topeka, KS	2,500
E123	B	Topeka, KS	6,672
E123	C	Topeka, KS	13,344
E124	A	Tulsa, OK–KS	6,299
E124	B	Tulsa, OK–KS	18,895
E124	C	Tulsa, OK–KS	37,790
E125	A	Oklahoma City, OK	7,754
E125	B	Oklahoma City, OK	23,261
E125	C	Oklahoma City, OK	46,522
E126	A	Western Oklahoma, OK	2,500
E126	B	Western Oklahoma, OK	2,500
E126	C	Western Oklahoma, OK	4,346
E127	A	Dallas-Fort Worth, TX–AR–OK	30,904
E127	B	Dallas-Fort Worth, TX–AR–OK	92,712
E127	C	Dallas-Fort Worth, TX–AR–OK	185,424
E128	A	Abilene, TX	2,500
E128	B	Abilene, TX	3,202
E128	C	Abilene, TX	6,403
E129	A	San Angelo, TX	2,500
E129	B	San Angelo, TX	2,837
E129	C	San Angelo, TX	5,673
E130	A	Austin-San Marcos, TX	4,612
E130	B	Austin-San Marcos, TX	13,835
E130	C	Austin-San Marcos, TX	27,670
E131	A	Houston-Galveston-Brazoria, TX	22,839
E131	B	Houston-Galveston-Brazoria, TX	68,516
E131	C	Houston-Galveston-Brazoria, TX	137,031
E132	A	Corpus Christi, TX	2,505
E132	B	Corpus Christi, TX	7,513
E132	C	Corpus Christi, TX	15,025
E133	A	McAllen-Edinburg-Mission, TX	3,510
E133	B	McAllen-Edinburg-Mission, TX	10,529
E133	C	McAllen-Edinburg-Mission, TX	21,057
E134	A	San Antonio, TX	8,710
E134	B	San Antonio, TX	26,130
E134	C	San Antonio, TX	52,260
E135	A	Odessa-Midland, TX	2,500
E135	B	Odessa-Midland, TX	5,738
E135	C	Odessa-Midland, TX	11,476
E136	A	Hobbs, NM–TX	2,500
E136	B	Hobbs, NM–TX	2,777
E136	C	Hobbs, NM–TX	5,554
E137	A	Lubbock, TX	2,500
E137	B	Lubbock, TX	5,357
E137	C	Lubbock, TX	10,713
E138	A	Amarillo, TX–NM	2,500
E138	B	Amarillo, TX–NM	6,724
E138	C	Amarillo, TX–NM	13,448
E139	A	Santa Fe, NM	2,500
E139	B	Santa Fe, NM	3,131
E139	C	Santa Fe, NM	6,261

EA	Block	Name	Minimum opening bid
E140	A	Pueblo, CO–NM	2,500
E140	B	Pueblo, CO–NM	3,707
E140	C	Pueblo, CO–NM	7,414
E141	A	Denver-Boulder-Greeley, CO–KS–NE	15,156
E141	B	Denver-Boulder-Greeley, CO–KS–NE	45,468
E141	C	Denver-Boulder-Greeley, CO–KS–NE	90,935
E142	A	Scottsbluff, NE–WY	2,500
E142	B	Scottsbluff, NE–WY	2,500
E142	C	Scottsbluff, NE–WY	2,760
E143	A	Casper, WY–ID–UT	2,500
E143	B	Casper, WY–ID–UT	5,732
E143	C	Casper, WY–ID–UT	11,463
E144	A	Billings, MT–WY	2,500
E144	B	Billings, MT–WY	5,438
E144	C	Billings, MT–WY	10,876
E145	A	Great Falls, MT	2,500
E145	B	Great Falls, MT	2,500
E145	C	Great Falls, MT	4,899
E146	A	Missoula, MT	2,500
E146	B	Missoula, MT	5,010
E146	C	Missoula, MT	10,020
E147	A	Spokane, WA–ID	3,460
E147	B	Spokane, WA–ID	10,378
E147	C	Spokane, WA–ID	20,755
E148	A	Idaho Falls, ID–WY	2,500
E148	B	Idaho Falls, ID–WY	3,951
E148	C	Idaho Falls, ID–WY	7,902
E149	A	Twin Falls, ID	2,500
E149	B	Twin Falls, ID	2,500
E149	C	Twin Falls, ID	4,105
E150	A	Boise City, ID–OR	2,500
E150	B	Boise City, ID–OR	6,124
E150	C	Boise City, ID–OR	12,248
E151	A	Reno, NV–CA	2,556
E151	B	Reno, NV–CA	7,666
E151	C	Reno, NV–CA	15,331
E152	A	Salt Lake City-Ogden, UT–ID	8,180
E152	B	Salt Lake City-Ogden, UT–ID	24,540
E152	C	Salt Lake City-Ogden, UT–ID	49,080
E153	A	Las Vegas, NV–AZ–UT	4,719
E153	B	Las Vegas, NV–AZ–UT	14,156
E153	C	Las Vegas, NV–AZ–UT	28,312
E154	A	Flagstaff, AZ–UT	2,500
E154	B	Flagstaff, AZ–UT	4,497
E154	C	Flagstaff, AZ–UT	8,993
E155	A	Farmington, NM–CO	2,500
E155	B	Farmington, NM–CO	2,500
E155	C	Farmington, NM–CO	4,505
E156	A	Albuquerque, NM–AZ	3,815
E156	B	Albuquerque, NM–AZ	11,443
E156	C	Albuquerque, NM–AZ	22,885
E157	A	El Paso, TX–NM	4,038
E157	B	El Paso, TX–NM	12,113
E157	C	El Paso, TX–NM	24,226
E158	A	Phoenix-Mesa, AZ–NM	11,826
E158	B	Phoenix-Mesa, AZ–NM	35,476
E158	C	Phoenix-Mesa, AZ–NM	70,951
E159	A	Tucson, AZ	3,971
E159	B	Tucson, AZ	11,913
E159	C	Tucson, AZ	23,826
E160	A	Los Angeles-Riverside-Orange County, CA–AZ	79,460
E160	B	Los Angeles-Riverside-Orange County, CA–AZ	238,378
E160	C	Los Angeles-Riverside-Orange County, CA–AZ	476,755
E161	A	San Diego, CA	12,491
E161	B	San Diego, CA	37,471
E161	C	San Diego, CA	74,941
E162	A	Fresno, CA	5,845
E162	B	Fresno, CA	17,535
E162	C	Fresno, CA	35,070
E163	A	San Francisco-Oakland-San Jose, CA	40,166
E163	B	San Francisco-Oakland-San Jose, CA	120,498
E163	C	San Francisco-Oakland-San Jose, CA	240,995
E164	A	Sacramento-Yolo, CA	9,678

EA	Block	Name	Minimum opening bid
E164	B	Sacramento-Yolo, CA	29,033
E164	C	Sacramento-Yolo, CA	58,065
E165	A	Redding, CA–OR	2,500
E165	B	Redding, CA–OR	4,614
E165	C	Redding, CA–OR	9,228
E166	A	Eugene-Springfield, OR–CA	3,449
E166	B	Eugene-Springfield, OR–CA	10,345
E166	C	Eugene-Springfield, OR–CA	20,690
E167	A	Portland-Salem, OR–WA	11,551
E167	B	Portland-Salem, OR–WA	34,651
E167	C	Portland-Salem, OR–WA	69,302
E168	A	Pendleton, OR–WA	2,500
E168	B	Pendleton, OR–WA	2,642
E168	C	Pendleton, OR–WA	5,284
E169	A	Richland-Kennewick-Pasco, WA	2,729
E169	B	Richland-Kennewick-Pasco, WA	8,187
E169	C	Richland-Kennewick-Pasco, WA	16,373
E170	A	Seattle-Tacoma-Bremerton, WA	17,226
E170	B	Seattle-Tacoma-Bremerton, WA	51,676
E170	C	Seattle-Tacoma-Bremerton, WA	103,352
E171	A	Anchorage, AK	2,751
E171	B	Anchorage, AK	8,251
E171	C	Anchorage, AK	16,502
E172	A	Honolulu, HI	5,542
E172	B	Honolulu, HI	16,624
E172	C	Honolulu, HI	33,247
E173	A	Guam & Northern Mariana Isl.	2,500
E173	B	Guam & Northern Mariana Isl.	2,648
E173	C	Guam & Northern Mariana Isl.	5,295
E174	A	Puerto Rico & Virgin Isl.	18,120
E174	B	Puerto Rico & Virgin Isl.	54,358
E174	C	Puerto Rico & Virgin Isl.	108,716
E175	A	American Samoa	2,500
E175	B	American Samoa	2,500
E175	C	American Samoa	2,500

[FR Doc. 97–28161 Filed 10–22–97; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL ELECTION COMMISSION

Sunshine Act Meeting

AGENCY: Federal Election Commission.

Date and Time: Tuesday, October 28, 1997 at 10:00 a.m.

Place: 999 E Street, N.W., Washington, D.C.

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.

Maters concerning participation in civil actions or proceedings or arbitration.

Internal personnel rules and procedures or matters affecting a particular employee.

Date and Time: Thursday, October 30, 1997, at 10:00 a.m.

Place: 999 E Street, N.W. Washington, D.C. (ninth floor)

Status: This meeting will be open to the public.

Items to be discussed:

Correction and Approval of Minutes.

Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Ron Harris, Press Officer, Telephone: (202) 219–4155.

Marjorie W. Emmons,

Secretary of the Commission.

[FR Doc. 97–28299 Filed 10–21–95; 3:19 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

[Docket No. 97–18]

APL/MOL/OOCL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011588; Order To Show Cause

Introduction

This proceeding is instituted pursuant to sections 10(c) (6) and 11 of the Shipping Act of 1984 (''1984 Act''), 46 U.S.C. app. §§ 1709(c)(6) and 1710. The APL/MOL/OOCL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011588 (''the Agreement''), an agreement for the reciprocal chartering of space aboard vessels operated in the U.S. foreign trades by the agreement members, appears to reserve for one member of the Agreement the carriage of cargo offered by shippers subject to U.S. cargo preference laws.

Under section 10(c)(6) of the 1984 Act, 46 U.S.C. app. § 1709(c)(6), it is unlawful for any conference or group of two or more common carriers to

> allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as otherwise required by the law of the United States or the importing or exporting country. * * *

It appears that the Agreement on its face presents a violation of section 10(c)(6). Therefore, pursuant to section 11 of the 1984 Act, the parties to the Agreement are ordered to show cause why the Agreement should not be found to be in violation of the 1984 Act and should not be disapproved, canceled or modified accordingly.

Background

The Agreement, entered into by the parties on August 29, 1997, was filed with the Federal Maritime Commission (''Commission'' or ''FMC'') on September 2, 1997, pursuant to section 5 of the 1984 Act, 46 U.S.C. app.

§ 1704,[1] and became effective on October 17, 1997.[2] This Agreement authorizes the parties to charter space on each other's vessels on a reciprocal basis and to agree on sailing schedules, service frequency and port calls in the trades between ports and points in the U.S. served via U.S. Pacific Coast ports and ports and points in the Far East. The Agreement provides for reciprocal sale, exchange or use of up to an annualized average of 500 TEUs of space per week by Hyundai Merchant Marine, Ltd. (''Hyundai'') on vessels operated by American President Lines, Ltd. (''APL''), Mitsui O.S.K. Line, Ltd. (''MOL''), and Orient Overseas Container Line, Inc. (''OOCL'') and for use by APL, MOL and OOCL of an equal amount of space on Hyundai vessels operating in the trade.[3] The parties may also agree on feeder operations, addition or withdrawal of capacity, and the number, type and size of vessels they will use in the trade. No party may charter or sub-charter space aboard another party's vessel to a third-party carrier without the consent of the party operating the vessel.[4]

The Agreement provides, *inter alia,* at Article 5.1, that:

[n]othing in this Agreement shall be construed as granting a right on the part of any other party to carry aboard the vessels of American President Lines, Ltd. cargoes shipped from or to the U.S. Department of Defense or Agriculture, or any subsidiary agencies thereof, or any other agency of the U.S. Government whose shipments are subject to cargo preference laws of the United States to the extent requiring and reserved for transportation aboard U.S.-flag vessels.[5]

In response to an inquiry from the Commission's staff concerning this provision, a letter of March 11, 1997 from the Secretary, Maritime Administration, Department of Transportation (''MarAd'') to APL Vice President Michael Murphy was provided by filing counsel for the Agreement parties. This letter states that APL's request is granted for a waiver under section 804(b) of the Merchant Marine Act, 1936 (''1936 Act'') for APL to own, operate or charter up to 18 foreign-flag vessels in line haul service between U.S. and foreign ports for the remaining term of APL's Operating Differential Subsidy Agreement (''ODSA''), Contract MA/MSB–417, through December 31, 1997 and for the full term of each of APL's nine operating agreements under the Maritime Security Program (''MSP''), Contract Nos. MA/MSP–1 through MA/MSP–9. MarAd imposed five conditions on the waiver, which ''will terminate in the event any of the conditions are not fulfilled,'' including condition D:

No space on APL's U.S.-flag vessels that are subject to space sharing agreements with any foreign operator shall be utilized for the carriage of cargo reserved for U.S.-flag vessels under any statute, resolution or regulation unless such cargo is carried pursuant to bills of lading or contracts of carriage issued to, or entered into with, the shipper of such cargo by or for a citizen of the United States.

Discussion

In *Military Sealift Command* v. *Sea-Land Service, Inc.,* F.M.C. _____, 27 S.R.R. 874 (1996) (''*MSC*''), the Commission determined that a provision whose effect appears identical to that of Article 5.1 of the Agreement constituted an allocation of shippers prohibited under section 10(c)(6).[6] The vessel sharing agreements (''VSAs'') among Sea-Land Service, Inc. (''Sea-Land'') and three foreign-flag carriers (P&O Containers Limited (''P&O''), Nedlloyd Lijnen, B.V. (''Nedlloyd''), and Compania Trasatlantica Espanola, S.A. (''CTE'')) involved in *MSC* provided for the use of 12 U.S.-flag vessels owned by Sea-Land to be operated on behalf of all of the parties to the agreements, and to replace all U.S.-flag and foreign-flag vessels previously operated by the parties in the covered trade. By chartering space on a U.S.-flag vessel, P&O, Nedlloyd and CTE gained eligibility to submit bids for military and other government preference cargoes reserved to U.S.-flag vessels. However, P&O and Nedlloyd agreed in Article 5(i) of Agreement No. 203–11171, that they would not use any vessels or space chartered from Sea-Land for carriage of government preference cargo. CTE was subsequently added to the VSA, subject to the same condition. Upon complaint filed by the Military Sealift Command, Department of the Navy, a shipper of U.S. preference cargo, the Commission determined that the provision constituted an allocation of shippers prohibited by the first clause of section 10(c)(6).

However, the Commission further determined that the provision was not unlawful because it was required by an order of MarAd which constituted ''law of the United States'' within the meaning of the ''except'' clause of section 10(c)(6). The VSAs required the approval of the Secretary of Transportation for the charter or transfer of a U.S.-flag vessel to a non-citizen under section 9 of the Shipping Act, 1916 (''1916 Act'').[7] Section 41 gives the Secretary broad power to prescribe conditions—violations of which are crimes punishable by fines, imprisonment and vessel forfeiture—on transactions covered by section 9. The Secretary has delegated to the Maritime Administrator authority to carry out sections 9 and 41 of the 1916 Act. 49 CFR 166(a).

MarAd conditioned its approval of Sea-Land's charters of its U.S.-flag vessels and vessel space to foreign-flag carrier members of the agreements on the exclusion of the foreign-flag participants from use of the vessels to carry U.S. preference cargo.[8] MarAd acted under section 9 on each individual charter of a U.S.-flag vessel and incorporated conditions requiring restriction of U.S. preference cargo to the U.S.-flag carrier member of the agreements in each of the ''charter orders'' approving the arrangement, as required by section 41. The Commission specifically found that the conditional

[1] Section 5 provides, in relevant part, that ''[a] true copy of every agreement [with respect to activities subject to the Act as described in section 4] * * * shall be filed with the Commission * * *.'' Notice of the filing of the Agreement was published in the **Federal Register** on September 15, 1997, 62 *Fed. Reg.* 48287 (September 15, 1997).

[2] Section 6(c), 46 U.S.C. app. § 1705, provides, *inter alia,* that ''[u]nless rejected by the Commission * * *, agreements * * * shall become effective * * * on the 45th day after filing, or on the 30th day after notice of the filing is published in the **Federal Register**, whichever day is later * * *.''

[3] APL, MOL and OOCL, parties to the APL/MOL/OOCL Asia-Atlantic Alliance Agreement (Agreement No. 203–011467) and the APL/MOL/OOCL Asia-Pacific Agreement (Agreement No. 203–011468) under which they reciprocally charter space and offer global service, are collectively known as the ''Global Alliance.''

[4] The parties have denominated the period from the Agreement's effective date to December 31, 1997 as ''the Initial Period,'' and provided for continuation of the Agreement by year-to-year renewals after that date.

[5] The Agreement further provides that

If the second sentence of this Section 5.1 with respect to U.S. preference cargoes shall be determined to violate U.S. law by a court of competent jurisdiction and any stay upon the order of such court giving effect to such determination arising by reason of an appeal of such order shall have ceased to be effective, then the second sentence * * * shall be deemed severed * * *.

[6] The Commission's decision in MSC is presently subject to review in the U.S. Court of Appeals for the D.C. Circuit.

[7] Section 9(c) provides that, with certain exceptions not relevant here, that ''a person may not, without the approval of the Secretary of Transportation—(1) Sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel * * * owned by a citizen of the United States * * *.''

46 U.S.C. app. § 808(c).

[8] Like Article 5(i) of Agreement No. 203–011171, the MarAd condition required that none of the vessel space chartered to non U.S.-citizen parties to the agreement ''shall be utilized for the carriage of cargo reserved for United States-flag vessels * * * unless such cargo is carried pursuant to bills of lading or contracts of carriage issued [by], or entered into with, * * * a citizen of the United States * * *,'' in other words, Sea-Land.

charter orders issued by MarAd pursuant to sections 9 and 41 of the 1916 Act had the force and effect of law because they were compulsory and the statute provided criminal penalties for noncompliance. 27 S.R.R. at 889.

The Agreement presently before us provides for the chartering of space by non-U.S. citizen carriers on vessels operated by APL, some of which are U.S.-flag vessels, as well as the chartering of space by APL on foreign-flag vessels operated by other members of the Agreement. The Agreement parties do not represent that APL sought MarAd approval pursuant to section 9 for use of its U.S.-flag vessels in operations under the Agreement. The March 11, 1997 MarAd letter grants authority to APL only under section 804(b) of the 1936 Act, and does not refer to sections 9 and 41 of the 1916 Act or MarAd authority under those provisions.[9] Thus, this case apparently does not involve the 1916 Act authority exercised by MarAd with respect to the space charter agreements at issue in MSC.[10]

APL presently operates U.S.-flag vessels under operating-differential subsidy (''ODS'') contracts with MarAd pursuant to Title VI and sections 801 and 804 of the 1936 Act, 46 U.S.C. app. § 1171 *et seq.* and §§ 1211 and 1222.[11] The terms of the subsidy contract between the United States and the operator of the U.S.-flag vessels are specified by the statute, under section 603, 46 U.S.C. app. § 1173. The 1936 Act provides that certain breaches of the contract will result in termination of the contract and loss of the subsidy. *See*, e.g., section 608, 46 U.S.C. app. § 1178 (sale or assignment of the contract without the Secretary's approval).

Section 804(a) provides that it is ''unlawful for any contractor receiving an operating-differential subsidy under title VI * * * to own, charter, * * * or operate any foreign-flag vessel which competes with any American flag service'' on a route deemed essential by the Secretary, except as provided in section 804(b). Section 804(b), 46 U.S.C. app. § 1222(b), authorizes the Secretary to waive the prohibition for a specific period of time ''[u]nder special circumstances and for good cause shown * * *.''[12] The March 11, 1997 MarAd letter states that the waiver granted ''is subject to the * * * conditions and will terminate in the event any of the conditions are not fulfilled * * *.''

On October 8, 1996, the 1936 Act was substantially amended by passage of the Military Security Act of 1996, Pub. L. 104–239, 110 Stat. 3118. Those amendments denominated the existing provisions of Title VI providing for ODS and ODS contracts as ''part A'' and created the Military Security Fleet Program, denominated ''part B,'' 46 U.S.C. app. § 1187, *et seq.* Section 1187a provides, as a condition of including any vessel in the Fleet, that the owner or operator of the vessel enter into an operating agreement governed by the section's provisions with the Secretary of Transportation.[13] The operating agreements thus called for will be one-year, renewable contracts. Subsection (c) provides that ''[a] contractor of a vessel included in an operating agreement under this part may operate the vessel in the foreign commerce of the United States without restriction, and shall not be subject to any requirement under'' certain sections of the 1936 Act dealing with record keeping, equitable distribution of contracts among U.S. ports, and discrimination. 46 U.S.C. app. 1187a(c). As MarAd noted in promulgating its final regulations for the MSP, ''[u]nlike the operating differential subsidy * * * program, the MSP has few restrictions on vessels operating in the U.S.-foreign commerce * * *.'' 62 FR 37733 (July 15, 1997).

Section 804 was substantially amended as well. Section 804(a) continues to apply to ''any contractor receiving an operating-differential subsidy under subchapter VI * * *'' 46 U.S.C. app. § 122(a). However, a new subsection 804(f) provides that nothing in section 804(a) will preclude a contractor receiving assistance under subchapter A or B from ''entering into time or space charter or other cooperative agreements with respect to foreign-flag vessels * * *.'' 46 U.S.C. app. § 1221(f)(5).[14] It thus does not appear to be necessary for a U.S.-flag carrier with an MSP operating agreement to seek a waiver under section 804(b) in order to participate in a space charter or vessel sharing agreement.

APL's existing ODS contracts will expire on December 31, 1997. APL entered into operating agreements with MarAd for nine vessels on January 21, 1997. On January 17, 1997, APL filed a request with MarAd for a waiver under section 804(b) of the 1936 Act for operation of up to 18 foreign-flag vessels. Notice of its filing was published January 29, 1997. 62 FR 4377 (January 29, 1997). The March 11, 1997 MarAd letter granted APL's request. The waiver provides that APL may ''own, operate or charter'' up to 18 foreign-flag vessels. APL's request and MarAd's action preceded the Agreement by some seven months and five months respectively. Neither appears to have been undertaken in contemplation of the Agreement.

Under the provisions of the 1936 Act, as amended by the Maritime Security Act of 1996, no recourse to the Maritime Administration appears to be required for APL's participation in the Agreement, particularly with respect to the Agreement's operation after the Initial Period.[15] The Commission must, as it noted in *MSC*, ''[u]nder ordinary circumstances, * * * consider the text and any relevant analyses of the proffered law [said to create an exception to the prohibition of section 10(c)(6)], and render a conclusion as to whether the law commanded the actions that otherwise might fall within section 10(c)(6)'s prohibition clause.''

In correspondence with the Commission's staff and counsel during FMC review of the Agreement, APL suggests that the March 11, 1997 MarAd letter should be considered ''law of the United States'' within the meaning of

[9] MarAd has apparently dispensed with individualized approvals of charters of U.S.-flag vessels like those at issue in *MSC. See* 46 C.F.R. § 221.13(a)(1) (except as limited by provisions not relevant here, MarAd ''hereby grants the approval required by [section 9(c) of the 1916 Act] for the * * * Charter * * * to a Noncitizen of an interest in or control of a Documented Vessel owned by a Citizen of the United States * * *.'').

[10] APL participated in the Commission's proceeding in *MSC* as an intervenor, representing that its interests could be substantially affected by the Commission's decision of the allocation issue because it was a participant in space charter agreements having similar cargo preference provisions. APL acknowledged, however, that the basis for the MarAd orders which allegedly required such provisions was not the same as that which required the provision in the VSAs challenged in that complaint proceeding.

[11] Section 603, 46 U.S.C. app. § 1173(a), provides that, upon approval of an application for ODS under section 601, the Secretary of Transportation may enter into a contract with the applicant ''subject to such reasonable terms and conditions * * * as the Secretary * * * shall require to effectuate the purposes and policy * * * of the Act.

[12] The March 11, 1997 MarAd letter states that the Administrator has found ''special circumstances'' and ''good cause'' for granting the waiver.

[13] The section permits the Secretary to enter into operating agreements for vessels which continue to operate under ODS contracts subject to part A.

[14] The new section 804(f) was made effective as to carriers with existing ODS contracts on the date on which such a contractor entered into an MSP contract with MarAd. 46 U.S.C.A. app. § 1222, Historical and Statutory Notes.

[15] In view of the brevity of the Initial Period during which APL's operations under the Agreement will be subject to its ODS contract, we will not address, or require the parties to address, the issues of whether conditions imposed on a section 804 waiver are part of the terms of the ODS contract; whether violation of a conditional waiver constitutes a breach of the contract; and whether the sanctions specified for breach of the contract constitute ''law of the United States'' within the meaning of the except clause.

the ''except clause'' of section 10(c)(6). The Commission in *MSC* indicated that it is not the FMC's role to decide on the validity of a MarAd order. *MSC,* 27 S.R.R. at 888. However, the Commission's inquiry in *MSC* included the threshold conclusion that MarAd action under the 1916 Act was a necessary prerequisite for the existence of the agreements at issue: the U.S.-flag vessels could not be chartered to the foreign carrier agreement parties without MarAd approval. 27 S.R.R. at 876. No party contended otherwise. Here, no similar nexus between the Agreement and the statutory authority of the Maritime Administrator invoked by APL is evident.[16] Thus, inasmuch as the FMC's determination must be based on the statutory provisions relied on, and the terms of MSP operating agreements or other forms of action by MarAd, we would find it particularly helpful to have MarAd participate as *amicus curiae* in the Commission's proceeding and will order the Secretary to invite that participation.

Now therefore, it is ordered That pursuant to section 11 of the Shipping Act of 1984, American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., Orient Overseas Container Line, Inc. and Hyundai Merchant Marine, Ltd. show cause why they should not be found to have violated section 10(c)(6) of the Shipping Act of 1984 by prohibiting specific carriers that are parties to the agreement from soliciting cargo from a particular shipper or shippers;

It is further ordered that American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., Orient Overseas Container Line, Inc. and Hyundai Merchant Marine, Ltd. show cause why an order should not be issued disapproving, canceling or modifying the APL/MOL/OOCL/HMM Reciprocal Slot Exchange Agreement, Agreement No. 203–011588;

It is further ordered That this proceeding is limited to the submission of affidavits of facts and memoranda of law;

It is further ordered That the Secretary by letter inquire whether the Maritime Administration, Department of Transportation wishes to participate *amicus curiae* in this proceeding. The Commission would welcome such participation;

It is further ordered That any person having an interest and desiring to intervene in this proceeding shall file a petition for leave to intervene in accordance with Rule 72 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.72. Such petition shall be accompanied by the petitioner's memorandum of law and affidavits of fact, if any, and shall be filed no later than the day fixed below;

It is further ordered That American President Lines, Ltd., Mitsui O.S.K. Line, Ltd., Orient Overseas Container Line, Inc. and Hyundai Merchant Marine, Ltd. are named Respondents in this proceeding. Affidavits of fact and memoranda of law shall be filed by Respondents and any intervenors in support of Respondents no later than December 2, 1997;

It is further ordered That the Commission's Bureau of Enforcement be made a party to this proceeding;

It is further ordered That reply affidavits and memoranda of law shall be filed by the Bureau of Enforcement and any intervenors in opposition to Respondent no later than January 2, 1998;

It is further ordered That rebuttal affidavits and memoranda of law shall be filed by Respondents and intervenors in support no later than January 20, 1998;

It is further ordered That, should any party believe that an oral argument is required, that party must submit a request specifying the reasons therefore and why argument by memorandum is inadequate to present the party's case. Any request for oral argument shall be filed no later than January 20, 1998;

It is further ordered That notice of this Order to Show Cause be published in the **Federal Register**, and that a copy thereof be served upon Respondents;

It is further ordered That all documents submitted by any party of record in this proceeding shall be filed in accordance with Rule 118 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.118, as well as being mailed directly to all parties of record;

Finally, it is ordered That pursuant to the terms of Rule 61 of the Commission's Rules of Practice and Procedure, 46 C.F.R. 502.61, the final decision of the Commission in this proceeding shall be issued by April 20, 1998.

By the Commission.

Joseph C. Polking,

Secretary.

[FR Doc. 97–28068 Filed 10–22–97; 8:45 am]

BILLING CODE 6730–01–M

[16] In initiating this proceeding, we do not undertake to review the actions of the Maritime Administrator under his statutory authority. Our administration of the 1984 Act, however, requires that we determine whether an agreement filed pursuant to the 1984 Act requires action by the Administrator under a statute which authorizes him to command carrier obedience to orders cognizable as ''law of the United States,'' and whether the Administrator has required the action specifically taken by the parties in this instance.

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies; Correction

This notice corrects a notice (FR Doc. 97-27510) published on pages 54113-54114 of the issue for Friday, October 17, 1997.

Under the Federal Reserve Bank of San Francisco heading, the entry for Wendell A. Jacobson, Fountain Green, Utah, is revised to read as follows:

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. Wendell A., and Melba B. Jacobson, Fountain Green, Utah; to acquire additional voting shares of Bank of Ephraim, Ephraim, Utah.

Comments on this application must be received by October 30, 1997.

Board of Governors of the Federal Reserve System, October 17, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–28073 Filed 10–22–97; 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 17, 1997.

A. Federal Reserve Bank of Chicago (Philip Jackson, Applications Officer) 230 South LaSalle Street, Chicago, Illinois 60690-1413:

1. Johnson International, Inc., Racine, Wisconsin; to acquire 100 percent of the voting shares of The Bank of Fort Atkinson, Fort Atkinson, Wisconsin.

B. Federal Reserve Bank of Minneapolis (Karen L. Grandstrand, Vice President) 250 Marquette Avenue, Minneapolis, Minnesota 55480-2171:

1. Community First Bankshares, Inc., Fargo, North Dakota; to acquire 100 percent of the voting shares of Community First National Bank, Globe, Arizona.

Board of Governors of the Federal Reserve System, October 17, 1997.

Jennifer J. Johnson,

Deputy Secretary of the Board.

[FR Doc. 97–28074 Filed 10–22–97; 8:45 am]

BILLING CODE 6210–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[INFO–98–02]

Proposed Data Collections Submitted for Public Comment and Recommendations

In compliance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 for opportunity for public comment on proposed data collection projects, the Centers for Disease Control and Prevention (CDC) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the data collection plans and instruments, call the CDC Reports Clearance Officer on (404) 639–7090.

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 for other forms of information technology. Send comments to Wilma Johnson, CDC Reports Clearance Officer, 1600 Clifton Road, MS–D24, Atlanta, GA 30333. Written comments should be received within 60 days of this notice.

Proposed Projects

1. Evaluation of Educational Brochures on Opportunistic Infections Affecting People with HIV/AIDS—New—The National Center for HIV, STD and TB Prevention, Division of HIV/AIDS Prevention, Intervention Research and Support proposes to conduct research to assure that intended audiences (persons living with HIV/AIDS) find the brochures clear, informative and useful. Specifically, the research will examine perceptions of the appearance, quality, value, readability, and clarity of the information provided. Attention will be focused on identifying information, language and/or formatting issues which are confusing or unclear. Further, although the intended audience of the brochure series is all persons living with HIV/AIDS, we propose to use the limited resources available to target those who are lower income. This is warranted given their often more restricted access to reliable information sources, making the brochures a more valuable resource for them. In addition, the correlations between low socio-economic status (SES) and low literacy warrant attention to assuring the readability and comprehension of the materials among this group.

The information generated from this research will enable NCHSTP to tailor materials to the needs, wants and preferences of individuals living with HIV/AIDS. Additionally, the center is committed to developing a standardized process for including such audience testing in subsequent materials development projects. The proposed process will provide the foundation for establishing a standardized process for such assessment. There is no cost to respondents.

Respondents	No. of respondents	No. of responses/respondent	Average burden/response (in hrs.)	Total burden (in hrs.)
Individuals infected with HIV/AIDS	550	1	0.5	275
Total				275

Dated: October 17, 1997.

Wilma G. Johnson,

Acting Associate Director for Policy Planning And Evaluation, Centers for Disease Control and Prevention (CDC).

[FR Doc. 97–28086 Filed 10–22–97; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: The Office of Child Support Enforcement OCSE–156 Child Support Enforcement Program Quarterly Data Report and OCSE–158 Child Support Enforcement Annual Data Summary Report.

OMB No.: 0970–0057.

Description: The information obtained from these forms will be used to report Child Support Enforcement activities to the Congress as required by law, to complete performance indicators utilized in the program, and to assist the Office of Child Support Enforcement in monitoring and evaluation State Child Support Enforcement programs. These two information collections will be replaced by the OCSE–157 October 1, 1998.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE–156	54	4	3.7	799.2
OCSE–158	54	1	1.2	64.8

Estimated Total Annual Burden Hours: 864.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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 within 60 days of this publication.

Dated: October 15, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–28126 Filed 10–22–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: The OCSE–157 Child Support Enforcement Annual Data Report.

OMB No.: 0970–0057.

Description: The information obtained from this form will be used to report Child Support Enforcement activities to the Congress as required by law, to complete performance indicators utilized in the program, and to assist the Office of Child Support Enforcement in monitoring and evaluating State Child Support Enforcement programs. As of October 1, 1998 this information collection will replace the OCSE–156 and OCSE–158.

Respondents: State, Local or Tribal Govt.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
OCSE–157	54	1	4.0	216

Estimated Total Annual Burden Hours: 216.

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Information Services, Division of Information Resource Management Services, 370 L'Enfant Promenade, S.W., Washington, D.C. 20447, Attn: ACF Reports Clearance Officer. All requests should be identified by the title of the information collection.

The Department specifically requests comments 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) 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 within 60 days of this publication.

Dated: October 15, 1997.

Bob Sargis,

Acting Reports Clearance Officer.

[FR Doc. 97–28127 Filed 10–22–97; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

[Proposed Program Priorities—ACF/ACYF/RHYP 98–1]

Runaway and Homeless Youth Program: Fiscal Year (FY) 1998 Proposed Program Priorities

AGENCY: Administration on Children, Youth and Families, ACF, DHHS.

ACTION: Notice of request for public comments on proposed Fiscal Year 1998 Runaway and Homeless Youth (RHY) Program Priorities for the Basic Center Program for Runaway and Homeless Youth; the Street Outreach Program for Runaway, Homeless and Street Youth; and the Transitional Living Program for Older Homeless Youth.

The Runaway and Homeless Youth Act requires the Secretary to publish annually, for public comment, a proposed plan specifying priorities the Department will follow in awarding grants and contracts under the Act. The public is urged to provide comments in response to this notice. Suggestions and recommendations will be taken into consideration in development of final priorities. The actual solicitations for grant applications will be published later during Fiscal Year 1998 in the **Federal Register**. No applications for funding should be submitted at this time.

DATES: Closing date for submission of public comments is December 8, 1997.

ADDRESSES: Comments should be sent to: James A. Harrell, Deputy Commissioner, Administration on Children, Youth and Families, Attention: Family and Youth Services Bureau, P.O. Box 1182, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: Anita Wright, Youth Development Program Specialist, (202) 205–8030.

SUMMARY: The Family and Youth Services Bureau of the Administration on Children, Youth and Families announces that public comments are being requested on proposed program priorities for Fiscal Year 1998 for the following programs:

The Runaway and Homeless Youth Basic Center Grant Program (BCP), which provides financial assistance to local agencies to develop and strengthen services to meet the immediate needs (e.g., outreach, temporary shelter, counseling, and aftercare services) of runaway and homeless youth and their families.

The Street Outreach Program for Runaway, Homeless and Street Youth, which provides street-based outreach and education, including treatment, counseling, and information and referral services for runaway, homeless, and street youth who have been subjected to or are at risk of experiencing sexual abuse.

The Transitional Living Program for Older Homeless Youth (TLP), which supports local agencies which provide long term shelter, life-skill training and support services to homeless youth to assist them in making a smooth transition to self-sufficiency and to prevent long-term dependency on social services.

Central to all FYSB programs and activities is a priority that services be delivered through a comprehensive youth development approach. A developmental perspective views adolescence as the passage from the dependence of the child to the independence and self-sufficiency of the adult. The various emotional, intellectual, social and physical changes during this passage are natural, healthy responses to the challenges and opportunities of growing up.

The tasks of youth services providers are seen, thus, not as correcting the problems of troubled youth, but rather as providing for the successive developmental needs of maturing individuals: The psychological need to develop a clear self-identity; the sociological need to be an effective and contributing member of the community; the economic need to prepare for and enter into a career; and the familial needs for sharing, for trusting, for giving and receiving love and commitment. This developmental approach is fundamental to all FYSB programs and activities.

Financial assistance for programs and support efforts discussed below is contingent upon the availability of funds.

a. Basic Center Program Grants

Approximately 65 percent of the Basic Center grants awarded will be non-competing continuation grants and approximately 35 percent will be competitive new awards in Fiscal Year 1998.

Eligible applicants for new awards are current grantees with project periods ending in Fiscal Year 1998 and otherwise eligible applicants who are not current grantees. The applications will be reviewed by State, and awards will be made during the last quarter of Fiscal Year 1998 (July–September 1998).

b. Transitional Living Program Grants

All potential Fiscal Year 1998 TLP funds will be awarded in the form of continuation grants and as new grants to applicants who competed successfully during Fiscal Year 1997.

It is anticipated that all Fiscal Year 1999 funds will be used to award non-competitive continuation grants. No TLP funds are expected to be available in Fiscal Year 1999 to fund new-start applications. Therefore, there will be no solicitation for competitive new-start TLP applications in Fiscal Year 1998.

c. Street Outreach for Runaway, Homeless and Street Youth

Fiscal Year 1998 funds will be used to award new grants to eligible applicants and non-competitive continuation awards to eligible grantees.

d. Support Services for Runaway and Homeless Youth Programs

(1) National Communications System

In Fiscal Year 1994, a five-year grant was awarded to the National Runaway Switchboard, Inc., in Chicago, Illinois, to operate a National Communications System to assist runaway and homeless youth in communicating with their families and with service providers. Non-competitive continuation funding will be awarded to the grantee in Fiscal Year 1998. The five-year project period will end in Fiscal Year 1999.

(2) Training and Technical Assistance

Part D, Section 342 of the Act authorizes the Department to make grants to statewide and regional nonprofit organizations to provide training and technical assistance (T&TA) to organizations receiving service grants under the Act in order to strengthen programs and enhance the knowledge and skills of youth workers.

The Family and Youth Services Bureau funds ten Cooperative Agreements, one in each Federal Region, to provide T&TA to agencies funded by FYSB. Each Cooperative Agreement is based on the characteristics and different T&TA needs in the respective Region and has a five-year project period that will end in Fiscal Year 1999. Non-competitive continuation funding will be awarded to the ten T&TA grantees in Fiscal Year 1998.

(3) National Clearinghouse on Runaway and Homeless Youth

In Fiscal Year 1997, the Family and Youth Services Bureau awarded a five year contract to support a National Clearinghouse on Youth and Families (NCFY). The purpose of the Clearinghouse is to disseminate information to professionals and agencies involved in youth development efforts and/or the delivery of direct services to runaway, homeless and at-risk youth. The Clearinghouse collects, maintains and disseminates reports and other materials, identifies areas in which new or additional information is needed, and develops documents and materials relevant to FYSB's mission and the needs of the field. Non-competitive continuation funding will be awarded to the Clearinghouse in Fiscal Year 1998.

(4) Runaway and Homeless Youth Management Information System (RHYMIS)

In Fiscal Year 1997, the Family and Youth Services Bureau awarded a three year contract for continued development and implementation of the Runaway and Homeless Youth Management Information System (RHYMIS) for FYSB programs. The data generated by the system are used to produce reports and information regarding FYSB's programs, including information for required reports to Congress. In Fiscal Year 1998 this effort will receive non-competitive continuation funding.

(5) Monitoring Support for FYSB Programs

The Family and Youth Services Bureau uses a comprehensive monitoring instrument and site visit protocols, including a peer-review component for monitoring runaway and homeless youth programs. In Fiscal Year 1997, the Family and Youth Services Bureau awarded a three year contract to provide logistical support for peer review monitoring. In Fiscal Year 1998, this contract will receive non-competitive continuation funding.

6. Conference Logistics and Management Support Contract

In Fiscal Year 1995, the Family and Youth Services Bureau awarded a twelve-month contract, with two option years, for logistics and management support. The purpose of the contract is to promote FYSB's comprehensive youth development message by making the arrangements necessary to assemble FYSB's grantees, youth development experts and other youth service providers at meetings, conferences, workshops and forums. In Fiscal Year 1998, the second year option will be funded to continue this effort.

7. Research Demonstration and Management Initiatives

Section 315 of the Act authorizes the Department to award funds to States, localities, and private entities to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth. These activities identify emerging issues and develop and test models which address such issues.

During Fiscal Year 1998, the Family and Youth Services Bureau will continue to:

Support a youth development approach to the provision of services, both from theoretical and practical perspectives;

Pursue the development of youth development performance based indicators and outcome measures as a method of evaluating the effectiveness of youth services;

Explore the potential for successful collaborations among federal government agencies, state governments and local community based youth services organizations, including the funding of possible pilot demonstration efforts;

Continue to work in partnership with Regional Offices around the review and assessment of grant applications and the development and implementation of FYSB program efforts, and

Continue to make sure that funding for programs will occur in a timely manner by publishing this Notice, as well as the final priorities in the **Federal Register**, as early in the Fiscal Year as possible.

We welcome specific comments and suggestions on these proposed program priorities.

(*Catalog of Federal Domestic Assistance* Number 93.623, Runaway and Homeless Youth Program; Number 93.657, Transitional Living Program for Homeless Youth; and Number 93.557, Street Outreach for Runaway and Homeless Youth.)

Dated: October 15, 1997.

James A. Harrell,

Deputy Commissioner, Administration on Children, Youth and Families.

[FR Doc. 97–28025 Filed 10–22–97; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 97N–0399]

Helen A. Ballack Co. et al.; Withdrawal of Approval of 61 New Drug Applications, 8 Abbreviated Antibiotic Applications, and 36 Abbreviated New Drug Applications; Correction

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice; correction.

SUMMARY: The Food and Drug Administration (FDA) is correcting a notice that appeared in the **Federal Register** of September 25, 1997 (62 FR 50387). The document announced the withdrawal of approval of 61 new drug applications (NDA's), 8 abbreviated antibiotic applications (AADA's), and 36 abbreviated new drug applications (ANDA's). The document inadvertently withdrew approval of NDA 19–339 for Heparin Sodium in 5% Dextrose Injection in CR3 Flexible Container held by Abbott Laboratories, D–389 Bldg. AP30, 200 Abbott Park Rd., Abbott Park, IL 60064–3537. This document confirms that approval of NDA 19–339 is still in effect, and that the withdrawal of approval of the NDA was in error.

EFFECTIVE DATE: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Olivia A. Pritzlaff, Center for Drug Evaluation and Research (HFD–7), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–594–2041.

In FR Doc. 97–25369, appearing at page 50387 in the **Federal Register** of Thursday, September 25, 1997, the following correction is made: On page 50388, in the table, the entry for NDA 19–339 is removed.

Dated: October 9, 1997.

Janet Woodcock,

Director, Center for Drug Evaluation and Research.

[FR Doc. 97–28012 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–01–F

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Public Health Service

Centers for Disease Control and Prevention; Statement of Organization, Functions, and Delegations of Authority

Part C (Centers for Disease Control And Prevention) of the Statement of Organization, Functions, and

Delegations of Authority of the Department of Health and Human Services (45 FR 67772–76, dated October 14, 1980, and corrected at 45 FR 69296, October 20, 1980, as amended most recently at 62 FR 46751, dated September 4, 1997) is amended to reflect a change in the official administrative code for the Office of Communication, Centers for Disease Control And Prevention, as published at 62 FR 29142, dated May 29, 1997.

Section C–B, Organization and Functions, is hereby amended as follows:

Following the title for the *Office of Communication,* change the official standard administrative code designation from (CA3) to (CAA).

Following the title for the *Office of the Director, Office of Communication,* change the official standard administrative code designation from (CA31) to (CAA1).

Following the title for the *Division of Health Communication, Office of Communication,* change the official standard administrative code designation from (CA32) to (CAA2).

Following the title for the *Division of Media Relations, Office of Communication,* change the official standard administrative code designation from (CA33) to (CAA3).

Dated: October 7, 1997.

David Satcher,

Director.

[FR Doc. 97–28083 Filed 10–22–97; 8:45 am]

BILLING CODE 4160–18–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Office for Women's Services; Notice of Meeting

Pursuant to Pub. L. 92–463, notice is hereby given of the meeting of the Advisory Committee for Women's Services of the Substance Abuse and Mental Health Services Administration (SAMHSA) in November, 1997.

The meeting of the Advisory Committee for Women's Services will include a discussion of and update on policy and program issues relating to women's substance abuse and mental health service needs at SAMHSA, including the SAMHSA fiscal year 1998 budget and reauthorization; women in senior level positions at SAMHSA; gender issues in SAMHSA's managed care activities; FY 98 Knowledge Development and Application Grants; and future women's policy and program directions at SAMHSA. Public comments are welcome. Please communicate with the individual listed as Contact below to make arrangements to comment or to request special accommodations for persons with disabilities.

A summary of the meeting and/or a roster of committee members may be obtained from: Pamela M. Perry, Executive Secretary, Advisory Committee for Women's Services, Office for Women's Services, SAMHSA, Parklawn Building, Room 13–99, 5600 Fishers Lane, Rockville, Maryland 20857, Telephone: (301) 443–5184.

Substantive information may be obtained from the contact whose name and telephone number is listed below.

Committee Name: Advisory Committee for Women's Services.

Meeting Date(s): November 17–18, 1997.

Place: Versailles I Room, Holiday Inn Hotel—Bethesda, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Open: November 17: 9:00 a.m. to 5:00 p.m. November 18: 8:30 a.m. to 12:00 p.m.

Contact: Pamela M. Perry, Room 13–99, Parklawn Building, Telephone (301) 443–5184.

Dated: October 17, 1997.

Jeri Lipov,

Committee Management Officer, Substance Abuse and Mental Health Services Administration.

[FR Doc. 97–28013 Filed 10-22-97; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Wildlife and Plants; Extension of Listing Priority Guidance for Fiscal Year 1997

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice.

SUMMARY: The U.S. Fish and Wildlife Service (Service) announces an extension of the fiscal year (FY) 1997 guidance for assigning relative priorities to listing actions conducted under section 4 of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*) (Act). The FY 1997 guidance will remain in effect until the FY 1998 appropriations bill for the Department of the Interior becomes law and new final guidance is published in the **Federal Register**.

ADDRESSES: Questions concerning this notice should be submitted to the Chief, Division of Endangered Species, U.S. Fish and Wildlife Service, 1849 C Street, N.W., Mail Stop 452 ARLSQ, Washington, D.C. 20240.

FOR FURTHER INFORMATION CONTACT: E. LaVerne Smith, Chief, Division of Endangered Species (see **ADDRESSES** section) (telephone 703/358–2171).

SUPPLEMENTARY INFORMATION:

Background

The Service adopted guidelines on September 21, 1983 (48 FR 43098), that govern the assignment of priorities to species under consideration for listing as endangered or threatened under section 4 of the Act. The Service adopted those guidelines to establish a rational system for allocating available appropriations to the highest priority species when adding species to the lists of endangered or threatened wildlife and plants or reclassifying threatened species to endangered status. The system places greatest importance on the immediacy and magnitude of threats, but also factors in the level of taxonomic distinctiveness by assigning priority in descending order to monotypic genera, full species, and subspecies (or equivalently, distinct population segments of vertebrates). However, this system does not provide for prioritization among different listing actions such as preliminary determinations, proposed listings, and final listings.

The enactment of Pub. L. 104–6 in April, 1995, rescinded $1.5 million from the Service's budget for carrying out listing activities through the remainder of FY 1995. Pub. L. 104–6 prohibited the expenditure of the remaining appropriated funds for final determinations to list species or designate critical habitat which, in effect, placed a moratorium on those activities. The net effect of the moratorium and reductions in funding was that the Service's listing program was essentially shut down. The moratorium on final listings and the budget constraints remained in effect until April 26, 1996, when President Clinton approved the Omnibus Budget Reconciliation Act of 1996 and exercised the authority that the Act gave him to waive the moratorium. At that time, the Service had accrued a backlog of proposed listings for 243 species. The extremely limited funding available to the Service for listing activities generally precluded petition processing and the development of proposed listings from October 1, 1995, through April 26, 1996.

When the moratorium was lifted and funds were appropriated for the administration of the listing program,

the Service faced the considerable task of allocating the available resources to the significant backlog of listing activities. The Service published Final Listing Priority Guidance for FY 1997 on December 5, 1996 (61 FR 64475). The Listing Priority Guidance system employed 4 tiers for assigning relative priorities to listing actions to be carried out under section 4 of the Act. Tier 1, the processing of emergency listings for species facing a significant risk to their well-being, remains the Service's highest priority. The processing of final decisions on pending proposed listings is assigned to Tier 2. Tier 3 includes resolving the conservation status of species identified as candidates and processing 90-day or 12-month administrative findings on petitions to list or reclassify species from threatened to endangered status. Preparation of proposed or final critical habitat designations, and processing of reclassifications, which provide little or no additional conservation benefit to listed species, are assigned lowest priority (Tier 4).

While operating the listing program under the Final FY 1997 Listing Priority Guidance, the Service focused its resources on issuing final determinations (Tier 2 listing activities). After April 1, 1997, the Service began implementing a more balanced listing program and began processing more Tier 3 listing actions. The continuing (though reduced) backlog and funding limitations underscore the need to maintain program-wide biologically sound priorities to guide the allocation of limited resources.

Extension of Listing Priority Guidance for Fiscal Year 1997

The Department of the Interior has not yet received a FY 1998 appropriation. Under the current continuing resolution, the Service continues to operate at FY 1997 funding levels. Until the FY 1998 appropriation is enacted, the funding level for the endangered species listing activity remains unknown, and issuance of FY 1998 listing priority guidance remains premature. Therefore, until the Department of the Interior's 1998 appropriation becomes law and final Listing Priority Guidance for FY 1998 is published in the **Federal Register**, the Service will continue to follow the FY 1997 guidance, issued on December 5, 1996. The Service will announce new proposed guidance as promptly as possible after the FY 1998 appropriations bill for the Department of the Interior is approved and becomes law.

Authority

The authority for this notice is the Endangered Species Act of 1973, as amended, 16 U.S.C. 1531 *et seq.*

Dated: October 17, 1997.

Jamie Rappaport Clark,

Director, U.S. Fish and Wildlife Service.

[FR Doc. 97–28171 Filed 10–20–97; 3:26 pm]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Preparation of an Environmental Impact Statement in Anticipation of Receiving a Permit Application to Incidentally Take Threatened and Endangered Species in Association With the Kern County Valley Floor Habitat Conservation Plan for Kern County, California

AGENCY: Fish and Wildlife Service; Interior.

ACTION: Notice of intent to prepare an environmental impact statement and to hold a public scoping meeting.

SUMMARY: The Fish and Wildlife Service has under consideration for approval the draft Kern County Valley Floor Habitat Conservation Plan (Plan) submitted by Kern County, California. This 30-year Plan, developed by Kern County and six other participating agencies, is expected to accompany a future application to the Service for a permit under Section 10(a) of the Endangered Species Act that would authorize incidental take of listed species. In addition, it is expected the applicants will request implementing agreements. It is anticipated that the implementing agreements will include provisions for species that may be listed in the future. In response to the proposed Plan, the Service intends to prepare a joint Environmental Impact Statement/Environmental Impact Report pursuant to the National Environmental Policy Act and the California Environmental Quality Act. The Plan covers about 3,110 square miles of land with major uses including natural open space, oil and gas production, farming, ranching, agricultural water conveyance and storage, urban development and other activities. The Plan addresses various sensitive plant and animal species and their habitats. The Plan creates a framework for the issuance of permits and other authorizations under the Federal and California Endangered Species Acts.

This notice describes the proposed action and possible alternatives, notifies the public of a scoping meeting, invites public participation in the scoping process for preparing the joint Environmental Impact Statement/Report, solicits written comments, and identifies the Service official to whom questions and comments concerning the proposed action and the joint Environmental Impact Statement/Report may be directed.

DATES: A public scoping meeting will be held at 1:00 p.m. on November 4, 1997, at the Kern County Public Services Building, 2700 M Street, First Floor Conference Room, Bakersfield, California. Oral comments will be received during the scoping meeting. Written comments are encouraged and should be received on or before November 21, 1997, at the address below.

ADDRESSES: Information, comments, or questions related to preparation of the joint Environmental Impact Statement/Report and the National Environmental Policy Act process should be submitted to Mr. Steve Strait, Kern County Planning Department, 2700 M Street, Suite 100, Bakersfield, California 93301, telephone (805) 862–8600. Written comments also may be sent by facsimile to telephone (805) 862–8601.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Cross, Sacramento Fish and Wildlife Office, 3310 El Camino Avenue, Suite 130, Sacramento, California 95821, telephone (916) 979–2725. Documents also will be available for public inspection by appointment during normal business hours (8:00 a.m. to 5:00 p.m., Monday through Friday) at the above noted Kern County Planning Department office.

SUPPLEMENTARY INFORMATION:

Background

The Plan area, generally described as the San Joaquin Valley floor, is bounded by Kern County and San Luis Obispo County boundaries to the west, Kings and Tulare counties to the north, and the 2,000-foot elevation contour to the east and south. The Plan generally does not address Metropolitan Bakersfield with the exception of oil and agricultural activities, or several smaller areas that are covered under separate conservation planning efforts.

The Plan addresses 32 species, including 18 animals and 14 plants identified as species of concern. Of the wildlife species, five receive particular attention due to their distribution within the Plan area. They are: the blunt-nosed leopard lizard (*Gambelia silas*), San Joaquin antelope squirrel (*Ammospermophilus nelsoni*), Tipton kangaroo rat (*Dipodomys nitratoides nitratoides*), giant kangaroo rat

(*Dipodomys ingens*), and San Joaquin kit fox (*Vulpes macrotis mutica*); all of these, with the exception of the squirrel, are listed as endangered under the Federal Endangered Species Act. The plant species of concern are generally concentrated in a limited number of locations such as existing refuges and reserves, the southeastern portion near Wheeler Ridge, and several locations in the lower foothills in the eastern portion of the Plan area. The Plan provides long-term protection of identified species while allowing for the economic growth of the county. The Plan has seven major components: (1) Habitat zones; (2) compensation framework; (3) direct fee payment option; (4) take-avoidance measures; (5) safety nets; (6) industry/agency conservation strategies; and (7) direct negotiation option.

The Plan area is divided into three ''Habitat Zones'' with lands categorized based on habitat value with a corresponding conservation priority. The Red Zones are areas of highest quality habitat for species of concern, especially for Federal and State listed threatened and endangered wildlife species. A number of rare plant occurrences also are found in these zones. The Green Zones provide the second highest habitat quality and generally include areas around the western, southern, and eastern edges of the Plan. White Zones comprise about 55 percent of the total Plan area, including 121,219 acres of natural, less valuable habitat, and occur throughout the central and eastern portions of the Plan area. The habitat zones serve as the basis for the Compensation Framework.

The Compensation Framework encourages conservation of high-quality habitat and creates a system of conservation credits based on habitat quality. This component of the Plan is a pay-as-you-go mitigation approach. Compensation will be provided in specified ratios to address the actual take of species habitat. However, up-front compensation is specified for the oil and agricultural conservation strategies.

Direct Fee Payment is an option provided to project proponents involving payment of fee based on conservation credits.

Take-avoidance Measures are included in the Plan to reduce the likelihood and magnitude of direct loss of the five wildlife species noted above.

Safety Nets are part of the Rare Plant Conservation Strategy designed to protect specific plant species with localized and restricted distributions.

Industry/Agency Conservation Strategies address the potential for incidental take of species of concern that may occur with certain activities associated with major land uses in the Plan area (e.g., oil and gas, agriculture, water conveyance systems, ranching, and urban development).

The Direct Negotiation Option allows a project proponent to address the issue of Federal and California Endangered Species Act compliance with the Service and California Department of Fish and Game, respectively, independently of other Plan provisions.

The joint Environmental Impact Statement/Report will consider the proposed action (issuance of a Section 10(a) Endangered Species Act permit for the Plan) and a reasonable range of alternatives derived from conservation and compensation approaches considered during formulation of the Plan:

Alternative 1—No Action. This alternative assumes compliance with the Federal and California Endangered Species Acts on a project-by-project basis.

Alternative 2—Initial Compensation. This alternative would establish compensation and take-avoidance formulas applicable to all permitted activities allowed in each of the three habitat zones. Development projects in each zone would be required to provide compensation, and in some cases identify and secure options to purchase suitable habitat land for which conservation credits would be received. The supplementary credits could be banked and sold to other developers needing habitat conservation credits.

Alternative 3—Protect and Release. This alternative incorporates a release ratio limit of one acre of development for every nine acres of permanently protected land in the Red Zones only. It also requires a compensation ratio unique to each of the three zones for habitat disturbance.

Alternative 4—Habitat Transaction Method. This alternative would assign a relative conservation credit value per acre within each habitat zone. A compensation ratio of not more than 3:1, based on conservation credits, would be used to determine compensatory requirements. Credits would be generated by the permanent preservation of habitat, restoration, granting of conservation easements, and other measures. The value of the credits and the amount of required compensation would be based on the conservation value of the land preserved and developed, respectively.

Environmental review of the Plan will be conducted in accordance with the requirements of National Environmental Policy Act, as amended (42 U.S.C. 4321 *et. seq.*), National Environmental Policy Act regulations (40 CFR parts 1500–1508), other appropriate regulations, and Service procedures for compliance with those regulations. This notice is being furnished in accordance with Section 1501.7 of the National Environmental Policy Act to obtain suggestions and information from other agencies and the public on the scope of issues to be addressed in the joint Environmental Impact Statement/Report.

Comments and participation in the scoping process are solicited. The primary purpose of the scoping process is to identify rather than debate any significant issues related to the proposed action. Interested persons are encouraged to attend the public scoping meeting to identify and discuss issues and alternatives that should be addressed in the joint Environmental Impact Statement/Report. The proposed agenda for this facilitated meeting includes a summary of the proposed action; status of the threats to subject species; and tentative issues, concerns, opportunities, and alternatives. Additional public meetings will be conducted on later dates to provide more opportunities to comment on the draft Environmental Impact Statement/Report.

Dated: October 15, 1997.

Don Weathers,

Regional Director, Region 1, Portland, Oregon.

[FR Doc. 97–28085 Filed 10–22–97; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Indian Entities Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs

AGENCY: Bureau of Indian Affairs.

ACTION: Notice.

SUMMARY: Notice is hereby given of the current list of tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs by virtue of their status as Indian tribes. This notice is published pursuant to Section 104 of the Act of November 2, 1994 (Pub. L. 103–454; 108 Stat. 4791, 4792).

FOR FURTHER INFORMATION CONTACT: Daisy West, Bureau of Indian Affairs, Division of Tribal Government Services, MS–4641–MIB, 1849 C Street, NW, Washington, DC 20240. Telephone number: (202) 208–2475.

SUPPLEMENTARY INFORMATION: This notice is published in exercise of authority delegated to the Assistant

Secretary—Indian Affairs under 25 U.S.C. 2 and 9 and 209 DM 8.

Published below are lists of federally acknowledged tribes in the contiguous 48 states and in Alaska. The list is updated from the last such list published in November 13, 1996 (61 FR 58211), to include name changes or corrections. There have been no new tribal entities added to the list. The listed entities are acknowledged to have the immunities and privileges available to federally acknowledged Indian tribes by virtue of their government-to-government relationship with the United States as well as the responsibilities, powers, limitations and obligations of such tribes. We have, however, continued the practice of listing the Alaska Native entities separately solely for the purpose of facilitating identification of them and reference to them given the large number of complex Native names.

Indian Tribal Entities Within The Contiguous 48 States Recognized and Eligible to Receive Services From the United States Bureau of Indian Affairs

Absentee-Shawnee Tribe of Indians of Oklahoma
Agua Caliente Band of Cahuilla Indians of the Agua Caliente Indian Reservation, California
Ak Chin Indian Community of Papago Indians of the Maricopa, Ak Chin Reservation, Arizona
Alabama-Coushatta Tribes of Texas
Alabama-Quassarte Tribal Town of the Creek Nation of Oklahoma
Alturas Indian Rancheria of Pit River Indians of California
Apache Tribe of Oklahoma
Arapahoe Tribe of the Wind River Reservation, Wyoming
Aroostook Band of Micmac Indians of Maine
Assiniboine and Sioux Tribes of the Fort Peck Indian Reservation, Montana
Augustine Band of Cahuilla Mission Indians of the Augustine Reservation, California
Bad River Band of the Lake Superior Tribe of Chippewa Indians of the Bad River Reservation, Wisconsin
Bay Mills Indian Community of the Sault Ste. Marie Band of Chippewa Indians, Bay Mills Reservation, Michigan
Bear River Band of the Rohnerville Rancheria of California
Berry Creek Rancheria of Maidu Indians of California
Big Lagoon Rancheria of Smith River Indians of California
Big Pine Band of Owens Valley Paiute Shoshone Indians of the Big Pine Reservation, California
Big Sandy Rancheria of Mono Indians of California
Big Valley Rancheria of Pomo & Pit River Indians of California
Blackfeet Tribe of the Blackfeet Indian Reservation of Montana
Blue Lake Rancheria of California
Bridgeport Paiute Indian Colony of California
Buena Vista Rancheria of Me-Wuk Indians of California
Burns Paiute Tribe of the Burns Paiute Indian Colony of Oregon
Cabazon Band of Cahuilla Mission Indians of the Cabazon Reservation, California
Cachil DeHe Band of Wintun Indians of the Colusa Indian Community of the Colusa Rancheria, California
Caddo Indian Tribe of Oklahoma
Cahuilla Band of Mission Indians of the Cahuilla Reservation, California
Cahto Indian Tribe of the Laytonville Rancheria, California
Campo Band of Diegueno Mission Indians of the Campo Indian Reservation, California
Capitan Grande Band of Diegueno Mission Indians of California:
  Barona Group of Capitan Grande Band of Mission Indians of the Barona Reservation, California
  Viejas (Baron Long) Group of Capitan Grande Band of Mission Indians of the Viejas Reservation, California
Catawba Indian Nation (aka Catawba Tribe of South Carolina)
Cayuga Nation of New York
Cedarville Rancheria of Northern Paiute Indians of California
Chemehuevi Indian Tribe of the Chemehuevi Reservation, California
Cher-Ae Heights Indian Community of the Trinidad Rancheria, California
Cherokee Nation of Oklahoma
Cheyenne-Arapaho Tribes of Oklahoma
Cheyenne River Sioux Tribe of the Cheyenne River Reservation, South Dakota
Chickasaw Nation, Oklahoma
Chicken Ranch Rancheria of Me-Wuk Indians of California
Chippewa-Cree Indians of the Rocky Boy's Reservation, Montana
Chitimacha Tribe of Louisiana
Choctaw Nation of Oklahoma
Citizen Potawatomi Nation, Oklahoma
Cloverdale Rancheria of Pomo Indians of California
Coast Indian Community of Yurok Indians of the Resighini Rancheria, California
Cocopah Tribe of Arizona
Coeur D'Alene Tribe of the Coeur D'Alene Reservation, Idaho
Cold Springs Rancheria of Mono Indians of California
Colorado River Indian Tribes of the Colorado River Indian Reservation, Arizona and California
Comanche Indian Tribe, Oklahoma
Confederated Salish & Kootenai Tribes of the Flathead Reservation, Montana
Confederated Tribes of the Chehalis Reservation, Washington
Confederated Tribes of the Colville Reservation, Washington
Confederated Tribes of the Coos, Lower Umpqua and Siuslaw Indians of Oregon
Confederated Tribes of the Goshute Reservation, Nevada and Utah
Confederated Tribes of the Grand Ronde Community of Oregon
Confederated Tribes of the Siletz Reservation, Oregon
Confederated Tribes of the Umatilla Reservation, Oregon
Confederated Tribes of the Warm Springs Reservation of Oregon
Confederated Tribes and Bands of the Yakama Indian Nation of the Yakama Reservation, Washington
Coquille Tribe of Oregon
Cortina Indian Rancheria of Wintun Indians of California
Coushatta Tribe of Louisiana
Cow Creek Band of Umpqua Indians of Oregon
Coyote Valley Band of Pomo Indians of California
Crow Tribe of Montana
Crow Creek Sioux Tribe of the Crow Creek Reservation, South Dakota
Cuyapaipe Community of Diegueno Mission Indians of the Cuyapaipe Reservation, California
Death Valley Timbi-Sha Shoshone Band of California
Delaware Tribe of Indians, Oklahoma
Delaware Tribe of Western Oklahoma
Dry Creek Rancheria of Pomo Indians of California
Duckwater Shoshone Tribe of the Duckwater Reservation, Nevada
Eastern Band of Cherokee Indians of North Carolina
Eastern Shawnee Tribe of Oklahoma
Elem Indian Colony of Pomo Indians of the Sulphur Bank Rancheria, California
Elk Valley Rancheria of California
Ely Shoshone Tribe of Nevada
Enterprise Rancheria of Maidu Indians of California
Flandreau Santee Sioux Tribe of South Dakota
Forest County Potawatomi Community of Wisconsin Potawatomi Indians, Wisconsin
Fort Belknap Indian Community of the Fort Belknap Reservation of Montana
Fort Bidwell Indian Community of Paiute Indians of the Fort Bidwell Reservation, California
Fort Independence Indian Community of Paiute Indians of the Fort Independence Reservation, California

Fort McDermitt Paiute and Shoshone Tribes of the Fort McDermitt Indian Reservation, Nevada
Fort McDowell Mohave-Apache Indian Community of the Fort McDowell Indian Reservation, Arizona
Fort Mojave Indian Tribe of Arizona, California & Nevada
Fort Sill Apache Tribe of Oklahoma
Gila River Pima-Maricopa Indian Community of the Gila River Indian Reservation of Arizona
Grand Traverse Band of Ottawa & Chippewa Indians of Michigan
Greenville Rancheria of Maidu Indians of California
Grindstone Indian Rancheria of Wintun-Wailaki Indians of California
Guidiville Rancheria of California
Hannahville Indian Community of Wisconsin Potawatomie Indians of Michigan
Havasupai Tribe of the Havasupai Reservation, Arizona
Ho-Chunk Nation of Wisconsin (formerly known as the Wisconsin Winnebago Tribe)
Hoh Indian Tribe of the Hoh Indian Reservation, Washington
Hoopa Valley Tribe of the Hoopa Valley Reservation, California
Hopi Tribe of Arizona
Hopland Band of Pomo Indians of the Hopland Rancheria, California
Houlton Band of Maliseet Indians of Maine
Hualapai Indian Tribe of the Hualapai Indian Reservation, Arizona
Huron Potawatomi, Inc., Michigan
Inaja Band of Diegueno Mission Indians of the Inaja and Cosmit Reservation, California
Ione Band of Miwok Indians of California
Iowa Tribe of Kansas and Nebraska
Iowa Tribe of Oklahoma
Jackson Rancheria of Me-Wuk Indians of California
Jamestown S'Klallam Tribe, Washington
Jamul Indian Village of California
Jena Band of Choctaw Indians, Louisiana
Jicarilla Apache Tribe of the Jicarilla Apache Indian Reservation, New Mexico
Kaibab Band of Paiute Indians of the Kaibab Indian Reservation, Arizona
Kalispel Indian Community of the Kalispel Reservation, Washington
Karuk Tribe of California
Kashia Band of Pomo Indians of the Stewarts Point Rancheria, California
Kaw Nation, Oklahoma
Keweenaw Bay Indian Community of L'Anse and Ontonagon Bands of Chippewa Indians of the L'Anse Reservation, Michigan
Kialegee Tribal Town of the Creek Indian Nation of Oklahoma
Kickapoo Tribe of Indians of the Kickapoo Reservation in Kansas
Kickapoo Tribe of Oklahoma
Kickapoo Traditional Tribe of Texas
Kiowa Indian Tribe of Oklahoma
Klamath Indian Tribe of Oregon
Kootenai Tribe of Idaho
La Jolla Band of Luiseno Mission Indians of the La Jolla Reservation, California
La Posta Band of Diegueno Mission Indians of the La Posta Indian Reservation, California
La Courte Oreilles Band of Lake Superior Chippewa Indians of the Lac Courte Oreilles Reservation of Wisconsin
Lac du Flambeau Band of Lake Superior Chippewa Indians of the Lac du Flambeau Reservation of Wisconsin
Lac Vieux Desert Band of Lake Superior Chippewa Indians of Michigan
Las Vegas Tribe of Paiute Indians of the Las Vegas Indian Colony, Nevada
Little River Band of Ottawa Indians of Michigan
Little Traverse Bay Bands of Odawa Indians of Michigan
Los Coyotes Band of Cahuilla Mission Indians of the Los Coyotes Reservation, California
Lovelock Paiute Tribe of the Lovelock Indian Colony, Nevada
Lower Brule Sioux Tribe of the Lower Brule Reservation, South Dakota
Lower Elwha Tribal Community of the Lower Elwha Reservation, Washington
Lower Sioux Indian Community of Minnesota Mdewakanton Sioux Indians of the Lower Sioux Reservation in Minnesota
Lummi Tribe of the Lummi Reservation, Washington
Lytton Rancheria of California
Makah Indian Tribe of the Makah Indian Reservation, Washington
Manchester Band of Pomo Indians of the Manchester-Point Arena Rancheria, California
Manzanita Band of Diegueno Mission Indians of the Manzanita Reservation, California
Mashantucket Pequot Tribe of Connecticut
Mechoopda Indian Tribe of Chico Rancheria, California
Menominee Indian Tribe of Wisconsin
Mesa Grande Band of Diegueno Mission Indians of the Mesa Grande Reservation, California
Mescalero Apache Tribe of the Mescalero Reservation, New Mexico
Miami Tribe of Oklahoma
Miccosukee Tribe of Indians of Florida
Middletown Rancheria of Pomo Indians of California
Minnesota Chippewa Tribe, Minnesota (Six component reservations: Bois Forte Band (Nett Lake); Fond du Lac Band; Grand Portage Band; Leech Lake Band; Mille Lacs Band; White Earth Band)
Mississippi Band of Choctaw Indians, Mississippi
Moapa Band of Paiute Indians of the Moapa River Indian Reservation, Nevada
Modoc Tribe of Oklahoma
Mohegan Indian Tribe of Connecticut
Mooretown Rancheria of Maidu Indians of California
Morongo Band of Cahuilla Mission Indians of the Morongo Reservation, California
Muckleshoot Indian Tribe of the Muckleshoot Reservation, Washington
Muscogee (Creek) Nation, Oklahoma
Narragansett Indian Tribe of Rhode Island
Navajo Nation of Arizona, New Mexico & Utah
Nez Perce Tribe of Idaho
Nisqually Indian Tribe of the Nisqually Reservation, Washington
Nooksack Indian Tribe of Washington
Northern Cheyenne Tribe of the Northern Cheyenne Indian Reservation, Montana
Northfork Rancheria of Mono Indians of California
Northwestern Band of Shoshoni Nation of Utah (Washakie)
Oglala Sioux Tribe of the Pine Ridge Reservation, South Dakota
Omaha Tribe of Nebraska
Oneida Nation of New York
Oneida Tribe of Wisconsin
Onondaga Nation of New York
Osage Nation of Oklahoma
Ottawa Tribe of Oklahoma
Otoe-Missouria Tribe of Indians, Oklahoma
Paiute Indian Tribe of Utah
Paiute-Shoshone Indians of the Bishop Community of the Bishop Colony, California
Paiute-Shoshone Tribe of the Fallon Reservation and Colony, Nevada
Paiute-Shoshone Indians of the Lone Pine Community of the Lone Pine Reservation, California
Pala Band of Luiseno Mission Indians of the Pala Reservation, California
Pascua Yaqui Tribe of Arizona
Paskenta Band of Nomlaki Indians of California
Passamaquoddy Tribe of Maine
Pauma Band of Luiseno Mission Indians of the Pauma & Yuima Reservation, California
Pawnee Indian Tribe of Oklahoma
Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California
Penobscot Tribe of Maine

Peoria Tribe of Indians of Oklahoma
Picayune Rancheria of Chukchansi Indians of California
Pinoleville Rancheria of Pomo Indians of California
Pit River Tribe of California (includes Big Bend, Lookout, Montgomery Creek & Roaring Creek Rancherias & XL Ranch)
Poarch Band of Creek Indians of Alabama
Pokagon Band of Potawatomi Indians of Michigan
Ponca Tribe of Indians of Oklahoma
Ponca Tribe of Nebraska
Port Gamble Indian Community of the Port Gamble Reservation, Washington
Potter Valley Rancheria of Pomo Indians of California
Prairie Band of Potawatomi Indians, Kansas
Prairie Island Indian Community of Minnesota Mdewakanton Sioux Indians of the Prairie Island Reservation, Minnesota
Pueblo of Acoma, New Mexico
Pueblo of Cochiti, New Mexico
Pueblo of Jemez, New Mexico
Pueblo of Isleta, New Mexico
Pueblo of Laguna, New Mexico
Pueblo of Nambe, New Mexico
Pueblo of Picuris, New Mexico
Pueblo of Pojoaque, New Mexico
Pueblo of San Felipe, New Mexico
Pueblo of San Juan, New Mexico
Pueblo of San Ildefonso, New Mexico
Pueblo of Sandia, New Mexico
Pueblo of Santa Ana, New Mexico
Pueblo of Santa Clara, New Mexico
Pueblo of Santo Domingo, New Mexico
Pueblo of Taos, New Mexico
Pueblo of Tesuque, New Mexico
Pueblo of Zia, New Mexico
Puyallup Tribe of the Puyallup Reservation, Washington
Pyramid Lake Paiute Tribe of the Pyramid Lake Reservation, Nevada
Quapaw Tribe of Oklahoma
Quartz Valley Indian Community of the Quartz Valley Reservation of California
Quechan Tribe of the Fort Yuma Indian Reservation, California & Arizona
Quileute Tribe of the Quileute Reservation, Washington
Quinault Tribe of the Quinault Reservation, Washington
Ramona Band or Village of Cahuilla Mission Indians of California
Red Cliff Band of Lake Superior Chippewa Indians of Wisconsin
Red Lake Band of Chippewa Indians of the Red Lake Reservation, Minnesota
Redding Rancheria of California
Redwood Valley Rancheria of Pomo Indians of California
Reno-Sparks Indian Colony, Nevada
Rincon Band of Luiseno Mission Indians of the Rincon Reservation, California
Robinson Rancheria of Pomo Indians of California
Rosebud Sioux Tribe of the Rosebud Indian Reservation, South Dakota
Round Valley Indian Tribes of the Round Valley Reservation, California (formerly known as the Covelo Indian Community)
Rumsey Indian Rancheria of Wintun Indians of California
Sac & Fox Tribe of the Mississippi in Iowa
Sac & Fox Nation of Missouri in Kansas and Nebraska
Sac & Fox Nation, Oklahoma
Saginaw Chippewa Indian Tribe of Michigan, Isabella Reservation
Salt River Pima-Maricopa Indian Community of the Salt River Reservation, Arizona
Samish Indian Tribe, Washington
San Carlos Apache Tribe of the San Carlos Reservation, Arizona
San Juan Southern Paiute Tribe of Arizona
San Manual Band of Serrano Mission Indians of the San Manual Reservation, California
San Pasqual Band of Diegueno Mission Indians of California
Santa Rosa Indian Community of the Santa Rosa Rancheria, California
Santa Rosa Band of Cahuilla Mission Indians of the Santa Rosa Reservation, California
Santa Ynez Band of Chumash Mission Indians of the Santa Ynez Reservation, California
Santa Ysabel Band of Diegueno Mission Indians of the Santa Ysabel Reservation, California
Santee Sioux Tribe of the Santee Reservation of Nebraska
Sauk-Suiattle Indian Tribe of Washington
Sault Ste. Marie Tribe of Chippewa Indians of Michigan
Scotts Valley Band of Pomo Indians of California
Seminole Nation of Oklahoma
Seminole Tribe of Florida, Dania, Big Cypress & Brighton Reservations
Seneca Nation of New York
Seneca-Cayuga Tribe of Oklahoma
Shakopee Mdewakanton Sioux Community of Minnesota (Prior Lake)
Sheep Ranch Rancheria of Me-Wuk Indians of California
Sherwood Valley Rancheria of Pomo Indians of California
Shingle Springs Band of Miwok Indians, Shingle Springs Rancheria (Verona Tract), California
Shoalwater Bay Tribe of the Shoalwater Bay Indian Reservation, Washington
Shoshone Tribe of the Wind River Reservation, Wyoming
Shoshone-Bannock Tribes of the Fort Hall Reservation of Idaho
Shoshone-Paiute Tribes of the Duck Valley Reservation, Nevada
Sisseton-Wahpeton Sioux Tribe of the Lake Traverse Reservation, South Dakota
Skokomish Indian Tribe of the Skokomish Reservation, Washington
Skull Valley Band of Goshute Indians of Utah
Smith River Rancheria of California
Soboba Band of Luiseno Mission Indians of the Soboba Reservation, California
Sokaogon Chippewa Community of the Mole Lake Band of Chippewa Indians, Wisconsin
Southern Ute Indian Tribe of the Southern Ute Reservation, Colorado
Spirit Lake Tribe, North Dakota (formerly known as the Devils Lake Sioux Tribe)
Spokane Tribe of the Spokane Reservation, Washington
Squaxin Island Tribe of the Squaxin Island Reservation, Washington
St. Croix Chippewa Indians of Wisconsin, St. Croix Reservation
St. Regis Band of Mohawk Indians of New York
Standing Rock Sioux Tribe of North & South Dakota
Stockbridge-Munsee Community of Mohican Indians of Wisconsin
Stillaguamish Tribe of Washington
Summit Lake Paiute Tribe of Nevada
Suquamish Indian Tribe of the Port Madison Reservation, Washington
Susanville Indian Rancheria of Paiute, Maidu, Pit River & Washoe Indians of California
Swinomish Indians of the Swinomish Reservation, Washington
Sycuan Band of Diegueno Mission Indians of California
Table Bluff Rancheria of Wiyot Indians of California
Table Mountain Rancheria of California
Te-Moak Tribe of Western Shoshone Indians of Nevada
Thlopthlocco Tribal Town of the Creek Nation of Oklahoma
Three Affiliated Tribes of the Fort Berthold Reservation, North Dakota
Tohono O'odham Nation of Arizona
Tonawanda Band of Seneca Indians of New York
Tonkawa Tribe of Indians of Oklahoma
Tonto Apache Tribe of Arizona
Torres-Martinez Band of Cahuilla Mission Indians of California
Tule River Indian Tribe of the Tule River Reservation, California
Tulalip Tribes of the Tulalip Reservation, Washington

Tunica-Biloxi Indian Tribe of Louisiana
Tuolumne Band of Me-Wuk Indians of the Tuolumne Rancheria of California
Turtle Mountain Band of Chippewa Indians of North Dakota
Tuscarora Nation of New York
Twenty-Nine Palms Band of Luiseno Mission Indians of California
United Auburn Indian Community of the Auburn Rancheria of California
United Keetoowah Band of Cherokee Indians of Oklahoma
Upper Lake Band of Pomo Indians of Upper Lake Rancheria of California
Upper Sioux Indian Community of the Upper Sioux Reservation, Minnesota
Upper Skagit Indian Tribe of Washington
Ute Indian Tribe of the Uintah & Ouray Reservation, Utah
Ute Mountain Tribe of the Ute Mountain Reservation, Colorado, New Mexico & Utah
Utu Utu Gwaitu Paiute Tribe of the Benton Paiute Reservation, California
Walker River Paiute Tribe of the Walker River Reservation, Nevada
Wampanoag Tribe of Gay Head (Aquinnah) of Massachusetts
Washoe Tribe of Nevada & California (Carson Colony, Dresslerville & Washoe Ranches)
White Mountain Apache Tribe of the Fort Apache Reservation, Arizona
Wichita and Affiliated Tribes (Wichita, Keechi, Waco & Tawakonie), Oklahoma
Winnebago Tribe of Nebraska
Winnemucca Indian Colony of Nevada
Wyandotte Tribe of Oklahoma
Yankton Sioux Tribe of South Dakota
Yavapai-Apache Nation of the Camp Verde Indian Reservation, Arizona
Yavapai-Prescott Tribe of the Yavapai Reservation, Arizona
Yerington Paiute Tribe of the Yerington Colony & Campbell Ranch, Nevada
Yomba Shoshone Tribe of the Yomba Reservation, Nevada
Ysleta Del Sur Pueblo of Texas
Yurok Tribe of the Yurok Reservation, California
Zuni Tribe of the Zuni Reservation, New Mexico

Native Entities Within the State of Alaska Recognized and Eligible To Receive Services From the United States Bureau of Indian Affairs

Village of Afognak
Native Village of Akhiok
Akiachak Native Community
Akiak Native Community
Native Village of Akutan
Village of Alakanuk
Alatna Village
Native Village of Aleknagik
Algaaciq Native Village (St. Mary's)
Allakaket Village
Native Village of Ambler
Village of Anaktuvuk Pass
Yupiit of Andreafski
Angoon Community Association
Village of Aniak
Anvik Village
Arctic Village (See Native Village of Venetie Tribal Government) Native Village of Atka
Asa'carsarmiut Tribe (formerly Native Village of Mountain Village)
Atqasuk Village (Atkasook)
Village of Atmautluak
Native Village of Barrow Inupiat Traditional Government (formerly Native Village of Barrow)
Beaver Village
Native Village of Belkofski
Village of Bill Moore's Slough
Birch Creek Village
Native Village of Brevig Mission
Native Village of Buckland
Native Village of Cantwell
Native Village of Chanega (aka Chenega)
Chalkyitsik Village
Village of Chefornak
Chevak Native Village
Chickaloon Native Village
Native Village of Chignik
Native Village of Chignik Lagoon
Chignik Lake Village
Chilkat Indian Village (Kluckwan)
Chilkoot Indian Association (Haines)
Chinik Eskimo Community (Golovin)
Native Village of Chistochina
Native Village of Chitina
Native Village of Chuatbaluk (Russian Mission, Kuskokwim)
Chuloonawick Native Village
Circle Native Community
Village of Clark's Point
Native Village of Council
Craig Community Association
Village of Crooked Creek
Curyung Tribal Council (formerly Native Village of Dillingham)
Native Village of Deering
Native Village of Diomede (aka Inalik)
Village of Dot Lake
Douglas Indian Association
Native Village of Eagle
Native Village of Eek
Egegik Village
Eklutna Native Village
Native Village of Ekuk
Ekwok Village
Native Village of Elim
Emmonak Village
Evansville Village (aka Bettles Field)
Native Village of Eyak (Cordova)
Native Village of False Pass
Native Village of Fort Yukon
Native Village of Gakona
Galena Village (aka Louden Village)
Native Village of Gambell
Native Village of Georgetown
Native Village of Goodnews Bay
Organized Village of Grayling (aka Holikachuk)
Gulkana Village
Native Village of Hamilton
Healy Lake Village
Holy Cross Village
Hoonah Indian Association
Native Village of Hooper Bay
Hughes Village
Huslia Village
Hydaburg Cooperative Association
Igiugig Village
Village of Iliamna
Inupiat Community of the Arctic Slope
Iqurmuit Traditional Council (formerly Native Village of Russian Mission)
Ivanoff Bay Village
Kaguyak Village
Organized Village of Kake
Kaktovik Village (aka Barter Island)
Village of Kalskag
Village of Kaltag
Native Village of Kanatak
Native Village of Karluk
Organized Village of Kasaan
Native Village of Kasigluk
Kenaitze Indian Tribe
Ketchikan Indian Corporation
Native Village of Kiana
Agdaagux Tribe of King Cove
King Island Native Community
Native Village of Kipnuk
Native Village of Kivalina
Klawock Cooperative Association
Native Village of Kluti Kaah (aka Copper Center)
Knik Tribe
Native Village of Kobuk
Kokhanok Village
New Koliganek Village Council (formerly Koliganek Village)
Native Village of Kongiganak
Village of Kotlik
Native Village of Kotzebue
Native Village of Koyuk
Koyukuk Native Village
Organized Village of Kwethluk
Native Village of Kwigillingok
Native Village of Kwinhagak (aka Quinhagak)
Native Village of Larsen Bay
Levelock Village
Lesnoi Village (aka Woody Island)
Lime Village
Village of Lower Kalskag
Manley Hot Springs Village
Manokotak Village
Native Village of Marshall (aka Fortuna Ledge)
Native Village of Mary's Igloo
McGrath Native Village
Native Village of Mekoryuk
Mentasta Traditional Council (formerly Mentasta Lake Village)
Metlakatla Indian Community, Annette Island Reserve
Native Village of Minto
Naknek Native Village

Native Village of Nanwalek (aka English Bay)
Native Village of Napaimute
Native Village of Napakiak
Native Village of Napaskiak
Native Village of Nelson Lagoon
Nenana Native Association
New Stuyahok Village
Newhalen Village
Newtok Village
Native Village of Nightmute
Nikolai Village
Native Village of Nikolski
Ninilchik Village
Native Village of Noatak
Nome Eskimo Community
Nondalton Village
Noorvik Native Community
Northway Village
Native Village of Nuiqsut (aka Nooiksut)
Nulato Village
Native Village of Nunapitchuk
Village of Ohogamiut
Village of Old Harbor
Orutsararmuit Native Village (aka Bethel)
Oscarville Traditional Village
Native Village of Ouzinkie
Native Village of Paimiut
Pauloff Harbor Village
Pedro Bay Village
Native Village of Perryville
Petersburg Indian Association
Native Village of Pilot Point
Pilot Station Traditional Village
Native Village of Pitka's Point
Platinum Traditional Village
Native Village of Point Hope
Native Village of Point Lay
Native Village of Port Graham
Native Village of Port Heiden
Native Village of Port Lions
Portage Creek Village (aka Ohgsenakale)
Pribilof Islands Aleut Communities of St. Paul & St. George Islands
Qagan Toyagungin Tribe of Sand Point Village
Rampart Village
Village of Red Devil
Native Village of Ruby
Village of Salamatoff
Organized Village of Saxman
Native Village of Savoonga
St. George (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Native Village of Saint Michael
St .Paul (See Pribilof Islands Aleut Communities of St. Paul & St. George Islands)
Native Village of Scammon Bay
Native Village of Selawik
Seldovia Village Tribe
Shageluk Native Village
Native Village of Shaktoolik
Native Village of Sheldon's Point
Native Village of Shishmaref
Native Village of Shungnak
Sitka Tribe of Alaska
Skagway Village
Village of Sleetmute
Village of Solomon
South Naknek Village
Stebbins Community Association
Native Village of Stevens
Village of Stony River
Takotna Village
Native Village of Tanacross
Native Village of Tanana
Native Village of Tatitlek
Native Village of Tazlina
Telida Village
Native Village of Teller
Native Village of Tetlin
Central Council of the Tlingit & Haida Indian Tribes
Traditional Village of Togiak
Native Village of Toksook Bay
Tuluksak Native Community
Native Village of Tuntutuliak
Native Village of Tununak
Twin Hills Village
Native Village of Tyonek
Ugashik Village
Umkumiute Native Village
Native Village of Unalakleet
Qawalangin Tribe of Unalaska
Native Village of Unga
Village of Venetie (See Native Village of Venetie Tribal Government)
Native Village of Venetie Tribal Government (Arctic Village and Village of Venetie)
Village of Wainwright
Native Village of Wales
Native Village of White Mountain
Wrangell Cooperative Association
Yakutat Tlingit Tribe

Dated: October 9, 1997.

Ada E. Deer,

Assistant Secretary—Indian Affairs.

[FR Doc. 97–28018 Filed 10–22–97; 8:45 am]

BILLING CODE 4310–02–U

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–069–1640–00]

Emergency Closure of Selected Public Lands, San Bernardino County, CA

AGENCY: Bureau of Land Management, California Desert District, Needles Field Office; Interior.

ACTION: Notice.

SUMMARY: The Bureau of Land Management, Needles Field office, is serving notice of an Emergency Closure of Public Roads in the area of the Ivanpah Dry Lake, San Bernardino County, California.

FOR FURTHER INFORMATION CONTACT: William Wiley, Needles Field office (BLM), 101 West Spikes Road, Needles, CA 92363, (760)326–7000 or John Key, California Desert District Office (BLM), 6221 Box Springs Blvd, Riverside, CA 92507, (909)697–4335.

SUPPLEMENTARY INFORMATION: Under the provisions of 43 CFR 8364.1; 43 CFR 8341.2(a) and 43 CFR 9268.3(d), notice is given of an Emergency Closure of Public Lands at Ivanpah Dry Lake, located in San Bernardino County, California. The locations are as follows: Township 16 north, Range 15 east, Sections 7, 18, 20, 29, and 32; Township 16 North, Range 14 East, Sections 1 and 12. The closure specifically pertains to the emergency closure of a non-county road running north from the junction of Ivanpah Road and Nipton Road to the junction of Yates Well Road and Highway I–15 to all unauthorized vehicles. The closure is in effect from midnight, October 14, 1997 to midnight, December 1, 1997.

This temporary closure is for the protection of the Desert Tortoise, which is listed as ''threatened'' by the United States Fish and Wildlife Service. Only those individuals conducting official or authorized activities on behalf of the federal government, the State of California, the County of San Bernardino or Molycorp, Inc. are allowed, subject to special use conditions and stipulations, to travel in motorized vehicles upon this road.

Molly S. Brady,

Field Manager, Needles Field Office.

[FR Doc. 97–28128 Filed 10–22–97; 8:45 am]

BILLING CODE 4130–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–024–5440–A015; AZA 25918; AZA 17969; AZA 18069.]

Public Land Orders: Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: On August 29, 1991, the Federal Aviation Administration (FAA) determined the following-described public land is reasonably necessary for airport purposes and requested the Bureau of Land Management (BLM) convey the land to the city of Phoenix (Phoenix) for addition to Phoenix Sky Harbor International Airport:

Gila and Salt River Meridian, Arizona

T. 1 N., R. 4 E.,
Sec. 8, S½ SW¼, SW¼SE¼.
Containing 120 acres.

The land is located immediately east of the clear zone of the north runway in a high-level noise area. Phoenix intends

to control the land to maintain a clear runway approach and to provide proper land use compatible with the clear zone and high-level noise area. No development of the land is planned.

The above-described land was classified suitable for state selection, exchange, and recreation and public purposes (R&PP) under Public Land Order 6468, dated September 26, 1983. Notices of realty action dated July 30, 1984 (AZA 17969), October 25, 1984 (AZA 17969), and June 26, 1989 (AZA 18069), also classified the land suitable for R&PP purposes. These classifications are no longer appropriate and are hereby terminated.

Secretarial Order 118, which affects 15 acres in the S½SW¼ of sec. 8 will be revoked before the transfer takes place.

BLM has notified the FAA that conveyance of the land to Phoenix is not inconsistent with the needs of the Department of the Interior and that BLM proposes to convey title to Phoenix under section 516 of the Airport and Airway Improvement Act of September 3, 1982, 49 U.S.C. 2215 (the Airport and Airway Improvement Act).

Conveyance of the land will be subject to the following terms and conditions:

1. A right-of-way for ditches or canals will be reserved to the United States;
2. All minerals shall be reserved to the United States;
3. Right-of-way AZA 29509 will be reserved to the United States for low-level windshear alert system and access road;
4. Right-of-way AZA 8636 issued to city of Tempe for industrial sewer purposes;
5. Right-of-way AZA 8887 issued to the Flood Control District of Maricopa County for flood control structure purposes;
6. Right-of-way AZA 9271 issued to U.S. West Communications for telephone line purposes;
7. Right-of-way AZA 23567 issued to Arizona Department of Transportation for highway and drainage easement purposes;
8. Right-of-way AZAR 33748 issued to Phoenix for sewer pipeline purposes;
9. Right-of-way AZAR 35921 issued to Southwest Gas Corp. for gas pipeline purposes.

A complete list of the terms and covenants requested by the FAA Administrator and those required for the protection of the Department of the Interior is available for review by interested persons at the Arizona State Office at the address listed below.

In accordance with the regulations at 43 CFR 2091.3–1, the filing of a request for airport conveyance under the Airport and Airway Improvement Act segregates that land from the date of filing to the extent that it will not be subject to appropriation under the public land laws, including the mining laws.

DATES: Comments regarding the proposed conveyance may be submitted on or before December 8, 1997.

ADDRESSES: Comments may be submitted to the State Director, Arizona State Office, Bureau of Land Management, 222 N. Central Ave., Phoenix, AZ 85004–2203.

FOR FURTHER INFORMATION CONTACT: Carol Kershaw, (601) 417–9235.

Dated: October 10, 1997.

Dorie D. Morrison,

Acting Supervisor, Lands and Minerals Operations.

[FR Doc. 97–28069 Filed 10–22–97; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NM–030–1430–01; NMNM96510]

Notice of Realty Action; Recreation and Public Purposes (R&PP) Act Classification; New Mexico

AGENCY: Bureau of Land Management (BLM), Interior.

ACTION: Notice of Realty Action; R&PP Act Classification.

SUMMARY: The following public land in Dona Ana County, New Mexico has been examined and found suitable for classification for lease or conveyance to the City of Las Cruces under the provision of the R&PP Act, as amended (43 U.S.C. 869 et seq.). The City of Las Cruces proposes to use the land for a city park.

T. 22 S., R. 2 E., NMPM,
Sec. 28, a part of lot 19.
Containing 11.70 acres, more or less.

DATES: Comments regarding the proposed lease/conveyance or classification must by submitted on or before December 29, 1997.

ADDRESSES: Comments should be sent to the Bureau of Land Management, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005.

FOR FURTHER INFORMATION CONTACT: Gilda Fitzpatrick at the address above or at (505) 525–4454.

SUPPLEMENTARY INFORMATION: Lease or conveyance will be subject to the following terms, conditions, and reservations:

1. Provisions of the R&PP Act and to all applicable regulations of the Secretary of the Interior.
2. All valid existing right documented on the official public land records at the time of lease/patent issuance.
3. All minerals shall be reserved to the United states, together with the right to prospect for, mine and remove the minerals.
4. Any other reservations that the authorized officer determines appropriate to ensure public access and proper management of Federal lands and interests therein.

Upon publication of this notice in the **Federal Register**, the land will be segregated from all other forms of appropriation under the public land laws, including the general mining laws, except for lease or conveyance under the R&PP Act and leasing under the mineral leasing laws. On or before December 29, 1997, interested persons may submit comments regarding the proposed lease/conveyance or classification to the land the District Manager, Las Cruces District Office, 1800 Marquess, Las Cruces, New Mexico 88005. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification will become effective 60 days from the date of publication of this notice.

Classification Comments: Interested parties may submit comments involving the suitability of the land for a city park. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Application Comments: Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision, or any other factor not directly related to the suitability of the land for a city park.

Dated: October 17, 1997.

Marvin M. James,

Acting District Manager.

[FR Doc. 97–28084 Filed 10–22–97; 8:45 am]

BILLING CODE 4310–VC–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service (MMS)

Minerals Management Advisory Board; Outer Continental Shelf (OCS); Scientific Committee (SC); Announcement of Plenary Session

This Notice is issued in accordance with the provisions of the Federal Advisory Committee Act, Pub. L. 92–463, 5 U.S.C., Appendix I, and the Office of Management and Budget Circular A–63, Revised.

The Minerals Management Advisory Board OCS SC will meet in plenary session on Wednesday, November 5, and on Thursday, November 6, and will meet in subcommittee meetings also on Thursday, November 6, 1997, at the Washington Dulles Airport Hilton, 13869 Park Center Road, Herndon, Virginia 20170, telephone (703) 478–2900.

The OCS SC is an outside group of scientists which advises the Director, MMS, on the feasibility, appropriateness, and scientific merit of the MMS' OCS Environmental Studies Program (ESP) as related to information needed for informed OCS decisionmaking.

Below is a schedule of meetings that will occur.

The Committee will meet in plenary session on Wednesday, November 5, from 8:30 a.m. to 5:15 p.m. Discussion will focus on:

- Deepwater Issues.
- Year of the Ocean Update.
- Overview of the MMS Strategic Studies Plan.

The SC will meet in subcommittees on Thursday, November 6, from 8:30 a.m. to 5 p.m. to review regional and headquarter's strategic plans. Another plenary session is scheduled for Thursday, November 6, from 1:30 p.m. to 5 p.m., and discussion will focus on Committee Business.

The meetings are open to the public. Approximately 30 visitors can be accommodated on a first-come-first-served basis at the plenary session.

A copy of the agenda may be requested from the MMS by writing Ms. Phyllis Clark at the address below. Other inquiries concerning the OCS SC meeting should be addressed to Dr. Ken Turgeon, Executive Secretary to the OCS Scientific Committee, Minerals Management Service, 381 Elden Street, Mail Stop 4040, Herndon, Virginia 20170–4817. He may be reached by telephone at (703) 787–1717, and by electronic mail at Ken/Turgeon@SMTP.MMS.GOV.

Dated: October 20, 1997.

Carolita U. Kallaur,

Associate Director for Offshore Minerals Management.

[FR Doc. 97–28132 Filed 10–22–97; 8:45 am]

BILLING CODE 4043–MR–M

DEPARTMENT OF JUSTICE

Office of the Assistant Attorney General for Civil Rights, Certification of the State of Florida Accessibility Code Under the Americans With Disabilities Act

AGENCY: Deparment of Justice.

ACTION: Notice of preliminary determination of equivalency and certification hearings.

SUMMARY: The Department of Justice (Department) has determined that the Florida Americans with Disabilities Accessibility Implementation Act, Florida Statutes §§ 553.501–553.514, as implemented by the Florida Accessibility Code for Building Construction (together, the ''Florida law''), meets or exceeds the new construction and alterations requirements of title III of the Americans with Disabilities Act of 1990 (ADA). The Department proposes to issue a final certification, pursuant to 42 U.S.C. § 12188(b)(1)(A)(ii) and 28 C.F.R. § 36.601 *et seq.*, which would constitute rebuttable evidence, in any enforcement proceeding, that a building constructed or altered in accordance with the Florida law meets or exceeds the requirements of the ADA. The Department will hold informal hearings on the proposed certification in Washington, DC and Orlando, Florida.

DATES: To be assured of consideration, comments must be in writing and must be received on or before December 22, 1997. The hearing in Washington, DC is scheduled for Monday, December 22, 1997, at 2:00 p.m., Eastern Time. The hearing in Orlando, Florida is scheduled for Friday, December 19, 1997, at 2:00 p.m., Eastern Time.

ADDRESSES: Comments on the preliminary determination of equivalency and on the proposal to issue final certification of equivalency of the Florida law should be sent to: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, DC 20035–6738

The hearings will be held at:

Washington, DC: Disability Rights Section, 1425 New York Avenue, NW., Suite 4039, Washington, DC

Orlando, Florida: City Commission Chambers, Orlando City Hall, 400 South Orange Avenue, Orlando, Florida.

FOR FURTHER INFORMATION CONTACT: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, DC 20035–6738. Telephone number (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

Copies of this notice are available in formats accessible to individuals with vision impairments and be obtained by calling (800) 514–0301 (Voice) or (800) 514–0383 (TDD). Copies of the Florida law and supporting materials may be inspected by appointment at 1425 New York Avenue, NW., Suite 4039, Washington, DC by calling Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

SUPPLEMENTARY INFORMATION:

Background

The ADA authorizes the Department of Justice, upon application by a State or local government, to certify that a State or local law that establishes accessibility requirements meets or exceeds the minimum requirements of title III of the ADA for new construction and alterations. 42 U.S.C. § 12188(b)(1)(A)(ii); 28 CFR § 36.601 *et seq.* Final certification constitutes rebuttable evidence, in any ADA enforcement action, that a building constructed or altered in accordance with the certified code complies with the new construction and alterations requirements of title III of the ADA.

By letter dated February 2, 1994, the Florida Department of Community Affairs requested that the Department of Justice (Department) certify that the Florida Americans with Disabilities Accessibility Implementation Act, Florida Statutes §§ 553.501–553.514, as implemented by the Florida Accessibility Code for Building Construction (together, the ''Florida law''), meets or exceed the new construction and alterations requirements of title III of the ADA.

The Department has analyzed the Florida law and has preliminarily determined that it meets or exceeds the new construction and alterations requirements of title III of the ADA. By letter dated September 30, 1997, the Department notified the Florida Department of Community Affairs of its preliminary determination of equivalency.

Effect of Certification

The certification determination will be limited to the version of the Florida law that has been submitted to the Department. The certification will not apply to amendments or interpretations that have not been submitted and reviewed by the Department.

Certification will not apply to buildings constructed by or for State or local government entities, which are subject to title II of the ADA. Nor does

certification apply to accessibility requirements that are addressed by the Florida law that are not addressed by the ADA Standards for Accessible Design.

Finally, certification does not apply to variances or waivers granted under the Florida law. Therefore, if a builder receives a variance, waiver, modification, or other exemption from the requirements of the Florida law for any element of construction or alterations, the certification determination will not constitute evidence of ADA compliance with respect to that element.

Procedure

The Department will hold informal hearings in Washington, DC and Orlando, Florida to provide an opportunity for interested persons, including individuals with disabilities, to express their views respect to the preliminary determination of equivalency of the Florida law. Interested parties who wish to testify at a hearing should contact Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

The hearing sites will be accessible to individuals with disabilities. Individuals who require sign language interpreters or other auxiliary aids should contact Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

Dated: October 16, 1997.

Isabelle Katz Pinzler,

Acting Assistant Attorney General for Civil Rights.

[FR Doc. 97–28211 Filed 10–21–97; 9:30 am]

BILLING CODE 4410–13–M

DEPARTMENT OF JUSTICE

Office of the Assistant Attorney General for Civil Rights; Certification of the State of Florida Accessibility Code Under the Americans With Disabilities Act

AGENCY: Department of Justice.

ACTION: Notice of hearings.

SUMMARY: The Department of Justice will hold informal hearings on the proposed certification that the Florida Americans with Disabilities Accessibility Implementation Act, Florida Statutes §§ 553.501–553.514, as implemented by the Florida Accessibility Code of Building Construction, meets or exceeds the new construction and alterations requirements of title III of the Americans with Disabilities Act (ADA) in Washington, D.C. and Orlando, Florida.

DATES: The hearing in Washington, D.C. is scheduled for Monday, December 22, 1997, at 2:00 p.m., Eastern Time. The hearing in Orlando, Florida is scheduled for Friday, December 19, 1997, at 2:00 p.m., Eastern Time.

ADDRESSES: The hearings will be held at:

Washington, D.C.: Disability Rights Section, 1425 New York Avenue, N.W., Suite 4039, Washington, D.C.

Orlando, Florida: City Commission Chambers, Orlando City Hall, 400 South Orange Avenue, Orlando, Florida.

FOR FURTHER INFORMATION CONTACT: John L. Wodatch, Chief, Disability Rights Section, Civil Rights Division, U.S. Department of Justice, P.O. Box 66738, Washington, D.C. 20035-6738. Telephone number (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

Copies of this notice are available in formats accessible to individuals with vision impairments and may be obtained by calling (800) 514–0301 (Voice) or (800) 514–0383 (TDD).

SUPPLEMENTARY INFORMATION: Elsewhere in this issue of the **Federal Register**, the Department of Justice (Department) is publishing a notice in the **Federal Register** announcing that it had preliminarily determined that the Florida Americans with Disabilities Accessibility Implementation Act, Florida Statutes §§ 553.301–553.514, as implemented by the Florida Accessibility Code of Building Construction (together, the Florida law), meets or exceeds the new construction and alterations requirements of title III of the ADA. The Department also noted that it intended to issue final certification of the Florida law and requested written comments on the preliminary determination and the proposed final certification. Finally, the Department noted that it intended to hold informal hearings in Washington, D.C. and Orlando, Florida.

The purpose of the informal hearings is to provide an opportunity for interested persons, including individuals with disabilities, to express their views with respect to the preliminary determination of equivalency of the Florida law. Interested parties who wish to testify at a hearing should contact Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

The meeting sites will be accessible to individuals with disabilities. Individuals who require sign language interpreters or other auxiliary aids should contact Tito Mercado at (202) 307–0663 (Voice/TDD). This is not a toll-free number.

Dated: October 16, 1997.

Isabelle Katz Pinzler,

Acting Assistant Attorney General for Civil Rights.

[FR Doc. 97–28212 Filed 10–21–97; 9:30 am]

BILLING CODE 4410–13–M

NATIONAL CREDIT UNION ADMINISTRATION

Information Collection; Comment Request for Re-Clearance

DATES: October 23, 1997.

The National Credit Union Administration (NCUA) intends to submit the following public information collection requests to the Office of Management and Budget (OMB) for review and re-clearance under the Paperwork Reduction Act of 1995 (P.L. 104–13, 44 U.S.C. Chapter 35). These information collections are published to obtain comments from the public. Public comments are encouraged and will be accepted for 60 days from the date listed at the top of this page in the **Federal Register**.

Copies of the information collection requests, with applicable supporting documentation, may be obtained by calling the NCUA Clearance Office, Betty May, (703–518–6414). Comments and/or suggestions regarding the information collection requests should be directed to Mrs. May at the National Credit Union Administration, 1775 Duke Street, Alexandria, Virginia 22314–3428; Fax No. 703–518–6433; e-mail address: bettym@ncua.gov within 60 days from the date of this publication in the **Federal Register**.

National Credit Union Administration

OMB Number: 3133–0024.

Form Number: None.

Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.

Title: Mergers of Federally Insured Credit Unions.

Description: Part 708b of NCUA's regulations sets forth the procedures for credit union mergers.

Respondents: Federal and State Credit Unions.

Estimated No. of Respondents/Recordkeepers: 200.

Estimated Burden Hours Per Response: 15.

Frequency of Response: On occasion.

Estimated Total Annual Burden Hours: 3,000.

Estimated Total Annual Cost: $44,640.

OMB Number: 3133–0035.
Form Number: None.
Type of Review: Reinstatement, without change, of a previously approved collection for which approval has expired.
Title: Trustees and Custodians of Pension Plans.
Description: A federal credit union acting as trustee for a retirement plan must maintain individual records for each participant and provide each participant with notice of the insurance status of their account.
Respondents: Federal Credit Unions.
Estimated No. of Respondents/ Recordkeepers: 3,877.
Estimated Burden Hours Per Response: 1.
Frequency of Response: On occasion.
Estimated Total Annual Burden Hours: 193,850.
Estimated Total Annual Cost: $2,884,488.
OMB Number: 3133–0101.
Form Number: None.
Type of Review: Reinstatement, with change, of a previous collection for which approval has expired.
Title: Written Loan Policies—701.21(h)(2)(i).
Description: The general purpose of the requirement is to ensure that loans are made, documented and accounted for properly and for the ultimate protection of the National Credit Union Share Insurance Fund. Respondents are federally insured credit unions making business loans as defined in the regulation.
Respondents: Federally insured Credit Unions.
Estimated No. of Respondents/ Recordkeepers: 50.
Estimated Burden Hours Per Response: 2.
Frequency of Response: On occasion.
Estimated Total Annual Burden Hours: 100.
Estimated Total Annual Cost: Minimal.

By the National Credit Union Administration Board on October 16, 1997.

Becky Baker,

Secretary of the Board.

[FR Doc. 97–28079 Filed 10–22–97; 8:45 am]

BILLING CODE 7535–01–P

NATIONAL CREDIT UNION ADMINISTRATION

Sunshine Act Meeting; Notice of Change in Subject of Meeting

The National Credit Union Administration Board determined that its business requires the deletion of one item from the previously announced closed meeting (**Federal Register**, 62 FR 54481, October 20, 1997) scheduled for Wednesday, October 22, 1997.

2. One (1) Administrative Action under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5) and (8).

The Board voted unanimously that agency business required that this item be deleted from the closed agenda and that no earlier announcement of this change was possible.

The previously announced items were:

1. Two (2) Administrative Actions under Sections 125, 205, and 206 of the Federal Credit Union Act. Closed pursuant to exemption (8).
2. Three (3) Administrative Actions under Section 206 of the Federal Credit Union Act. Closed pursuant to exemptions (5), (7), (8) and (10).
3. One (1) Personnel Action. Closed pursuant to exemptions (2) and (6).

FOR FURTHER INFORMATION CONTACT: Becky Baker, Secretary of the Board, Telephone (703) 518–6312.

Becky Baker,

Secretary of the Board.

[FR Doc. 97–28218 Filed 10–21–97; 9:57 am]

BILLING CODE 7535–01–M

NATIONAL FOUNDATION ON THE ARTS AND HUMANITIES

Institute of Museum and Library Services; Submission for OMB Review; Comment Request

October 10, 1997.

ACTION: Notice.

SUMMARY: The Institute of Museum and Library services (IMLS), has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)].

DATES: Comments should be sent to Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for Education, Office of Management and Budget, Room 10235, Washington, DC 20503 (202) 395–7316, on or before November 24, 1997.

ADDRESSES: A copy of the final National Leadership Grant program guidelines is available from: Discretionary Programs, Office of Library Services, Institute of Museum and Library Services, 1100 Pennsylvania Ave., NW, room 802, Washington, DC 20506, Tel: 202/606–5227, fax: 202/606–1077, or from: e-mail: imlsinfo@imls.fed.us web:www.imls.fed.us/.

FOR FURTHER INFORMATION CONTACT: Institute of Museum and Library Services, Director of Public and Legislative Affairs, Mamie Bittner, (202) 606–4648. Individuals who use a telecommunications device for the deaf (TTY/TDD) MAY CALL (202) 606–8636.

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of proposed collection of information of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

The Institute of Museum and Library Services solicits comments concerning a new program, National Leadership Grants, authorized by the Museum and Library Services Act of 1996, Title VII of the Departments Labor, Health and Human Services, Education and Related Agencies Appropriations Act, as enacted by Sec. 101(e) of Divisions A. Pub. L. 104–208, enacted September 30, 1996. IMLS issued, on June 17, 1997, a request for comments on draft guidelines.

1. Background

The Museum and Library Services Act of 1996 describes National Leadership Grants or Contracts in Sec. 262. The statute directs the Director to establish and carry out a new program awarding national leadership grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums.

Such grants or contracts shall be used for activities that may include—

(1) Education and training of persons in library and information science, particularly in areas of new technology and other critical needs, including graduate fellowships, traineeships, institutes, or other programs;

(2) Research and demonstration projects related to the improvement of libraries, education in library and information science, enhancement of library services through effective and

efficient use of new technologies, and dissemination of information derived from such projects;

(3) Preservation or digitization of library materials and resources, giving priority to projects emphasizing coordination, avoidance of duplication, and access by researchers beyond the institution or library entity undertaking the project; and

(4) Model programs demonstrating cooperative efforts between libraries and museums.

The statute further authorizes the Director to carry out these activities by awarding grants to, or entering into contract, on a competitive basis with, libraries, agencies, institutions of higher education, or museums, where appropriate.

The Institute began the process of developing these guidelines in March 1997 by convening a group of renowned museum and library professionals, together with several National Commission for Libraries and Information Science Commissioners and Members of the National Museum Services Board, for two days of discussion. On the first day they heard from panels representing museums, libraries, other funders and Federal policy makers. On the second day they discussed what they had heard and what issues they see as most important for the Institute to address in the coming years.

Drawing from these discussions, agency staff drafted guidelines for these projects which were reviewed at the first joint meeting of the National Museum Services Board and the National Commission for Libraries and Information Science on May 8, 1997. The Institute received policy advice from these advisory bodies and used this to further revise the draft guidelines.

Comments submitted in response to this notice will be used by the agency in further developing its National Leadership Grants guidelines and in the request for the Office of Management and Budget approval of the information collection request; they also will become a matter of public record.

2. Response to Comments

A. General

IMLS received a number of comments in response to the June 17, 1997, request for comment. IMLS appreciates the interest of the museum and library communities and their time and effort in providing their views. Commenters comprised individuals expressing their own opinions and officers and staff of professional organizations representing their members. Taken as a whole, IMLS believes the comments received are reasonably representative of the opinions of the library and museum communities which IMLS was created to serve. All of the comments have been carefully studied by IMLS, and they will inform the development of final program guidelines.

In general, commenters expressed broad support for the purposes of the National Leadership Grant program. Specific suggestions for improvement or for clarification fall within these categories:

—Definition of eligible applicants
—Eligibility for specific type projects
—Distribution of funding within project types
—Qualifications of reviewers
—Technical clarification of procedural issues of program management

B. Definition of Eligible Applicants

Commenters asked for clarification on or posited a case for certain types of libraries where either they were unclear as to their eligibility or believed they were excluded. These types of libraries were special libraries, archives, private libraries, library consortia, libraries within larger organizations, and private libraries. The IMLS position is that all of these libraries and library consortia, as well as those specifically named in section 213(2), are capable of carrying out projects such as those identified in section 262(a), and therefore, are eligible for National Leadership Grant support. Notwithstanding, only private libraries having not-for-profit status from the Internal Revenue Service may receive support; private for-profit libraries may not receive support.

Some commenters stated that graduate schools offering degrees in library and information sciences should be eligible. IMLS concurs that these graduate schools are an appropriate provider of education and training projects. They are eligible as units within institutions of higher education.

Some commenters questioned whether museum agencies could apply for and receive support within the program as an individual applicant. The IMLS intention is to encourage museums to form cooperative model projects with libraries when requesting support under the National Leadership Grant program. A museum as an individual entity, as part of a museum consortium or as an agency for museum services, therefore, may only apply as part of a partnership with a library. Any other applicant may apply individually or in a partnership.

C. Eligibility for Specific Type Projects

Museums may apply for support only if the project includes a library partner. A partnership that includes at least one museum and one library may propose, apply for and receive support for any type of activity that would meet the objectives of the National Leadership Grant program. Other eligible applicants may apply for any type activity individually for any type of activity that would meet the objectives of the National Leadership Grant program. Collaborative projects between libraries and museums must include at least one library and one museum and may include other types of partners.

D. Distribution of Funding Within Project Types

Several commenters expressed the opinion that as there were four clear project types, funding from the Library Services and Technology Act would be fairly distributed if no more than one-fourth went to model collaborative projects for libraries and museums. Pending availability of appropriated funds for National Leadership Grants under LSTA, IMLS will award one quarter of funds for collaborative projects between libraries and museums.

E. Qualifications of Reviewers

Some commenters express views that only library reviewers were appropriate for some types of project, while both library and museum professionals were appropriate for collaborative library museum projects. IMLS concurs and intends that appropriate professionals from the field will be included as reviewers depending on the nature of the project and partnership. Additional technical expertise may also be part of the review and decision-making process.

F. Technical Clarification of Procedural Issues of Program Management

A number of commenters identified unclear wording in the guidelines and provided suggestions for editing the guidelines that will enable IMLS to clarify the instructions. No single technical issue elicited significant numbers of comments, however, taken as a whole they will be useful to improve the quality of the guidelines. IMLS appreciates the level of attention to detail these commenters provided.

Agency: Institute of Museum and Library Services.

Title: National Leadership Grants.

OMB Number: N/A.

Agency Number: 3136.

Frequency: One time.

Affected Public: Not-for-profit institutions.

Estimated Time Per Respondent: 40 hours.

Total Burden Hours: 1200.

Total Annualized capital/startup costs: 0.

Total annual costs (operation/maintaining systems or purchasing services): 0.

Description: National Leadership Grant are being developed to carry out a new program awarding grants or contracts to enhance the quality of library services nationwide and to provide coordination between libraries and museums.

Diane B. Frankel,

Director.

[FR Doc. 97–28070 Filed 10–22–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Cooperative Agreement for Mayors' Institute on City Design

AGENCY: National Endowment for the Arts.

ACTION: Notification of availability.

SUMMARY: The National Endowment for the Arts is requesting proposals leading to the award of a Cooperative Agreement to manage, through a full time director, a partnership of national organizations, government agencies, and universities to support the continuing activities of the ''Mayors' Institute on City Design.'' Eligibility to apply is limited to 501(c)(3) organizations with a national constituency, a significant physical presence in the Washington, DC metropolitan area, and a mission that includes education and advocacy regarding policies and practices affecting the design of American cities. The Mayor's Institute is a series of forums dedicated to the improvement of the design of American cities. The Institute's activities include two semi-annual conferences (institutes), alumni programs, coordination of the activities of four annual regional institutes, and maintenance of records and archives. The initial period of the Cooperative Agreement will be one year with potential renewal. Funding is limited to $400,000 for the first year. Those interested in receiving the Solicitation package should reference Program Solicitation PS 98–01 in their written request. Requests must be accompanied by two (2) self-addressed labels. verbal requests for the Solicitations will not be honored.

DATES: Program Solicitations PS 98–01 is scheduled for release approximately November 7, 1997 with proposals due December 8, 1997.

ADDRESSES: Requests for the Solicitation should be addressed to National Endowment for the Arts, Grants & Contracts Office, Room 618, 1100 Pennsylvania Ave., NW., Washington, DC 20506.

FOR FURTHER INFORMATION CONTACT: William I. Hummel, Grants & Contracts Office, National Endowment for the Arts, 1100 Pennsylvania Ave., NW., Washington, DC 20506 (202/682–5482).

William I. Hummel,

Coordinator, Cooperative Agreements and Contracts.

[FR Doc. 97–28071 Filed 10–22–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

National Council on the Arts 132nd Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the National Council on the Arts will be held on November 7, 1997 from 9:00 a.m. to 4:00 p.m. in Room M–09 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

The meeting will be open to the public on a space available basis. Topics for discussion will include: A report on American Canvas, Congressional update, budget update, application review, Guidelines (FY 99 Grants to Organizations and FY 99 Literature Fellowships), a briefing on the White House Millennium Initiative, a briefing on the FY 99 budget request, an update on the Endowment's FY 1997–2002 Strategic Plan, and general discussion.

If, in the course of discussion, it becomes necessary for the Council to discuss nonpublic commercial or financial information of intrinsic value, the Council will go into closed session pursuant to subsection (c)(4) of the Government in the Sunshine Act, 5 U.S.C. 552b. Additionally, discussion concerning purely personal information about individuals, submitted with grant applications, such as personal biographical and salary data or medical information, may be conducted by the Council in closed session in accordance with subsection (c)(6) of 5 U.S.C. 552b.

Any interested person may attend, as observers, Council discussions and reviews which are open to the public. If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TTY–TDD 202/682–5429, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from the Office of Communications, National Endowment for the Arts, Washington, DC 20506, at 202/682–5570.

Dated: October 17, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Office of Guidelines and Panel Operations.

[FR Doc. 97–28075 Filed 10–22–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Multidisciplinary Section (Planning & Stabilization category) to the National Council on the Arts will be held on November 13–14, 1997. The Panel will meet from 8:30 a.m. to 5:45 p.m. on November 13 and from 8:30 a.m. to 5:00 p.m. on November 14 in Room 716 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. A portion of this meeting, from 1:30 p.m. to 2:30 p.m. on November 14, will be open to the public for a policy discussion of guidelines, planning, field needs and trends and Leadership Initiatives.

The remaining portions of this meeting, from 8:30 a.m. to 5:45 p.m. on November 13 and from 8:30 a.m. to 1:30 p.m. and from 2:30 p.m. to 5:00 p.m. on November 14, are the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsections (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the

Panel's discussions at the discretion of the Panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 17, 1997.

Kathy Plowtz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–28076 Filed 10–22–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts

Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Theater Section B (Creation & Presentation category) to the National Council on the Arts will be held on November 17–21, 1997. The panel will meet from 9:30 a.m. to 6:00 p.m. on November 17–19; from 10:00 a.m. to 6:00 p.m. on November 20; and from 9:30 a.m. to 5:30 p.m. on November 21, in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506. A portion of this meeting, from 10:00 a.m. to 12:00 p.m. on Thursday, November 20, will be open to the public for a policy discussion of guidelines, planning, field needs and trends, and Leadership Initiatives.

The remaining portions of this meeting, from 9:30 a.m. to 6:00 p.m. on November 17–19, form 12:00 p.m. to 6:00 p.m. on November 20, and from 9:30 a.m. to 5:30 p.m. on November 21, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsection (c)(4),(6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, NW., Washington, DC 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call 202/682–5691.

Dated: October 17, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–28077 Filed 10–22–97; 8:45 am]

BILLING CODE 7537–01–M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment for the Arts; Combined Arts Panel

Pursuant to Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), as amended, notice is hereby given that a meeting of the Combined Arts Advisory Panel, Media Arts Section B (Creation & Presentation and Planning & Stabilization categories) to the National Council on the Arts will be held on November 12–14, 1997. The panel will meet from 9 a.m. to 7 p.m. on November 12, from 9 a.m. to 5:30 p.m. on November 13, and from 9 a.m. to 3 p.m. on November 14 in Room 730 at the Nancy Hanks Center, 1100 Pennsylvania Avenue, N.W., Washington, D.C., 20506. A portion of this meeting, from 4 p.m. to 5:30 p.m. on Thursday, November 13, will be open to the public for a policy discussion of guidelines, planning, field needs and trends, and Leadership Initiatives.

The remaining portions of this meeting, from 9 a.m. to 7 p.m. on November 12, from 9 a.m. to 4 p.m. on November 13, and from 9 a.m. to 3 p.m. on November 14, are for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including information given in confidence to the agency by grant applicants. In accordance with the determination of the Chairman of March 31, 1997, these sessions will be closed to the public pursuant to subsection (c)(4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Any person may observe meetings, or portions thereof, of advisory panels which are open to the public, and may be permitted to participate in the panel's discussions at the discretion of the panel chairman and with the approval of the full-time Federal employee in attendance.

If you need special accommodations due to a disability, please contact the Office of AccessAbility, National Endowment for the Arts, 1100 Pennsylvania Avenue, N.W., Washington, D.C. 20506, 202/682–5532, TDY–TDD 202/682–5496, at least seven (7) days prior to the meeting.

Further information with reference to this meeting can be obtained from Ms. Kathy Plowitz-Worden, Committee Management Officer, National Endowment for the Arts, Washington, D.C., 20506, or call 202/682–5691.

Dated: October 17, 1997.

Kathy Plowitz-Worden,

Panel Coordinator, Panel Operations, National Endowment for the Arts.

[FR Doc. 97–28078 Filed 10–22–97; 8:45 am]

BILLING CODE 7537–01–M

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 13, 1997, 8:30 a.m. to 5:00 p.m.

Place: National Science Foundation, 4201 Wilson Boulevard, Suite 1120, 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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28121 Filed 10–22–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Bioengineering and 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 and Environmental Systems (No. 1189).

Date and Time: November 12–14, 1997; 8:00am—6:00pm.

Place: National Science Foundation, 4201 Wilson Boulevard, Rooms 380 and 530 Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: H. Frederick Bowman, Program Director, Biomedical Engineering and Research to Aid Persons with Disabilities, Division of Bioengineering and Environmental Systems, National Science Foundation, 4210 Wilson Boulevard, Arlington, VA 22230, Telephone: (703) 306–1318.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate 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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28114 Filed 10–22–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Biological Infrastructure; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting:

Name: Advisory Panel for Biological Infrastructure (#1215).

Date and Time: November 10–12, 1997, 8:30 a.m.–5:00 p.m.

Place: National Science Foundation, Room 375, 4201 Wilson Boulevard, Arlington, VA.

Type of Meeting: Closed.

Contact Person: Lee Makowski and Arthur Kowalsky, Program Directors, Biological Instrumentation and Instrument Development, Room 615, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA, Telephone: (703) 306–1472.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Instrument Development for Biological Research (IDBR) proposals as part of the selection process for award.

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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28117 Filed 10–22–97; 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 and Time: November 11 and November 12, 1997; 8:30 a.m. to 5:00 p.m.

Place: NSF, 4201 Wilson Boulevard, Rooms 580, Arlington, Virginia.

Contact Person: Dr. Devendra P. Garg, Program Director, Dynamic Systems and Control Program, Division of Civil and Mechanical Systems, Room 545, NSF, 4201 Wilson Blvd., Arlington, VA 22230 703/306–1361, x 5068.

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 Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28119 Filed 10–22–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Economics, Decision and Management Sciences: Notice of Meetings

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 Economics, Decision and Management Sciences (#1759).

Date and Time: November 14–15, 1997, 9 a.m. to 5 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Rooms 310–380, Arlington, VA 22230.

Contact: Dr. Daniel H. Newlon, Program Director for Economics, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1753.

Agenda: To review and evaluate Economics proposals as part of the selection process for awards.

Name: Advisory Panel for Decision and Management Sciences (#1759).

Date and Time: December 6–7, 1997, 9 a.m. to 5 p.m.

Place: National Science Foundation, Stafford Place, 4201 Wilson Boulevard, Rooms 970, Arlington, VA 22230.

Contact: Dr. Jonathan Leland, Program Director for DRMS, Division of Social, Behavioral and Economic Research, National Science Foundation, Room 995, 4201 Wilson Boulevard, Arlington, VA 22230. Telephone: (703) 306–1757.

Agenda: To review and evaluate DRMS proposals as part of the selection process for awards.

Type of Meetings: Closed.

Purpose of Meetings: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Reason for Closings: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information individuals associated with the proposals. These matters are exempt under 5 U.S.C.

552b(c) of the Government in the Sunshine act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28120 Filed 10–22–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Special Emphasis Panel in Materials Research; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended, the National Science Foundation announces the following meeting:

Name: Special Emphasis Panel in Materials Research #1203.

Date & Time: November 12, 1997, 8:00 a.m.–5:00 p.m.

Place: Rooms 770, 920, 970, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. H. Hollis Wickman, Program Director, Division of Materials Research, Room, 1065, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 703–306–1816.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Agenda: To review and evaluate Condensed Matter Physics CAREER proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed includes information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are exempt under 5 U.S.C. 552b(c), (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28118 Filed 10–22–97; 8:45 am]

BILLING CODE 7555–01–M

NATIONAL SCIENCE FOUNDATION

Advisory Panel for Neuroscience; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following meeting;

Name: Advisory Panel for Neuroscience (1158).

Date and Time: November 13–14, 1997; 9:00 a.m. to 5:00 p.m.

Place: Room 680, 4201 Wilson Boulevard., Arlington, VA.

Type of Meeting: Part-Open.

Contact Person: Dr. Christopher Platt, Program Director, Sensory Systems, Division of Integrative Biology and Neuroscience, Suite 685, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230 Telephone: (703) 306–1424.

Purpose of Meeting: To provide advice and recommendations concerning proposals submitted to NSF for financial support.

Minutes: May be obtained from the contact person listed above.

Agenda: Open Session: November 14; 11:00 a.m. to 12:00 p.m., to discuss goals and assessment procedures. Closed Session: November 13; 9:00 a.m. to 5:00 p.m.; November 14, 9:00 a.m. to 11:00 a.m., and 12:00 p.m. to 5:00 p.m. To review and evaluate Sensory Systems 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.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28115 Filed 10–22–97; 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 24–25, 1997; 8:30 a.m. to 5:00 p.m..

Place: Room 770, National Science Foundation, 4201 Wilson Boulevard, Arlington, VA 22230.

Type of Meeting: Closed.

Contact Person: Dr. Micheal Ledbetter, Program Director, Arctic System 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 System Science 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. 552(b)(c), (4) and (6) of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 97–28116 Filed 10–22–97; 8:45 am]

BILLING CODE 7555–01–M

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

SUMMARY: In accordance with the requirement of Section 3506 (c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments Are Invited On

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

Title and Purpose of Information Collection

Self-Employment and Substantial Service Questionnaire; OMB 3220–0138

Section 2 of the Railroad Retirement Act (RRA) provides for payment of annuities to qualified employees and their spouses. In order to receive an age and service annuity, Section 2(e)(3) states that an applicant must stop all railroad work and give up any rights to return to such work. A disability applicant must give up all railroad work, but does not have to relinquish rights to return to railroad work until he or she attains age 65, or, if earlier, a spouse annuity or supplemental annuity becomes payable. Under the 1988 amendments to the RRA, an applicant is no longer required to stop work for a ''Last Pre-Retirement Nonrailroad Employer'' (LPE). LPE is the last person, company or institution with whom an employee or spouse applicant's last railroad employment and before their annuity beginning date. However, section 2(f)(6) of the RRA requires that a portion of the employee's Tier II benefit and supplemental annuity be deducted for earnings from a ''LPE'' employer.

The RRB utilizes Form AA–4, *Self-Employment* and Substantial Service Questionnaire to *obtain information needed to determine if the applicant's work is LPE, railroad service or self-employment.* If the work is self-employment, the questionnaire

identifies any months in which the applicant did not perform substantial service. One response is requested of each respondent. Completion is voluntary. However, failure to complete the forms could result in the nonpayment of benefits.

The RRB proposes to revise Form AA–4 to add language required by the Paperwork Reduction Act of 1995. Minor nonburden impacting changes are also proposed. The completion time for the AA–4 is estimated at between 40 and 70 minutes. The RRB estimates that approximately 1,500 AA–4's are completed annually.

ADDITIONAL INFORMATION OR COMMENTS: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363. Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092. Written comments should be received within 60 days of this notice.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–28066 Filed 10–22–97; 8:45 am]

BILLING CODE 7905–01–M

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) has submitted the following proposal(s) for the collection of information to the Office of Management and Budget for review and approval.

Summary of Proposal(s)

(1) *Collection title:* Lag Service Reports.

(2) *Form(s) submitted:* AA–12, G–88A.

(3) *OMB Number:* 3220–0005.

(4) *Expiration date of current OMB clearance:* 12/31/97.

(5) *Type of request:* Extension of a currently approved collection.

(6) *Respondents:* Business or other for profit.

(7) *Estimated annual number of respondents:* 1,200.

(8) *Total annual responses:* 1,200.

(9) *Total annual reporting hours:* 120.

(10) *Collection description:* The report obtains the current service and compensation of an employee not yet reported to the Railroad Retirement Board. This lag information is used to determine eligibility for and amount of annuity applied for and to pay benefits due on a deceased employee's earnings.

Additional Information or Comments

Copies of the forms and supporting documents can be obtained from Chuck Mierzwa, the agency clearance officer (312–751–3363). Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 and the OMB reviewer, Laura Oliven (202–395–7316), Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Chuck Mierzwa,

Clearance Officer.

[FR Doc. 97–28064 Filed 10–22–97; 8:45 am]

BILLING CODE 7905–01–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 30d–1, SEC File No. 270–21, OMB Control No. 3235–0025

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 a request for extension of the previously approved collection of information discussed below.

Rule 30d–1, under the Investment Company Act of 1940, ''Reports to Stockholders of Management Companies'' prescribes the minimum content of reports to shareholders that every registered investment company must send at least semi-annually, containing the information specified by the statute or its equivalent as the Commission may determine to be in the interest of the investors. The reports are required in order to inform current shareholders of the status of the company. The rule requires approximately 602 hours annually for each of the 3,850 respondents equalling 2,317,700 total annual burden hours.

Rule 30d–1 does not involve any recordkeeping requirements. Providing the information required by rule 30d–1 is mandatory and the information provided will not be kept confidential.

The Commission 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.

General 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, D.C. 20503; and (ii) Michael E. Bartell, Associate Executive Director, Office of Information Technology, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Comments must be submitted to OMB within 30 days of this notice.

Dated: October 14, 1997.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28031 Filed 10–22–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Investment Company Act Release No. 22858; 812–10700]

Goldman Sachs & Co., et al.; Notice of Application

Ocotber 17, 1997.

AGENCY: Securities and Exchange Commission (''SEC'').

ACTION: Notice of application under (a) sections 6(c) and 17(b) of the Investment Company Act of 1940 (the ''Act'') requesting an exemption from section 17(a) of the Act; (b) section 6(c) of the Act requesting an exemption from section 17(e) of the Act and rule 17e–1 under the Act; and (c) section 10(f) of the Act requesting an exemption from section 10(f) and rule 10f–3 under the Act.

SUMMARY OF APPLICATION: Applicants request an order to permit registered investment companies that have one or more investment advisers, and for which Goldman, Sachs & Co. or an affiliate (''Goldman'') acts as an investment adviser, to engage in certain principal and brokerage transactions and to purchase securities in certain underwritings. The transactions would be between the investment companies, or the portions of the investment companies' portfolios, that are not advised by Goldman, and Goldman or a member of an underwriting syndicate in which Goldman is a participant.

APPLICANTS: Goldman, Sachs & Co., Goldman Sachs Asset Management International (''GSAMI''), and Goldman Sachs Fund Management, L.P. (''GSFM''); and The Diversified Investors Fund Group, Diversified Investors Portfolios, EAI Select Managers Equity Fund, The Managers Funds, and The Hirtle Callaghan Trust (collectively, the ''Funds'').

FILING DATE: The application was filed on June 10, 1997. Applicants have agreed to file an amendment to the application during the notice period, the substance of which is included in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 12, 1997, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request and the issues contested. Persons may request notification of a hearing by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, N.W., Washington, D.C. 20549. Applicants, c/o Goldman Sachs & Co., 85 Broad Street, New York, New York, 10004.

FOR FURTHER INFORMATION CONTACT: Joseph B. McDonald, Jr. Senior Counsel, at (202) 942–0533, or Mercer E. Bullard, Branch Chief, at (202) 942–0564 (Office of Investment Company Requlation, Division of Investment Mangement).

SUPPLEMENTARY INFORMATION: The following is a summary of the application. The complete application may be obtained for a fee from the SEC's Public Reference Branch, 450 Fifth Street N.W., Washington, D.C. 20549 (tel. 202–942–8090).

Applicants' Representations

1. Goldman, Sachs & Co., is registered with the SEC as a broker-dealer under the Securities Exchange Act of 1934 and an investment adviser under the Investment Advisers Act of 1940 (''Advisers Act''). Goldman, Sachs & Co. and entities controlling, controlled by or under common control with Goldman, Sachs & Co. (collectively, ''Goldman Sachs'') constitute one of the largest dealers in fixed income, money market and equity securities.

2. GSAMI and GSFM are under common control with Goldman, Sachs & Co. and are registered as investment advisers under the Advisers Act. Goldman Sachs Asset Management (''GSAM'') is an operating division of Goldman, Sachs & Co., and Liberty Investment Management (''Liberty'') is an operating division of GSAM. GSAMI, GSFM, GSAM, and Liberty are and act as investment advisers to one or more registered investment companies or series of registered investment companies (''Portfolios''). GSAMI, GSFM, GSAM and Liberty, and any other entities controlling, controlled by, or under common control with a Goldman Sachs entity and that are engaged in providing advisory services are collectively referred to as the ''Goldman Advisers.''

3. Applicants request that the relief apply to any registered investment company or Portfolio for which a Goldman Adviser currently or in the future acts as investment adviser.[1] Applicants also request relief for any broker-dealer controlling, controlled by, or under common control with Goldman, Sachs & Co. (collectively with Goldman, Sachs & Co., ''Affiliated Broker-Dealers'').

4. The EAI Select Managers Equity Fund, The Managers Funds, The Diversified Investors Fund Group, and The Hirtle Callaghan Trust are registered open-end management investment companies organized as Massachusetts business trusts or, in the case of The Hirtle Callaghan Trust, as a Delaware business trust. Evaluation Associates Capital Markets, Inc. serves as the investment adviser to the only Portfolio of the EAI Select Managers Equity Fund. The Managers Funds, L.P. serves as investment adviser to each of the ten Portfolios of The Managers Funds. The Diversified Investors Fund Group has thirteen Portfolios, all of the assets of which are invested in a corresponding series of the Diversified Investors Portfolios, a registered investment company. Diversified Investment Advisors, Inc. is the investment adviser of each of the Portfolios of Diversified Investors Portfolios. The Hirtle Callaghan Trust currently consists of five portfolios each of which is advised by one or more independent investment advisers.

5. Liberty or GSAM acts as investment adviser to a portion of one or more Portfolios of the EAI Select Managers Equity Fund, The Manager Funds, the Diversified Investors Portfolios, and The Hirtle Callaghan Trust. In each case, the other portions are advised by investment advisers that are not affiliated persons, or affiliated persons of an affiliated person, of Goldman Sachs (each, an ''Unaffiliated Adviser,'' and each portion, an ''Unaffiliated Portion'').[2] No Goldman Sachs entity (other than a Goldman Adviser) is an affiliated person, or an affiliated person of an affiliated person, of an investment adviser to a Portfolio of an unaffiliated Fund.

6. Certain investment companies use a multi-manager structure (''Multi-Managed Portfolios'')[3] in which separate investment advisers (''Subadvisers'') are used to manage discrete portions of the Portfolio.[4] Each Subadviser acts as if it were managing a separate investment company. The Subadvisers do not collaborate, and each is responsible for making independent investment and brokerage allocation decisions for its portion based on its own research and analysis. The Subadvisers do not receive information about investment or brokerage allocation decisions of another portion of the Portfolio before they are implemented. Each Subadviser is compensated for advisory services based only on a percentage of the value of assets allocated to it. GSAM, Liberty or other Goldman Advisers act or may act as Subadvisers to registered investment companies. Applicants state that Goldman Sachs does not and will not control the Portfolio for which a Goldman Adviser acts as Subadviser.

7. Applicants request relief to permit (1) Unaffiliated Portions to engage in principal transactions with Affiliated Broker-Dealers and to purchase securities in an underwriting in which an Affiliated Broker-Dealer acts as a principal underwriter, (2) Unaffiliated Portfolios to engage in brokerage transactions with Goldman, Sachs & Co., and Unaffiliated Portions to engage in

[1] Any registered investment company that currently intends to rely on the order is named as an applicant. Any other existing or future registered investment company that relies on the order will comply with the terms and conditions of the application.

[2] Portfolios for which no Goldman Adviser serves as investment adviser are referred to as ''Unaffiliated Portfolios,'' and Funds whose only affiliation with Goldman Sachs is that a Goldman Adviser serves as investment adviser are referred to as ''Unaffiliated Funds.''

[3] For purposes of this notice, a Multi-Managed Portfolio is a registered investment company or a Portfolio advised by a Goldman Adviser and at least one Unaffiliated Adviser.

[4] The term ''Subadvisers'' includes investment advisers that manage discrete portions of Multi-Managed Portfolios whether or not the Portfolios have a primary adviser that is responsible for the overall investment performance of the fund and monitoring the Subadvisers. In addition, the term ''Subadvisers'' includes a primary adviser to the extent the primary adviser is responsible for a portion of a Multi-Managed Portfolio.

brokerage transactions with Affiliated Broker-Dealers, when Goldman, Sachs & Co. or the Affiliated Broker-Dealer acts as broker in the ordinary course of business without complying with subsections (b) and (c) of rule 17e–1, and (3) portions of Portfolios advised by a Goldman Adviser (''Affiliated Portions'') to purchase securities in an underwriting without aggregating that portion's purchase with purchases of Unaffiliated Portions as required by rule 10f–3(b)(7).

Applicants' Legal Analysis

A. Section 17(a)

1. Section 17(a) of the Act generally prohibits sales or purchases of securities between a registered investment company and an affiliated person, or an affiliated person of an affiliated person, of the company. Sections 2(a)(3) (C) and (E) of the Act define an ''affiliated person'' of another person to be any person controlling, controlled by, or under control with the person, and any investment adviser of an investment company, respectively. Applicants believe that any Goldman Adviser acting as a Subadviser of a Multi-Managed Portfolio would be an affiliated person of that Portfolio, and each Affiliated Broker-Dealer would be an affiliated person of the Goldman Adviser. As a result, applicants believe that any principal transaction between an Unaffiliated Portion and an Affiliated Broker-Dealer would be prohibited by section 17(a).

2. Applicants request relief from section 17(a) to exempt principal transactions entered into in the ordinary course of business between the Unaffiliated Portion and an Affiliated Broker-Dealer. Applicants state that the relief would apply only to transactions prohibited by section 17(a) solely because a Goldman Adviser is an affiliated person of the Portfolio under section 2(a)(3)(E).

3. Section 6(c) permits the SEC to exempt any person or transaction from any provision of the Act, if the exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policies of the Act. Section 17(b) permits the SEC to grant an order permitting a transaction otherwise prohibited by section 17(a) if it finds that the terms of the proposed transaction are fair and reasonable and do not involve overreaching on the part of any person concerned, and the proposed transaction is consistent with the policy of each registered investment company and the general purposes of the Act. For the reasons stated below, applicants believe that the proposed transactions meet the standards of sections 6(c) and 17(b).

4. Applicants contend that section 17(a) is intended to prevent persons who have the power to influence an investment company from using that influence to the person's own pecuniary advantage. Applicants assert that Unaffiliated Advisers will be solely responsible for making investment decisions, and that they therefore will have no incentive to cause Unaffiliated Portions to engage in transactions with Affiliated Broker-Dealers. Applicants state that, because the Unaffiliated Adviser will have no conflict of interest in deciding whether to execute a principal transaction with an Affiliated Broker-Dealer on behalf of an Unaffiliated Portion, there will be no danger of overreaching on the part of any person concerned with the transaction. Applicants argue that the pecuniary interests of the particular Unaffiliated Adviser are directly aligned with those of the Unaffiliated Portion it manages. Applicants contend that the Unaffiliated Adviser's interests are served only to the extent that the assets of the Unaffiliated Portion are increased as a result of the transaction, which also benefits the Fund.

5. Applicants state that the proposed transactions will be consistent with the policies of the Multi-Managed Portfolio, inasmuch as each Unaffiliated Adviser is required to manage the Unaffiliated Portion of the Multi-Managed Portfolio in accordance with the investment objectives and related investment policies of the Portfolio as described in its registration statement. Applicants also argue that permitting the transactions will be consistent with the general purposes of the Act and in the public interest, because the ability to engage in the transactions will increase the likelihood of a Multi-Managed Portfolio achieving best price and execution on its principal transactions while giving rise to none of the abuses that section 17(a) was designed to prevent.

B. Section 17(e) and Rule 17e–1

1. Section 17(e)(2) of the Act prohibits an affiliated person, or an affiliated person of an affiliated person, of a registered investment company from receiving compensation for acting as broker in connection with the sale of securities to or by the company if the compensation exceeds the limits prescribed by the section unless otherwise permitted by rule 17e–1 under the Act. Rule 17e–1(a) provides that brokerage compensation paid pursuant to the rule must be reasonable and fair compared with compensation paid in comparable transactions. Rule 17e–1(b) requires the investment company's board of directors, including a majority of the directors who are not interested persons under section 2(a)(19) of the Act, to adopt procedures regarding brokerage compensation paid pursuant to the rule and to determine at least quarterly that all transactions effected in reliance on the rule complied with the procedures. Rule 17e–1(c) specifies the records that must be maintained by each investment company with respect to any transaction effected pursuant to rule 17e–1.

2. Applicants believe that Affiliated Broker-Dealers are affiliated persons of an affiliated person of the Unaffiliated Portions for the reasons discussed above. Applicants also believe that Goldman, Sachs & Co. is an affiliated person of an affiliated person of the Unaffiliated Portfolios because (a) the Affiliated Portfolios are affiliated persons of Unaffiliated Portfolios because they are under common control, and (b) Goldman, Sachs & Co., is an investment adviser to the Affiliated Portfolios because GSAM and Liberty are divisions of Goldman, Sachs & Co. and not separate legal entities.

3. Applicants request relief under section 6(c) for an exemption from the provisions of section 17(e) Act and rule 17e–1 to the extent necessary to permit Unaffiliated Portfolios to pay brokerage compensation to Goldman, Sachs & Co., and Unaffiliated Portions to pay brokerage compensation to Affiliated Broker-Dealers, when Goldman, Sachs & Co. or the Affiliated Broker-Dealer, respectively, acts as broker in the ordinary course of business without complying with the requirements of rule 17e–1(b) and (c). Applicants state that the relief would apply only to transactions prohibited by section 17(e) solely because a Goldman Adviser is an affiliated person of the Portfolio under section 2(a)(3)(E).

4. Applicants believe that the proposed brokerage transactions meet the standards of section 6(c) of the Act for the same reasons that the proposed principal transactions satisfy the standards. In addition, applicants state the brokerage transactions will comply with the rule 17e–1(a) requirement that the brokerage compensation be fair and reasonable compared with comparable transactions. Applicants also note that the Unaffiliated Advisers will be subject to a fiduciary duty to obtain best execution for the Fund. Applicants believe that compliance with the procedural and recordkeeping requirements of rule 17e–1(b) and (c)

would be unduly burdensome and unnecessary in view of the lack of any conflict of interest.

C. Section 10(f) and Rule 10f–3

1. Section 10(f) of the Act prohibits a registered investment company from purchasing securities in an underwriting in which certain affiliates, including the company's investment adviser, act as principal underwriter. Section 10(f) also provides that the SEC may exempt by rule or order any transaction from section 10(f) to the extent that the exemption is consistent with the protection of investors.

2. Applicants state that a Goldman Adviser that acts as a Subadviser to a Portfolio is an investment adviser to the entire Portfolio. Applicant therefore believes that all purchases of securities by an Unaffiliated Portion from an underwriting syndicate a principal underwriter of which is an Affiliated Broker-Dealer would be subject to section 10(f).

3. Applicants request relief under section 10(f) from that section to permit Unaffiliated Portions to purchase securities in the ordinary course of business during the existence of an underwriting or selling syndicate, a principal underwriter of which is an Affiliated Broker-Dealer. Applicants request relief only to the extent that section 10(f) applies because a Goldman Adviser is an investment adviser to the Portfolio.

4. Applicants believe that the proposed transactions meet the standards set forth in section 10(f). Applicants state that section 10(f) was adopted in response to concerns about investment bankers ''dumping'' otherwise unmarketable securities on investment companies, either by forcing the investment company to purchase unmarketable securities from the underwriting affiliate itself, or by forcing or encouraging the investment company to purchase the securities from another member of the syndicate. Applicants submit that these abuses are not present in the context of Multi-Managed Portfolios because, as discussed above, the Unaffiliated Advisers will not have an incentive to purchase the securities to benefit an Affiliated Broker-Dealer. While the Funds could effect the relevant underwriting purchases by complying with rule 10f–3, applicants assert that to do so would be impracticable. Applicants believe that, to comply with rule 10f–3, the Subadvisers would have to coordinate purchases in underwritings, thus undermining their independence and interfering with the operation of the Funds.

5. Rule 10f–3 exempts certain transactions from the prohibitions of section 10(f) if specified conditions are met. Rule 10f–3(b)(7) generally requires that the amount of securities of any class of an issue to be purchased by the investment company, or by two or more investment companies having the same investment adviser, not exceed 25% of the principal amount of the offering.

6. Applicants believe rule 10f–3(b)(7) requires aggregation of the purchases of all Affiliated and Unaffiliated Portions of a Multi-Managed Portfolio. Applicants request an exemption under section 10(f) to the extent necessary to permit Affiliated Portions to purchase securities in an underwriting without aggregating that Portion's purchase with purchases of Unaffiliated Portions. Applicants request relief only to the extent that section 10(f) applies because a Goldman Adviser is an investment adviser to the Portfolio.

7. The aggregation requirement of rule 10f–3(b)(7) is intended to ensure that a significant portion of an underwriting is purchased by persons other than a single fund complex under common management. Applicants contend that aggregating the purchases would serve no purpose because any common purchases would be mere coincidence, and not the result of a decision by a single Subadviser, because there is no collaboration among Subadvisers.

Applicants' Conditions

Applicants agree that any order of the SEC granting the requested relief will be subject to the following conditions;

1. Each Multi-Managed Portfolio will be advised by a Goldman Adviser and at least one Unaffiliated Adviser and will be operated consistent with the manner described in Section I.G. of the application.

2. Neither the Goldman Adviser (except of virtue of serving as Subadviser) nor the Affiliated Broker-Dealer will be an affiliated person or a second-tier affiliated or any Unaffiliated Adviser or any officer, trustee or employee of the Unaffiliated Fund engaging in the transaction.

3. No Goldman Adviser will directly or indirectly consult with any Unaffiliated Adviser concerning allocation of principal or brokerage transactions.

4. No Goldman Adviser will participate in any arrangement whereby the amount of its subadvisory fees will be affected by the investment performance of an Unaffiliated Adviser.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28124 Filed 10–22–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (Tower Tech, Inc., Common Stock, $.001 Par Value) Filer No. 1–12556

October 17, 1997.

Tower Tech Inc. (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration on the Boston Stock Exchange, Inc. (''BSE'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Company has maintained listing of its Security on the BSE and on the Nasdaq Small Cap System since the Company became subject to the reporting requirements of the Act on November 30, 1993. Substantially all of the trading volume in the Security takes place on Nasdaq and the benefits to Security holders of dual-listing and qualification are outweighed by the costs of maintaining the dual-listing and qualification.

The Company has complied with the BSE's delisting requirements by notifying the BSE of its intent to delist the Security and providing all requested supporting documentation. By letter dated October 8, 1997, the BSE has informed the Company that it has no objection to the withdrawal of the Security from listing on the Exchange.

The Security will continue to be qualified for trading on the Nasdaq Small Cap Market following its delisting from the BSE.

Any interested person may, on or before November 7, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the

protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–28028 Filed 10–22–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

Issuer Delisting; Notice of Application To Withdraw From Listing and Registration; (UNC Incorporated, 9⅛% Senior Notes Due July 15, 2003, Issued Pursuant to the Indenture Dated as of July 15, 1993) File No. 1–7795

October 17, 1997.

UNC Incorporated (''Company'') has filed an application with the Securities and Exchange Commission (''Commission''), pursuant to Section 12(d) of the Securities Exchange Act of 1934 (''Act'') and Rule 12d2–2(d) promulgated thereunder, to withdraw the above specified security (''Security'') from listing and registration of the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'').

The reasons cited in the application for withdrawing the Security from listing and registration include the following:

The Security was issued pursuant to the Indenture, dated as of July 15, 1993, as amended (the ''Indenture'') between the Company and the Chase Manhattan Bank, as successor Trustee (''Trustee'') and were sold pursuant to a registration statement filed with the Commission and declared effective July 22, 1993. The Security is registered pursuant to Section 12(d) of the Act and listed for trading on the NYSE.

As a result of the Merger, on September 18, 1997. Standard & Poor's Rating Group raised its rating of the Security to AAA. On September 30, 1997, the Company completed a debt tender and consent solicitation for all of the issued and outstanding Security. Through the debt tender, the Company purchased $87,952,000 to the $100,000,000 aggregate principal amount of the Security outstanding. After the debt tender, there remained issued and outstanding $11,900,000 aggregate principal amount of the Notes held of record by 11 persons, including the Depository Trust Company (DTC). Through DTC, there are approximately 37 holders. Pursuant to the terms of the Indenture, the Company will commence a Change in Control offer for the remaining Notes at a price of 101% of par plus accrued and unpaid interest. Since the price is below the price offered in the recent offer, the Company does not anticipate that any of the remaining holders will tender into the Change in Control offer. Therefore, the Company intends to redeem the outstanding Security on June 15, 1998, the earliest possible redemption date pursuant to the Indenture.

The Company believes that its application to withdraw the Security from listing and registration on the NYSE should be granted for, among others, the following reasons:

(a) The small principal amount of the Security outstanding. Only $11,900,000 aggregate principal amount of the Security remains issued and outstanding.

(b) The Security is held by small number of holders.

(c) The Security is the Company's only listed security.

(d) The costs of satisfying the Company's reporting obligations under the Act. The Company represents that it is no longer subject to the report requirements of the Act for any other Securities. Furthermore, as a result of the consent solicitation, the Company is no longer obligated under the terms of the Indenture to file reports with the Commission. As a consequence the Company will not be required to incur the costs of preparing separate annual and periodic reports. The Company represents that it is not obligated under the Indenture or any other document to maintain the listing or registration of the Security on the NYSE or on any other national securities exchange.

The Company notified the NYSE on September 29, 1997 that it was requesting delisting of the Security and the NYSE raised no objection to such delisting.

Any interested person may, on or before November 7, 1997, submit by letter to the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549, facts bearing upon whether the application has been made in accordance with the rules of the exchange and what terms, if any, should be imposed by the Commission for the protection of investors. The Commission, based on the information submitted to it, will issue an order granting the application after the date mentioned above, unless the Commission determines to order a hearing on the matter.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 97–28029 Filed 10–22–97; 8:45 am]

BILLING CODE 8010–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39244; File No. SR–CBOE–97–25]

Self-Regulatory Organizations; Order Approving Proposed Rule Change by the Chicago Board Options Exchange, Incorporated, Relating to the Listing and Trading of Options on the Lipper Analytical/Salomon Brothers Growth and Growth & Income Fund Indexes

October 15, 1997.

I. Introduction

On June 4, 1997, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed a proposed rule change with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] to list and trade options on two mutual fund indexes designed by Lipper Analytical Services, Inc. in conjunction with Salomon Brothers Inc.

Notice of the proposal was published for comment and appeared in the **Federal Register** on June 17, 1997.[3] No comment letters were received on the proposed rule change. This order approves the Exchange's proposal.

II. Description of the Proposal

The Exchange is proposing to list and trade cash-settled, European-style options on two mutual fund indexes designed by Lipper Analytical Services, Inc. (''Lipper Analytical'' or LAS®) [4] in conjunction with Salomon Brothers Inc.—the Lipper Analytical/Salomon Brothers Growth Fund Index (''Growth Fund Index'') and the Lipper Analytical/Salomon Brothers Growth & Income Fund Index (''Growth & Income Fund Index'').

A. Index Design

The Indexes are composed of the 30 largest U.S. funds in each investment

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 38730 (June 10, 1997), 62 FR 32846.

[4] Lipper Analytical is a major provider of mutual fund information and currently calculates approximately 100 other mutual fund indexes designed to track specific investment objectives.

objective (*i.e.*, Growth or Growth & Income), based on their total net assets as of the close on the last trading day of December. The Indexes include only those funds that report net asset values (''NAV'') through the facilities of the National Association of Securities Dealers Automated Quotation System (''Nasdaq''). Some mutual funds are composed of more than one class which have different fees and expenses. If there is more than one class of a specific mutual fund, only the class with the highest total net assets will be included. As of December 31, 1996, the Growth Fund Index had total net assets (''TNA'') of $218.6 billion, an average TNA per component of $7.3 billion and a median TNA per component of $4.2 billion. The TNAs ranged from $2.5 billion to $54.0 billion. As of the same date, the Growth & Income Fund Index had a TNA of $241.2 billion, an average TNA per component of $8.0 billion and a median TNA per component of $5.0 billion. The TNAs ranged from $2.5 billion to $30.9 billion.

Lipper Analytical determines the investment objective of each fund by reviewing both the language in the prospectus and the fund's investment characteristics as shown in the Lipper-Equity Analysis Report on the Weighted Average Holdings of Large Investment Companies. A Growth Fund is described as a fund that normally invests in companies whose long-term earnings are expected to grow significantly faster than earnings of the stocks represented in the major unmanaged stock indexes. A Growth & Income Fund is described as a fund that combines a growth of earnings orientation and an income requirement for level and/or rising dividends.

B. Calculation

The Indexes are equal-dollar weighted and re-balanced quarterly after the close on expiration Fridays in March, June, September, and December. The Index value is calculated in essentially the same manner as other equal-dollar weighted indexes. The total number of shares for each component is calculated by dividing $1,000 by the closing NAV, adjusted for distributions, of the component on the re-balancing date and rounding to two decimal places. The share amount is held constant throughout the quarter. The Indexes are calculated by summing the product of the current NAV adjusted for distributions and the share amount for each component and then dividing by the index divisor. The divisors were calculated to produce a value of 150.00 for the Growth Fund Index and 250.00 for the Growth and Income Fund Index as of December 31, 1996, the base date. The Indexes are calculated once per day as soon as the NAVs for each of the components are available.[5] The Index values will be disseminated by CBOE through the facilities of the Options Price Reporting Authority (''OPRA'') prior to the opening on the next business day.

Lipper has informed the Exchange that it has not had any difficulty in obtaining net asset values for the funds in the Indexes. The funds comprising the Indexes are among the largest funds in existence. In the unlikely event that any of these funds do not comply with Rule 22c–1 under the Investment Company Act of 1940, which requires daily computation of a fund's current net asset value, the Exchange would follow the same procedure it uses for dissemination of standard indexes when a component price is unavailable; it will use the last available price.[6]

C. Maintenance

Lipper Analytical has the sole responsibility of maintaining the Indexes. Salomon Brothers acted as an adviser to provide technical support, including advice on index design and the methodology of index construction.[7] Lipper Analytical reviews the components annually after the close on the last trading day of December to include the thirty largest funds by total net assets. Any component changes resulting from the annual review will be announced by LAS and CBOE at least two weeks prior to implementation which will occur after the close on expiration in March. The index calculation reflects reinvestment of all distributions of component funds. Generally, there will be no need for any other adjustments intra-quarter.

D. Index Option Trading

The proposed options on the Indexes will be cash-settled, European-style options.[8] Standard options trading hours for broad-based index options (8:30 a.m. to 3:15 p.m. Chicago time) will apply to the contracts. The multiplier for each Index will be 100. The Exchange intends to list up to three near-term months plus up to 3 months on a quarterly cycle. The Exchange proposes to base trading in options on the Lipper Analytical Indexes on the full-value of each Index. Further, the exchange also may list full-value long-term index option series (''LEAPS''®), as provided in Rule 24.9. The Exchange also may provide for the listing of reduced-value LEAPS, for which the underlying value would be computed at one-tenth of the value of the Index. The current and closing index value of any such reduced-value LEAP will, after such initial computation, be rounded to the nearest one-hundredth.

E. Exercise and Settlement

Options on the Indexes will settle based on the closing NAVs of the component funds two business days prior to expiration. The proposed options will expire on the Saturday following the third Friday of the expiration month. Thus, the last day for trading in an expiring series will be two business days (ordinarily a Thursday) preceding the expiration date. The settlement value (which is the same as Thursday's closing value) will be disseminated prior to the opening on Friday.

F. Exchange Rules Applicable

Except as modified herein, the Rules in Chapter XXIV will be applicable to mutual fund index options. Index option contracts based on the Lipper Analytical Indexes will be subject to a position limit and exercise limit of 75,000 contracts, with no more than 50,000 contracts in the nearest expiration month. Ten reduced-value options will equal one full-value contract for such purposes. The Exchange believes that the proposed position limits are reasonable and

[5] The Exchange represents that Index values are updated only at the close of trading each day because that is the only time when the fund net asset values comprising the Indexes are determined and disseminated. The Exchange believes that this should not pose an obstacle to options trading, any more than it prevents investors from entering intra-day orders to purchase or redeem shares of the funds themselves at closing net asset values that are unknown at the time the orders are entered.

[6] The Commission notes that pursuant to Article XVII, Section 4 of the OCC by-laws, OCC is empowered to fix an exercise settlement amount in the event it determines a current index value is unreported or otherwise unavailable. *See* Securities Exchange Act Release No. 37315 (June 17, 1996), 61 FR 42671 (order approving SR–OCC–95–19).

[7] Because Salomon's only role is to continue to provide technical support on such things as index design and the index construction methodology, and is not involved in any way with the ongoing maintenance of the Indexes, it is not necessary to erect informational barriers at Salomon with regard to the Indexes at this time. The Commission notes, however, that should Salomon's role change so that it is involved, whether through consultation or directly, in any maintenance of the Indexes, it may need to erect an informational barrier between personnel having access to information and Salomon's sales and trading personnel concerning changes and adjustments to the Indexes. Accordingly, should Salomon become involved in any maintenance of the Indexes, the CBOE should contact the Commission's Division of Market Regulation immediately to determine if CBOE may continue to list and trade options overlying the Indexes until such informational barriers are in place.

[8] A European-style option can be exercised only during a specified period before the option expires.

appropriate for this product, and are consistent with the position and exercise limits that apply to other index options.

The Exchange is proposing to amend Rule 24.9 Interpretation and Policy .01(a) to include 2½ point strike price intervals for mutual fund indexes with strike prices less than $200. Broad-based margins will apply to mutual fund index options. CBOE is also amending Rule 24.1(e) to reflect the fact that mutual funds can underlie indexes. CBOE is also proposing to amend Exchange Rule 24.14 in order to include specific reference to Lipper Analytical Services as entitled to the benefit of the disclaimer of liability in respect of the Indexes.

Exchange rules applicable to options on both Indexes will be identical to the rules applicable to other broad-based index options for purposes of trading rotations, halts, and suspension,[9] and margin treatment.[10]

G. Surveillance

As with any other option product, the CBOE will closely monitor activity in these options and therefore, should be able to identify any potentially unusual activity in the options. It should be noted that with respect to the component funds that comprise the Indexes, trading in the funds themselves has no effect on the value of the Indexes. Instead, the value of the Indexes depends entirely on the net asset values of the component funds, which in turn depends on the values of the stocks held in the portfolios of the various funds. The Exchange believes that the concerns with manipulative activity are not as great with respect to options on these Indexes as they are on stock index options. First, the Indexes are equal-dollar weighted, thus no single component dominates the Index. Therefore any person attempting to manipulate the Indexes would have to manipulate the NAVs of a majority of the Index components. Second, in order to manipulate the NAVs of the component funds, a person would have to have knowledge of the component securities held by the funds. This information is not disseminated to the public until after the fact (generally only quarterly);[11] thus the Exchange believes that it would be difficult for any individual to know, with any degree of certainty, the components of enough of the funds to make any manipulative efforts worthwhile. The CBOE also states that if it became necessary, the CBOE could examine the activity in the underlying stocks being held by various funds if it detects unusual activity in the Index options.

H. Capacity

CBOE has the necessary systems capacity to support new series that would result from the introduction of the Lipper Analytical/Salomon Brothers Index options. CBOE has also been informed that OPRA has the capacity to support such new series.

III. Commission Findings and Conclusions

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of Section 6(b)(5) of the Act.[12] Specifically, the Commission finds that the trading of options based on the Lipper Analytical/Salomon Brothers Growth and Growth & Income Fund Indexes, including full-value and reduced-value LEAPS, will serve to protect investors, promote the public interest, and help to remove impediments to a free and open securities market by providing investors with a means to hedge exposure to market risk associated with some of the largest U.S. mutual funds holding securities representing the growth and growth & income portion of the U.S. equity market.[13]

The Commission believes that the Indexes are broad-based, and the proposed options are designed to reduce the potential for manipulation, and is consistent with the CBOE's obligation to promote investor protection.[14]

Moreover, the Commission believes, for the reasons discussed below, that the CBOE has adequately addressed issues related to customer protection, index design, surveillance, and market impact of options based on the Lipper Analytical/Salomon Brothers Growth and Growth & Income fund Indexes.

A. Index Design and Structure

The Commission finds that it is appropriate and consistent with the Act for the CBOE to designate the Indexes as broad-based. Specifically, the Commission believes the Indexes, representing the growth and growth & income portion of the U.S. equity market, are broad-based for the following reasons. First, the indexes each consist of the 30 largest U.S. funds in each investment objective, based on their total net assets as of the close on the last trading day of December. The Indexes include only those funds that report net asset values (''NAV'') through the facilities of the National Association of Securities Dealers Automated Quotation System (''Nasdaq''). Second, the total net assets of the mutual funds comprising the Indexes are very large. As of December 31, 1996, the Growth Fund Index had total net assets (''TNA'') of $218.6 billion, an average TNA per component of $7.3 billion and a median TNA per component of $4.2 billion. The TNAs ranged from $2.5 billion to $54.0 billion. As of the same date, the Growth & Income Fund Index had a TNA of $241.2 billion, an average TNA per component of $8.0 billion and median TNA per component of $5.0 billion. The TNAs ranged from $2.5 billion to $30.9 billion. Third, no one particular mutual fund or group of mutual funds dominates the weight of the Index. As noted above, each Index value is calculated using an equal-dollar weighting methodology. Specifically,

[9] *See* CBOE Rule 24.7

[10] *See* CBOE Rule 24.11

[11] Section 13(f) of the Act requires institutional investment managers to file reports with the Commission, generally quarterly, that disclose each equity security held on the last day of the reporting period by accounts with respect to which the institutional investment manager exercises investment discretion, the name of the issuer and the title, class, CUSIP number, number of shares or principal amount, and aggregate fair market value of each such security. 15 U.S.C. 78m(f).

[12] 15 U.S.C. 78f(b)(5). In approving this rule, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[13] Pursuant to Section 6(b)(5) of the Act, the commission must predicate approval of any new securities product upon a finding that the introduction of such product is in the public interest. Such a finding would be difficult with respect to a warrant that served no hedging or other economic function, because any benefits that might be derived by market participants likely would be outweighed by the potential for manipulation, diminished public confidence in the integrity of the markets, and other valid regulatory concerns.

[14] The CBOE is a member of the Intermarket Surveillance Group (''ISG'') which was formed on July 14, 1983 to, among other things, coordinate more effectively surveillance and investigative information sharing arrangements in the stock and options markets. *See* Intermarket Surveillance Group Agreement, July 14, 1983. The most recent amendment to the ISG Agreement, which incorporates the original agreement and all amendments made thereafter, was signed by ISG members on January 29, 1990. *See* Second Amendment to the Intermarket Surveillance Group Agreement, January 29, 1990. The members of the ISG are: the Amex; the Boston Stock Exchange, Inc.; the CBOE; the Chicago Stock Exchange, Inc.; the National Association of Securities Dealers, Inc. (''NASD'') the NYSE; the Pacific Exchange, Inc.; and the Philadelphia Stock Exchange, Inc. Because of potential opportunities for trading abuses involving stock index futures, stock options, and the underlying stock and the need for greater stock options, and the underlying stock and the need for greater sharing of surveillance information for these potential intermarket trading abuses, the major stock index futures exchanges (*e.g.*, the Chicago Mercantile Exchange and the Chicago Board of Trade) joined the ISG as affiliate members in 1990.

each component will account for approximately 3.33% of its respective Index, and the Exchange will re-balance to equal-dollar weighting quarterly. Accordingly, the Commission believes it is appropriate to classify the Index as broad-based.

B. Customer Protection

The Commission believes that a regulatory system designed to protect public customers must be in place before the trading of sophisticated financial instruments, such as options on the Lipper Analytical/Salomon Brothers Growth and Growth & Income Fund Indexes (including full-value and reduced value LEAPS), can commence on a national securities exchange. The Commission notes that the trading of standardized, exchange-traded options occurs in an environment that is designed to ensure, among other things, that: (1) The special risks of options are disclosed to public customers;[15] (2) only investors capable of evaluating and bearing the risks of options trading are engaged in such trading; and (3) special compliance procedures are applicable to options accounts. Accordingly, because options on both Indexes will be subject to the same regulatory regime as the other standardized options currently traded on the CBOE, the Commission believes that adequate safeguards are in place to ensure the protection of investors in options on the Lipper Analytical/Salomon Brothers Growth and Growth & Income Fund Indexes.

C. Surveillance

The Commission believes that is important to ensure the availability of information necessary to detect and deter potential manipulation and other trading abuses, thereby making the mutual fund index product less likely to be manipulated. Further, the Commission believes that an exchange proposing to list a mutual fund index derivative where the mutual fund components themselves are not traded in the secondary market, must have in place appropriate surveillance procedures for the derivative product and the markets trading the underlying securities that comprise the mutual fund components. In this regard, the Commission notes that the CBOE will closely monitor activity in these options and should be able to identify any potentially unusual activity in the options. Moreover, the CBOE represents that if it became necessary, the CBOE could examine the activity in the underlying stocks if it detects unusual activity in the Index options. The Commission believes that this arrangement ensures the availability of information necessary to detect and deter potential manipulations and other trading abuses, thereby making the Index options and full-value and reduced-value Index LEAPS less susceptible to manipulation.

D. Market Impact

The Commission believes that the listing and trading of Growth and Growth & Income Fund Index options on the CBOE will not adversely impact the securities markets in the United States.[16] First, the Commission notes that the Indexes are broad-based and diversified and include component mutual funds that comprise the 30 largest U.S. funds in each investment objective. Second, the 75,000 contract position and exercise limit, with no more than 50,000 contracts in the nearest expiration month, will serve to minimize potential manipulation and other market impact concerns. Third, the risk to investors of contra-party non-performance will be minimized because the Index options, and full-value and reduced-value LEAPS, will be issued and guaranteed by The Options Clearing Corporation, similar to all other standardized options traded in the United States.

E. Index Calculation and Dissemination

As discussed above, the CBOE is proposing to update the Indexes' values at the close of trading each day when the net asset values of the component funds of the Indexes are determined and disseminated. The result of this is that the disseminated value during the trading day is based on the prior day net asset value established at the prior day close.

Generally, the Commission believes that continually updated index values on a real-time basis are essential to the trading of any index product. The Commission has only allowed exceptions to this for certain indexes composed of foreign securities where the primary market for the component securities are closed during the U.S. trading hours for the overlying options and thus the value of the components are generally not changing during the U.S. trading day. In contrast, in the case of the Growth Fund Index and the Growth Fund Index, the Index values are based on closing NAVs, even though the component funds' portfolio securities are themselves trading during the same trading hours as the Index options thereby causing the value of the portfolio to fluctuate throughout the trading day.

Nevertheless, the Commission has determined to allow the CBOE to trade options overlying the Indexes using the Indexes' values established at the prior day close because only the fund manager will have knowledge of the funds' portfolio securities and their values on a regular basis throughout the trading day. Information regarding the component funds' portfolios will only be generally available to the public on a quarterly basis as required under Section 13(f) of the Act and all investors should have equal access to this information when it is disseminated.[17] Further, CBOE surveillance should also help to detect and deter manipulation through the misuse of such intra-day information available only to the component fund managers. Finally, there are other widely published resources and indexes available that track growth and growth & income stocks which investors may use to determine an indicative value for the Growth and the Growth & Income Fund Indexes.[18]

IV. Conclusion

Based upon the aforementioned factors, the Commission finds that the proposed changes relating to the listing and trading of Growth and Growth & Income Fund Index options are consistent with the requirements of Section 6(b)(5) and the rules and regulations thereunder. The initiation of Growth and Growth & Income Fund Index options trading, however, is conditioned upon the issuance of an order approving an ODD Supplement, pursuant to Rule 9b–1 of the Act.

[15] The Commission notes that in order to promote investor protection and to ensure adequate disclosure in connection with Mutual Fund Index options, the rules pertaining to standardized options and the requirements of Exchange Act Rule 9b–1 will apply to trading in Growth and Growth & Income Fund Index Options. The Commission believes it is important to provide investors with information regarding the rights and characteristics of these options. In this regard, Growth and Growth & Income Fund Index options investors will receive a special supplement to The Options Clearing Corporation's (''OCC'') Options Disclosure Document (''ODD Supplement'') explaining in detail the risks and characteristics of Packaged Spreads. In reviewing any disclosure materials submitted, the Commission intends to assure that the materials specifically describe the risks and characteristics associated with trading Mutual Fund Index Options. The CBOE's trading of Growth and Growth & Income Fund Index options is expressly contingent upon the Commission's approval of such an ODD supplement.

[16] In addition, the CBOE has represented that it and OPRA have the necessary systems capacity to support those new series of index options that would result from the introduction of options and LEAPS based on both Indexes.

[17] *See supra* note 11.

[18] If any one of these factors were not present, the Commission may have determined it was not appropriate to allow the product to trade without real-time dissemination of Index values.

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[19] that the proposed rule change (File No. SR–CBOE–97–25) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[20]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28027 Filed 10–22–97; 8:45 am]

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[19] 15 U.S.C. 78s(b)(2).

[20] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39245; File No. SR–CSE–97–09]

Self-Regulatory Organizations; Cincinnati Stock Exchange, Inc.; Order Granting Approval to Proposed Rule Change Increasing Net Capital Requirements

October 16, 1997.

On July 30, 1997, the Cincinnati Stock Exchange, Inc. (''CSE'' or ''Exchange'') submitted to the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'' [1] and Rule 19b–4 thereunder,[2] a proposed rule change to increase net capital requirements for members and Designated Dealers.

I. Introduction

The proposed rule change was published for comment in Securities Exchange Act Release No. 38956 (August 21, 1997), 62 FR 45893 (August 29, 1997). No comments were received on the proposal.

II. Description of the proposals

Exchange Article II, Section 5.1 presently requires a minimum net capital level on non-specialist Exchange members equal to the greater of the net capital level required by Commission Rule 15c3–1 [3] or $25,000. The Exchange proposes to amend this rule to increase that requirement from $25,000 to $250,000. As previously required, members would still be subject to any higher net capital requirements imposed by Commission Rule 15c3–1.[4]

The Exchange also proposes to amend Exchange Rule 11.9(a). That rule currently requires Designated Dealers to maintain net capital of at least the greater of $100,000 or the amount required under Commission Rule 15c3–1. The Exchange proposes to amend this rule to increase the Exchange requirement from $100,000 to $500,000. Again, members would still be subject to any higher net capital requirement imposed by Commission Rule 15c3–1.[5]

III. Discussion

The Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, with the requirements of Sections 6(b) and 11(b) of the Act.[6] In particular, the Commission believes the proposal is consistent with the Section 6(b)(5) requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts, and, in general, to protect investors and the public.[7] The Commission also believes that the proposal is consistent with Section 11(b) of the Act,[8] and Rule 11b–1 [9] thereunder, which allows securities exchanges to promulgate rules relating to specialists in order to maintain fair and orderly markets. The proposal is consistent with Rule 11b–(a)(2)(i) [10] which requires that the rules of a national securities exchange which permit a member to register as a specialist and to act as a dealer include, among other things, adequate minimum capital requirements in view of the markets for securities on such exchange.

The Commission finds that the rule change will help ensure greater financial stability of the Exchange's members by requiring those members to maintain higher capital levels. The Commission examined this issue when it revised Rule 15c3–1 in 1992.[11] In proposing to raise the minimum net capital requirements under Commission rules, the Commission noted that under Rule 15c3–1 customers are placed at risk by brokers that do not receive or hold customer securities because such brokers have indirect access to customer funds and securities, and can direct the movement of such assets by placing orders with clearing firms. Customers are often unaware of or unable to distinguish between introducing brokers and clearing firms, and tend to rely heavily upon the representations of brokers of introducing firms. Higher net capital requirements will help ensure the financial integrity of such introducing firms and thereby help to protect investors.[12] The Commission concurs with the Exchange that better capitalized introducing firms are less likely to become insolvent and in the event that an introducing firm does become insolvent, higher net capital levels would help increase the changes that the firm can quickly find a purchaser of its assets and minimize the impact of such a failure on the investing public.[13] Finally, the Commission has previously stated its belief that raising minimum net capital levels will further the antifraud provisions of the federal securities laws.[14] The Exchange noted that member firms have access to customer securities and funds either directly, as a clearing firm, or indirectly, as an introducing firm that places orders with a clearing firm on behalf of its customers. In either case, firms can convert those assets to their own benefit. A firm with sufficient net capital may be less likely to attempt to convert funds in this manner.

The Commission also believes that it is important that Designated Dealers are adequately prepared to provide depth and liquidity to the Exchange's markets in times of market stress or volatility. The Commission agrees with the Exchange that the growth in the U.S. capital markets generally, and in the CSE's market in particular, has created market conditions which have created a need for greater capital levels on the CSE. The Commission finds that the increased net capital requirement for Designated Dealers will better protect the integrity and quality of the Exchange's market.

IV. Conclusion

It is Therefore Ordered, pursuant to Section 19(b)(2) of the Act,[15] that the proposed rule change (SR–CSE–09) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28030 Filed 10–22–97; 8:45 am]

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[1] 15 U.S.C. § 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 17 CFR 240.15c3–1.

[4] *Id.*

[5] *Id.*

[6] 15 U.S.C. § 78f(b); 15 U.S.C. § 78k(b).

[7] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. § 78c(f).

[8] 15 U.S.C. § 78k(b).

[9] 17 CFR 240.11b–1.

[10] 17 CFR 240.11b–1(a)(2)(i).

[11] Securities Exchange Act Rel. No. 31512 (Nov. 24, 1992), 57 FR 57027 (Dec. 2, 1992).

[12] *Id.*

[13] *Id.*

[14] *Id.*

[15] 15 U.S.C. § 78s(b)(2).

[16] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39251; File No. SR–MSRB–97–06]

October 16, 1997.

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by the Municipal Securities Rulemaking Board Relating to Political Contributions and Prohibitions on Municipal Securities Business, Consultants, and Recordkeeping

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on September 30, 1997, the Municipal Securities Rulemaking Board (''Board'' or ''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') a proposed rule change (File No. SR–MSRB–97–6). The proposed rule change is described in Items I, II, and III below, which Items have been prepared by the Board. 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 MSRB is filing herewith a proposed rule change to rule G–37, on political contributions and prohibitions on municipal securities business, rule G–38, on consultants, and rule G–8, on recordkeeping (hereafter referred to as the ''proposed rule change''). The proposed rule change addresses the definitions of municipal finance professional and executive officer, and when Form G–37/G–38 is due to be filed with the Board.

II. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

In its filing with the Commission, the Board 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 texts of these statements may be examined at the places specified in Item IV below. The Board has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

[1] 15 U.S.C. § 78s(b)(1).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

During the past year, the Board has received questions regarding certain technical aspects of rules G–37, G–38 and G–8. Specifically, these questions have been concerned with the definitions of municipal finance professional and executive officer, and when Form G–37/G–38 is due to be filed with the Board. The proposed rule change addresses these areas within the rules.

Definitions of Municipal Finance Professional and Executive Officer

The Board believes that some dealers are improperly classifying, for rule G–37 purposes, certain individuals within their firms as executive officers when these individuals actually meet the definition of municipal finance professionals and should be classified as such. Contributions by executive officers must be recorded and reported but, unlike certain contributions by municipal finance professionals, would not cause a prohibition on municipal securities business. The definition of executive officer makes clear that municipal finance professionals cannot also be executive officers. To further underscore this point, the proposed rule change revises the name of the category of individuals currently referred to as ''executive officers'' to ''non-MFP executive officers.'' This change in name should help dealers avoid any misunderstandings that a person who functions as a municipal finance professional cannot be classified, for purposes of rule G–37, as an executive officer.

Due Date for Form G–37/G–38 to be Filed With the Board

Rules G–37 and G–38 state that Form G–37/G–38 must be submitted to the Board ''within thirty (30) calendar days after the end of each calendar quarter (these dates correspond to January 31, April 30, July 31 and October 31).'' Because of the inconsistency in the language for those months with 31 days, the proposed rule change revises the rule language to require that the forms be sent ''by the last day of the month following the end of each calendar quarter.'' The forms do not have to be received by the Board by the last day of the month following the end of each calendar quarter, but the proposed rule change requires that dealers must have the forms on their way to the Board by the last day of the month following the end of each calendar quarter in order to be in compliance with the delivery requirements of the rules.

The proposed rule change also contains non-substantive, technical rule language changes to make similar requirements consistent throughout the rules.

The Board believes the proposed rule change is consistent with Section 15B(b)(2)(C)[2] of the Act, which provides that the Board's rules shall:

> be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Board does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change: (i) does not significantly affect the protection of investors or the public interest; (ii) does not impose any significant burden on competition; (iii) was provided to the Commission for its review at least five days prior to the filing date; and (iv) does not become operative for thirty (30) days from the date of its filing on September 30, 1997, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act and Rule 19b–4(e)(6) thereunder. In particular, the Commission believes the proposed rule change qualifies as a ''non-controversial filing'' in that the proposed standards do not significantly affect the protection of investors or the public interest and do not impose any significant burden on competition, and because it makes technical clarifying changes to existing Board rule. At any time within sixty days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears

[2] 15 U.S.C. § 78*o*–4(b)(2)(C).

to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submissions, 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 persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the Board's principal offices. All submissions should refer to File No. SR–MSRB–97–6 and should be submitted by November 13, 1997.

For the Commission by the Division of Market Regulation, pursuant to delegated authority.[3]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28123 Filed 10–22–97; 8:45 am]

BILLING CODE 8010–01–M

[3] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39250; File No. SR–NASD–97–75]

October 16, 1997.

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to the Distribution of Information Concerning the Availability of the NASD Regulation, Inc. Public Disclosure Program

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 14, 1997, NASD Regulation, Inc. (''NASD Regulation'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NASD Regulation. NASD Regulation has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning of an existing rule under Section 19(b)(3)(A)(i) of the Act,[2] which renders the rule effective upon the Commission's receipt of this filing. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

[1] 15 U.S.C. 78s(b)(1).

[2] 15 U.S.C. 78s(b)(3)(A)(i).

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

NASD Regulation is proposing a rule change to amend Conduct Rule 2280 of the National Association of Securities Dealers, Inc. (''NASD'' or ''Association''), to postpone the effective date from September 10, 1997, to January 1, 1998. The text of Rule 2280 is not changed.

II. Self-Regulatory Organization's Statement of the Purpose of and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, NASD Regulation 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 the Item IV below. NASD Regulation has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

On February 11, 1997, NASD Regulation proposed Rule 2280, ''Investor Education and Protection,'' which requires certain NASD members to provide customers with specified disclosures regarding NASD Regulation's Public Disclosure Program in writing not less than once every calendar year. NASD Regulation filed Amendment No. 1 on July 31, 1997. The SEC approved Rule 2280 on September 10, 1997, therefore, the rule was effective on that date. Rule 2280 contemplates that the specified disclosures concerning the Public Disclosure Program will be made through customer account statements or in another type of publication at least once each calendar year. The proposed rule change is necessary to provide members with sufficient time to comply with the Rule.

Members generally send account statements to customers on a monthly basis if there is account activity, or on a quarterly basis if there is none. Rule 2280, with its current effective date of September 10, 1997, is draconian in that it would leave members with very little time in which to modify their account statement production processes to include the disclosures required under Rule 2280. Members would have only a few weeks to comply with a Rule that envisioned a compliance period of up to one year. Many members have already earmarked their account statements for the remainder of the calendar year with pertinent year-end information, such as tax-related notices, and in many cases there may not be sufficient space to include these additional disclosures without incurring substantial costs. Additionally, for members with customers with inactive accounts, a separate mailing would be required because year-end or fourth-quarter account statements would not comply with Rule 2280 since such notices would not be sent until early 1998.

The Commission's Order approving Rule 2280 noted that the Rule was amended to address concerns that compliance with Rule 2280 would impose ''significant costs'' on firms that normally do not carry customer accounts and hold customer funds or securities. The case for postponing the effective date of Rule 2280 is even more compelling. In the absence of a postponement of the effective date, many members would be required to create an entirely separate mailing to customers to provide the disclosures required under Rule 2280. The cost of such a mailing would be very significant and would be inconsistent with the objective of Rule 2280, which is to allow members to provide the specified disclosures in a cost-effective manner.

NASD Regulation believes that the proposed rule change is consistent with the provisions of Section 15A(b) of the Act[3] in that postponing the effective date of Rule 2280 does not diminish the rule's effectiveness in protecting investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

NASD Regulation does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act, as amended.

[3] 15 U.S.C. 78*o*–3.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective upon filing pursuant to Section 19(b)(3)(A)(i) of the Act and subparagraph (e) of Rule 19b–4 [4] thereunder in that it constitutes a stated policy, practice, or interpretation with respect to the meaning of an existing rule.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. § 552, will be available for inspection and copying in the Commissions' Public Reference Room. Copies of such filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File Number SR–NASD–97–75 and should be submitted by November 13, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[5]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28122 Filed 10–22–97; 8:45 am]

BILLING CODE 8010–01–M

[4] 17 CFR 240.19b–4(e).

[5] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–39248; File No. SR–NASD–97–74]

Self-Regulatory Organizations; Notice of Filing and Immediate Effectiveness of Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to SelectNet Fees

October 16, 1997.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] notice is hereby given that on October 14, 1997, the National Association of Securities Dealers, Inc. (''NASD'' or ''Association'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the NASD. 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

Pursuant to Section 19(b)(1) of the Act, the NASD, through its wholly-owned subsidiary, The Nasdaq Stock Market, Inc. (''Nasdaq'') is herewith filing a proposed rule change to temporarily abate 50% of the fee currently charged under NASD Rule 7010(l) for the execution of a transaction in SelectNet from $2.50 per side to $1.25 per side effective October 1, 1997 through December 31, 1997. If no further action is taken, Nasdaq will revert to assessing SelectNet fees at the present level of $2.50 per side on January 1, 1998.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the NASD included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The NASD has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of the statements.

[1] 15 U.S.C. § 78s(b)(1).

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

Nasdaq is proposing to temporarily abate 50% of the fee currently charged under NASD Rule 7010(l) for the execution of a transaction in SelectNet from $2.50 per side to $1.25 per side effective October 1, 1997 through December 31, 1997. The proposed rule change constitutes only a temporary abatement in the fee Nasdaq collects.

Nasdaq believes that the recent volume increases in the market generally and SelectNet usage in particular justify a temporary abatement of fees to SelectNet users. Specifically, SelectNet transaction volume is at an historic high. In August 1997, more than 75,000 daily executions took place in SelectNet. This represents an almost fourfold increase in volume from average daily activity recorded in 1996.

The growth in SelectNet usage can be attributed to a number of factors, most notably the introduction of the SEC Order Execution Rules (''Order Execution Rules'') in January of this year.[2] Nasdaq used the SelectNet system to create the linkage with each electronic communication network (''ECN'') anticipated by the Order Execution Rules. Accordingly, SelectNet has become the chosen means of accessing orders displayed in the Nasdaq quote montage by eligible ECNs such as Instinet. Growth in SelectNet utilization closely tracks expansion in the number of Nasdaq stocks covered by the Order Execution Rules. The speed and volatility of today's markets, software enhancements and a heightened awareness of trading obligations by market participants also has contributed to growth in SelectNet activity as well as an increase in SelectNet revenues. Accordingly, Nasdaq believes that a temporary abatement of these fees for SelectNet users is appropriate.

Nasdaq believes that a temporary fee abatement is preferable to a permanent fee reduction due to both the uncertain future of SelectNet as a service offered by Nasdaq and the significant amount of network capacity consumed by SelectNet Message traffic. If no further action is taken, Nasdaq will revert to assessing SelectNet fees at the present rate of $2.50 per side on January 1, 1998.

Nasdaq believes that the proposed rule change is consistent with Section

[2] *See* Securities Exchange Act Release No. 37619A (September 6, 1996), 61 FR 48290 (September 12, 1996).

15A(b)(5)[3] of the Act, which requires that the rules of the NASD provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system which the NASD operates or controls. Specifically, Nasdaq believes that the proposed temporary fee abatement is appropriate in light of both the recent growth in SelectNet activity as well as uncertainty regarding future usage levels.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD believes that the proposed rule change will not result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

This filing applies to the assessment of SelectNet fees to NASD members, and thus the proposed rule change is effective upon filing pursuant to Section 19(b)(3)(A)(ii)[4] of the Act and subparagraph (e) of Rule 19b–4[5] thereunder because the proposal establishes or changes a due, fee or other charge.

At any time within 60 days of the filing of a rule change pursuant to Section 19(b)(3)(A) of the Act, the Commission may summarily abrogate the rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, N.W., Washington, D.C. 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of the filing will also be available for inspection and copying at the principal office of the NASD. All submissions should refer to File Number SR–NASD–97–74 and should be submitted by November 13, 1997.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[6]

Margaret H. McFarland,

Deputy Secretary.

[FR Doc. 97–28125 Filed 10–22–97; 8:45 am]

BILLING CODE 8010–01–M

[3] 15 U.S.C. § 78*o*–3(b)(5).

[4] 15 U.S.C. § 78s(b)(3)(A)(ii).

[5] 17 CFR 240.19b–4(e).

[6] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Revocation of License of Small Business Investment Company

Pursuant to the authority granted to the United States Small Business Administration by the Final Order of the United States District Court for the Central District of California, dated September 2, 1997, the United States Small Business Administration hereby revokes the license of ABC Capital Corporation, a California corporation, to function as a small business investment company under the Small Business Investment Company License No. 09/09–5352 issued to ABC Capital Corporation on January 9, 1985 and said license is hereby declared null and void as of October 6, 1997.

Dated: October 6, 1997.

United States Small Business Administration.

Don A. Christensen,

Associate Administrator for Investment.

[FR Doc. 97–28024 Filed 10–22–97; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF STATE

Inspector General

[Public Notice 2617]

State Department Performance Review Board Members (Office of Inspector General)

In accordance with section 4314(c)(4) of the Civil Service Reform Act of 1978 (Pub. L. 95–454), the Office of Inspector General of the Department of State has appointed the following individuals to its Performance Review Board register.

Regina Brown, Deputy Assistant Secretary of African Affairs, Department of State

Donald Mancuso, Assistant Inspector General for Investigations, Department of Defense

Michael G. Sullivan, Assistant Inspector General for Auditing, Department of Veterans Affairs

Harvey Thorp, Assistant Inspector General for Audit, Office of Personnel Management

Dated: October 9, 1997.

Mark Johnson,

Deputy Inspector General.

[FR Doc. 97–28032 Filed 10–22–97; 8:45 am]

BILLING CODE 4710–42–M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Notice of Request for Reinstatement Without Change of a Previously Approved Collection for Which Approval Has Expired

AGENCY: Office of the Secretary, DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended) this notice announces the Department of Transportation's (DOT) intention to request an extension for and revision to a currently approved information collection.

DATES: Comments on this notice must be received by December 22, 1997.

ADDRESSES: Comments should be sent to the Deputy Assistant General Counsel for Regulation and Enforcement, Office of the Secretary, U.S. Department of Transportation, 400 7th Street, SW., Washington, DC 20590–0002.

FOR FURTHER INFORMATION CONTACT: Mr. Robert C. Ashby, Office of the Secretary, Office of Assistant General Counsel for Regulation and Enforcement, Department of Transportation, at the address above. Telephone: (202) 366–9306.

SUPPLEMENTARY INFORMATION:

Title: Report of DBE Awards and Commitments.

OMB Control Number: 2106–0031.

Expiration Date: (Not Applicable).

Type of Request: Extension for and revision to a currently approved information collection.

Abstract: 49 CFR Part 23 establishes requirements for the Department of

Transportation (DOT) so as to comply with the mandates of the Intermodal Surface Transportation and Efficiency Act (ISTEA) of 1991 (Pub. L. 102–240, December 18, 1991). 49 CFR Part 23.49(a) requires that DOT and its Operating Administrations develop a recordkeeping system to monitor, assess and identify contract awards and progress in achieving DBE subcontract goals. In addition, Public Law 102–240 section 1003(b) requires that each state annually survey and compile a list of small business concerns and the location of such concerns, and notify the Secretary of Transportation of the percentage of such concerns controlled by women and by socially and economically disadvantaged individuals other than women. If these reporting requirements were not available, firms controlled by minorities would not achieve the fullest possible participation in DOT programs, and the Department would not be able to identify its recipients and evaluate the extent to which financial assistance recipients have been awarded a reasonable amount.

In order to minimize the burden on DOT recipients the Department has limited its informational request and reporting frequency to that necessary to meet its program and administrative monitoring requirements. The informational request consists of 17 data items on one page and one attachment, to be completed on an annual, semi-annual or quarterly basis. It is the overall long range objective of DOT to permit all DOT recipients to report on a yearly basis depending upon their past experience in meeting their goals.

Respondents: DOT financially-assisted state and local transportation agencies.

Estimated Number of Respondents: 1,057.

Average Annual Burden per Respondent: 1 hour.

Estimated Total Burden on Respondents: 20,824 hours (Including 19,026 hours for recordkeeping).

This information collection is available for inspection at the Office of Assistant General Counsel for Regulation and Enforcement (C–50), Office of the General Counsel, DOT, at the address above. Copies of 49 CFR Part 23 can be obtained from Mr. Robert C. Ashby at the address and telephone number shown above.

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

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

Issued in Washington, DC on October 17, 1997.

Neil R. Eisner,

Assistant General Counsel for Regulation and Enforcement.

[FR Doc. 97–28105 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–62–W

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Reports, Forms and Recordkeeping Requirements: Agency Information Collection Activity Under OMB Review

AGENCY: Office of the Secretary, DOT.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act 1995 (44 USC Chapter 35), this notice announces that the Information Collection Requests (ICRs) abstracted below have been forwarded to the Office of Management and Budget (OMB) for review and comment. The ICRs describe the nature of the information collections and their expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collections of information was published on August 12, 1997 [62 FR 43193–43195].

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

FOR FURTHER INFORMATION CONTACT: Barbara Davis, U.S. Coast Guard, Office of Information Management, (202) 267–2326, Department of Transportation, 2100 Second Street, SW., Washington, DC 20593–0001.

SUPPLEMENTARY INFORMATION:

United States Coast Guard (USCG)

Title: Shipping Articles.

OMB No.: 2115–0015.

Type of Request: Extension of a Currently Approved Collection.

Affected Public: Merchant Mariners.

Abstract: This collection of information requires merchant mariners to complete form CG–705A Shipping Articles before entering the service of a shipping company.

Need: 46 U.S.C. 10302, 10303, 13304, 10307 and 10103, requires a master of a vessel to have each crew member make a shipping article agreement in writing before proceeding on a voyage.

Estimated Annual Burden Hours: 18,000 hours.

Number of Respondents: 900.

Title: Barge Fleeting Facility Records.

OMB No. 2115–0092.

Type of Request: Extension of a Currently Approved Collection.

Affected Public: Persons in charge of barge fleeting families.

Abstract: This collection of information requires the person in charge of a barge fleeting facility to keep records of the twice daily inspections of the barge mooring and movements of barges and hazardous cargo in and out of the facility.

Need: Title 33 CFR 165.803(I), is designed to prevent barges from breaking away from a fleeting facility and drifting downstream out of control in very congested areas.

Estimated Annual Burden Hours: 19,162 hours.

Number of Respondents: 70.

Title: Various Forms and Posting Requirements Under Title 46, CFR Concerning Vessel Inspections.

OMB No. 2115–0133.

Type of Request: Reinstatement, without change, of a previously approved collection for which approval has expired.

Affected Public: Owners, operators, agents or masters of certain inspected vessels.

Abstract: This requires owners, operators, agents or masters of certain inspected vessels to obtain and/or post various forms as part of the Coast Guard's Commercial Vessels Safety Program.

Need: Under 46 U.S.C. 2113, 3301, 3304–3714, the U.S. Coast Guard is responsible for ensuring the proper administration of the Coast Guard Commercial Vessel Safety Program.

Estimated Annual Burden Hours: 3,130 hours.

Number of Respondents: 12,159.

Title: Plan Approval and Records for Tank, Passenger, Cargo & Miscellaneous Vessels, Mobile Offshore Drilling Units, Nautical Schools, Oceanographic Vessels & Electrical Engineering.

OMB No. 2115–0505.

Type of Request: Extension of a Currently Approved Collection.

Affected Public: Shipyard, designer or manufacturer of certain vessels.

Abstract: This collection of information requires the shipyard, designer or manufacturer for the construction of vessels to submit plans,

technical information, and operating manuals to the U.S. Coast Guard.

Need: Under 46 U.S.C. 3301 and 3306, the U.S. Coast Guard is responsible for enforcing regulations promoting the safety of life and property in marine transportation. This information is used by the U.S. Coast Guard to ensure that a vessel meets the applicable construction, arrangement and equipment standards.

Estimated Annual Burden Hours: 7,545 hours.

Number of Respondents: 146.

Title: Liquefied Natural Gas and Liquefied Hazard Gas Waterfront Facilities.

OMB No.: 2115–0552.

Type of Request: Reinstatement, without change, of a previously approved collection which approval has expired.

Affected Public: Operators or Owners of waterfront facilities that transfer LNG and LHG.

Abstract: The collection of information requires owners or operators of waterfront facilities that handle liquefied hazardous gas (LHG) or liquefied natural gas (LNG) to: (a) Provide the Coast Guard with a letter of intent when a facility transfers the gases in bulk; (b) request permission to use an alternative procedure that provide at least the same degree of safety as the regulations; (c) develop and submit to the Coast Guard two copies of the facilities operations manual and emergency manual; (d) certify in writing that each person in charge of shoreside transfer operations is qualified; (e) complete, with the person in charge of vessel transfer operations, a Declaration of Inspection; (f) test and inspect the transfer system to ensure the system will not fail and release hazardous gases; and, (g) provide for the right to appeal the action in these regulations.

Need: 33 CFR Part 127, Subparts A and C, gives Coast Guard the authority to publish regulations that provide safety standards for the design, construction, equipment, operations, maintenance, personnel training, and fire protection at waterfront facilities handling liquefied natural and hazardous gases.

Estimated Annual Burden Hours: 3,261 hours.

Number of Respondents: 173.

Title: 33 CFR Subchapter P-Ports and Waterways Safety.

OMB No.: 2115–0540.

Type of Request: Reinstatement, without change, of a previously approved collection which approval has expired.

Affected Public: Master, owner or agents of a vessel.

Abstract: This collection of information allows the master, owner or agent of a vessel affected by these regulations to request to the Coast Guard, deviation from navigation safety equipment requirements to the extent that there is no reduction in safety.

Need: Title 33 CFR, Subchapter P, allows any person directly affected by these regulations to request a deviation from any of the requirements as long as the level of safety is not reduced.

Estimated Annual Burden Hours: 600 hours.

Number of Respondents: 400.

Title: 46 CFR Subchapter S—Subdivision and Stability.

OMB No.: 2115–0589.

Type of Request: Reinstatement, without change, of a previously approved collection which approval has expired.

Affected Public: Owners or operators of inspected vessels.

Abstract: This collection of information requires owners or operators of inspected vessels to submit plans and information concerning stability to the U.S. Coast Guard to ensure that applicable stability standards are met.

Need: Title 46 U.S.C. 3306, directs the Coast Guard to make appropriate regulations, including standards for vessel stability. This information is used by the U.S. Coast Guard to ensure that a vessel meets the applicable stability standards.

Estimated Annual Burden Hours: 19,693 hours.

Number of Respondents: 644.

Title: Hopper Dredge Working Freeboard; Loadline and Stability.

OMB No.: 2115–0565.

Type of Request: Extension of a Currently Approved Collection.

Affected Public: Owners or operators of self-propelled hopper dredges.

Abstract: This collection of information provides a mechanism for owners and operators of self-propelled hopper dredges to request a working freeboard.

Need: Title 46 U.S.C. 3703 requires the U.S. Coast Guard to prescribe regulations necessary for navigation and vessels safety. These requirements ensure that self-propelled hopper dredges meet certain structural and stability standards.

Estimated Annual Burden Hours: 50 hours.

Number of Respondents: 10.

Title: Alternative Provisions for Reinspection of Offshore Supply Vessels in Foreign Ports, 46 CFR 91.27–13.

OMB No.: 2115–0571.

Type of Request: Extension of a Currently Approved Collection.

Affected Public: Owners or operators of offshore supply vessels operating in foreign ports.

Abstract: This collection of information provides a mechanism for owners and operators of Offshore Supply Vessels (OSV) based overseas to submit certified examination reports and statements to the U.S. Coast Guard as an alternative to Coast Guard reinspection.

Need: Title 46 U.S.C. 3308 gives Coast Guard the authority to examine each vessel subject to inspection at proper times to ensure continued compliance with applicable laws and regulations. This requirement allows the U.S. Coast Guard to ensure that applicable OSV are in compliance.

Estimated Annual Burden Hours: 572 hours.

Number of Respondents: 10.

ADDRESSES: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725–17th Street, NW., Washington, DC 20503, Attention DOT Desk Officer. Comments are invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued in Washington, DC, on October 16, 1997.

Vanester M. Williams,

Clearance Officer, United States Department of Transportation.

[FR Doc. 97–28104 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–62–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Notice of Passenger Facility Charge (PFC) Approvals and Disapprovals

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Monthly Notice of PFC Approvals and Disapprovals. In September 1997, there were 13 applications approved. Additionally, 14 approved amendments to previously approved applications are listed.

SUMMARY: The FAA publishes a monthly notice, as appropriate, of PFC approvals

and disapprovals 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). This notice is published pursuant to paragraph d of § 158.29.

PFC Applications Approved

Public Agency: Valdosta-Lowndes County Airport Authority, Valdosta, Georgia.

Application Number: 97–03–C–00–VLD.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in this Decision: $47,250.

Earliest Charge Effective Date: October 1, 1999.

Estimated Charge Expiration Date: October 1, 2000.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use: Aircraft rescue and firefighting (ARFF) Vehicle. Replace Taxiway a lights.

Brief Description of Project Withdrawn: New terminal building construction.

Determination: This project was withdrawn by the public agency in its letter to the FAA dated July 8, 1997.

Decision Date: September 3, 1997.

FOR FURTHER INFORMATION CONTACT: Tracie L. Dominy, Atlanta Airports District Office, (404) 305–7148.

Public Agency: Monroe County Board of County Commissioners, Key West, Florida.

Application Number: 97–03–C–00–EYW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $1,860,000.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: December 1, 1999.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved For Collection And Use: Construct remote auto parking lot. Acquire property, runway 27 runway protection zone (RPZ).

Acquire 1,500 gallon ARFF truck.

Construct new ARFF building.

Rehabilitate and reconfigure commercial aircraft parking apron.

Rehabilitate and reconfigure general aviation parking apron.

Update Part 150 study.

Rehabilitate or replace rotating beacon tower.

Brief Description of Projects Disapproved: Acquire property, runway 9 RPZ and extended runway safety area.

Determination: Disapproved. The public agency has applied to obtain this land through a no-cost transfer under the Base Realignment and Closure (BRAC) program. Therefore, PFC revenue may not be needed to acquire the property and, thus, this project is being disapproved at this time. However, if the public agency does not obtain the property through the BRAC program, it may reapply for PFC's to acquire the property.

East Martello property, environmental enhancement of runway safety area for runway 9.

Determination: Disapproved. The FAA has determined that the environmental enhancement of the east Martello property is the responsibility of the United States Navy, who currently owns the property. Therefore, this project is disapproved for PFC funding.

Decision Date: September 9, 1997.

FOR FURTHER INFORMATION CONTACT: Miguel A. Martinez, Orlando Airports District Office, (407) 812–6331.

Public Agency: Erie Municipal Airport Authority, Erie, Pennsylvania.

Application Number: 97–02–C–00–ERI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $1,252,427.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: May 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, The FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Erie Municipal Airport.

Brief Description of Projects Approved for Collection and Use:

Install glycol recovery system.

Refurbish snow plow.

Upgrade pavement condition sensor.

Install security gate and upgrade security system.

Acquire easement.

Expand and rehabilitate terminal baggage area.

Rehabilitate ramp (Phase II).

Purchase snow removal tractor.

Replace airfield lighting emergency generator and regulator.

Rehabilitate maintenance building.

Rehabilitate jetway.

Airfield signange.

PFC administration.

Decision Date: September 10, 1997.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Harrisburg Airports District Office, (717) 730–2831.

Public Agency: Metropolitan Knoxville Airport Authority, Knoxville, Tennessee.

Application Number: 97–05–C–00–TYS.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $1,751,812.

Earliest Charge Effective Date: June 1, 1998.

Estimated Charge Expiration Date: May 1, 1999.

Class of Air Carriers Not Required To Collect PFC's: Nonscheduled air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at McGhee Tyson Airport.

Brief Description of Projects Approved for Collection and Use: Taxiway B reconstruction. Emergency generator.

Brief Description of Project Approved in Part for Collection and Use: Administration of PFC program.

Determination: Partially approved. The public agency only submitted supporting documentation for a portion of the $25,000 requested. The detailed estimate of expenses determined by the FAA to be eligible was $11,812. The balance of the requested amount was not supported; therefore, it is not eligible.

Decision Date: September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Peggy S. Kelley, Memphis Airports District Office, (901) 544–3495, extension 19.

Public Agency: Pellston Regional Airport of Emmet County, Pellston Michigan.

Application Number: 97–06–C–00–PLN.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $52,000.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: August 1, 1998.

Class of Air Carriers Not Required To Collect PFC's: Part 135 operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Pellston Regional Airport.

Brief Description of Project Approved for Collection and Use: Rehabilitate runway 5/23.

Decision Date: September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Jon Gilbert, Detroit Airports District Office, (313) 487–7281.

Public Agency: County of Outagamie, Appleton, Wisconsin.

Application Number: 97–02–C–00–ATW.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $656,250.

Earliest Charge Effective Date: October 1, 1997.

Estimated Charge Expiration Date: January 1, 1999.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Project Approved for Collection and Use: Baggage claim expansion.

Decision Date: September 11, 1997.

FOR FURTHER INFORMATION CONTACT: Sandra Depottey, Minneapolis Airports District Office, (612) 713–4363.

Public Agency: County of Monroe, Rochester, New York.

Application Number: 97–01–C–00–ROC.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $10,050,000.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: April 1, 2001.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved for Collection and Use:

Taxiway C rehabilitation and widening.
Terminal apron improvements.
Snow removal equipment.
Snow removal equipment storage building.

Decision Date: September 18, 1997.

FOR FURTHER INFORMATION CONTACT: Philip Brito, New York Airports District Office, (516) 227–3800.

Public Agency: Grand Rapids-Itasca County Airport Commission, Grand rapids, Minnesota.

Application Number: 97–01–C–00–GPZ.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved in This Decision: $1,297,059.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: May 1, 2031.

Class Of Air Carriers Not Require To Collect PFC's: Air taxi/commercial operators.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements to Grand Rapids-Itasca County Airport.

Brief Description Of Projects Approved For Collection And Use:

Instrument landing system installation.
Land acquisition and easement purchase.
Deer fence.
Airfield guidance signs.
Pavement rehabilitation and crack restructuring.
New passenger terminal building.
Aircraft apron.
Auto parking lot.
Entrance roadway.
PFC application.
PFC administration.

Decision Date: September 19, 1997.

FOR FURTHER INFORMATION CONTACT: Gordon Nelson, Minneapolis Airports District Office, (612) 713–4358.

Public Library: Mobile Airport Authority, Mobile, Alabama.

Application Number: 97–01–C–00–MOB.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $1,300,000.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: June 1, 1999.

Class Of Air Carriers Not Required To Collect PFC's: Air taxi/commercial operators that file FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Mobile Regional Airport.

Brief Description Of Projects Approved For Collection And Use: Ramp expansion. Acquire ARFF vehicle.

Brief Description Of Project Disapproved: Land acquisition.

Determination: Disapproved. On the basis of information contained in the public agency's application, the FAA has determined that this project does not meet of the ojectives in § 158.15(a). In addition, the FAA has determined that the project is not eligible under Airport Improvement Program (AIP) criteria in accordance with paragraph 603(b) of FAA Order 5100.38A, AIP Handbook (October 24, 1989), nor PFC eligible in accordance with § 158.15(b). In its application, the public agency claims that the property proposed for acquisition in this project is needed for construction of a proposed parallel runway. However, based on information contained in the application, the FAA has concluded that the land is not needed for construction of the proposed runway and would only be needed to mitigate future noise impacts resulting from a future runway. The FAA's Record of Approval for the Noise Compatibility Program (NCP) states that the acquisition of the Pleasant View Baptist Church and other ''long-term measures'' are approved subject to the construction of the new runway and re-evaluation of the NCP. To date, the runway has not been constructed. The FAA's Record of Approval of the NCP also states that the Church would be acquired or relocated ''if it is determined that the congregation will be significantly reduced when the neighborhood is acquired or relocated.'' To date, this determination has not been made. The FAA has also concluded that acquisition of this property is not justified to mitigate noise impacts resulting from aircraft operations on the existing runways. Therefore, the FAA has disapproved this project at this time. This decision does not preclude the public agency from reapplying for PFC collection and use in the future if the public agency is able to provide adequate justification for the purchase of the property.

Decision Date: September 25, 1997.

FOR FURTHER INFORMATION CONTACT: Keafur Grimes, Jackson Airports District Office, (601) 965–4628.

Public Agency: Indian Wells Valley Airport District, Inyokern, California.

Application Number: 97–03–C–00–IYK.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $253,000.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: March 1, 2003.

Class Of Air Carrier Not Required To Collect PFC's: Small certificated air taxi carriers not providing scheduled service to Inyokern Airport (IYK).

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at IYK.

Brief Description of Project Approved for Use Only: Overlay taxiways.

Brief Description of Project Approved For Collection And Use: Construct fire station.

Brief Description Of Project Approved For Collection Only: Widen runway 2/20 from 75 feet to 100 feet.

Decision Date: September 26, 1997.

FOR FURTHER INFORMATION CONTACT: John P. Milligan, Western Pacific Region Airports Division, (310) 725–3621.

Public Agency: City of Abilene, Texas.

Application Number: 97–01–C–00–ABI.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: 1,210,647.

Earliest Charge Effective Date: January 1, 1998.

Estimated Charge Expiration Date: September 1, 2005.

Class of Air Carriers Not Required To Collect PFC's: None.

Brief Description of Projects Approved For Collection and Use:

Apron reconstruction.
Overlay access road.
Install perimeter fencing (Phase I).
Emergency generator.
Install elevator.
Airport entrance signage.
Install precision approach path indicators, runway 17L.
Overlay and mark runway 17L/35R.
Airfield guidance sign system.
Overlay taxiway D.
Groove runway 17L/35R.
Rehabilitate runway 17R/35L and taxiway C lighting.
Security fencing (Phase 2).
Overlay runway 4/22 and pavement emulsion seal on taxiways A, T, S, B, Q, and apron.
Security fencing (Phase 3).
Terminal renovation and expansion.
PFC administrative costs.

Decision Date: September 26, 1997.

FOR FURTHER INFORMATION CONTACT: Ben Guttery, Southwest Region Airports Division, (817) 222–5614.

Public Agency: Johnstown-Cambria County Airport Authority, Johnstown, Pennsylvania.

Application Number: 97–03–C–00–JST.

Application Type: Impose and use a PFC.

PFC Level: $3.00.

Total PFC Revenue Approved In This Decision: $233,333.

Earliest Charge Effective Date: December 1, 1997.

Estimated Charge Expiration Date: November 1, 1999.

Class of Air Carriers Not Required to Collect PFC's: Air taxi/commercial operators filing FAA Form 1800–31.

Determination: Approved. Based on information contained in the public agency's application, the FAA has determined that the proposed class accounts for less than 1 percent of the total annual enplanements at Johnstown-Cambria Airport.

Brief Description of Project Approved For Collection and Use: Terminal building renovation.

Brief Description of Project Withdraw: Perimeter security fence.

Determination: This project was withdrawn from the PFC application by the public agency by letter dated September 16, 1997.

Decision Date: September 29, 1997.

FOR FURTHER INFORMATION CONTACT: Joseph Carter, Harrisburg Airports District Office, (717) 782–4548.

Public Agency: Reading Regional Airport Authority, Reading, Pennsylvania.

Application Number: 97–02–U–00–RDG.

Application Type: Use PFC revenue.

PFC Level: $3.00.

Total PFC Revenue To Be Used In This Decision: $300,000.

Charge Effective Date: December 1, 1994.

Estimated Charge Expiration Date: August 1, 1998.

Class Of Air Carriers Not Required To Collect PFC'S: No change from previous decision.

Brief Description Of Project Approved For Use: Construct terminal access road, Phase 2.

Decision Date: September 29, 1997.

FOR FURTHER INFORMATION CONTACT: L.W. Walsh, Harrisburg Airports District Office, (717) 782–4548.

Amendments to PFC Approvals

Amendment No., city, state	Amendment approved date	Orignial approved net PFC revenue	Amended approved net PFC revenue	Original estimated charge exp. date	Amended estimated charge exp. date
92–01–C–01–ERI, Erie, PA	07/07/94	$1,997.885	$1,854,570	06/01/97	06/01/97
95–01–C–01–LEB, Lebanon, NH	05/23/97	449,256	556.515	07/01/98	10/01/99
92–01–C–03–PNS, Pensacola, FL	06/15/97	9,839,900	8,270,500	03/01/01	12/01/99
95–03–C–01–PNS, Pensacola, FL	06/15/97	2,536,000	1,860,000	03/01/01	12/01/99
92–01–C–02–ERI, Erie, PA	07/22/97	1,854,570	1,906,163	06/01/97	06/01/97
94–01–C–01–RDG, Reading, PA	08/07/97	600,750	480,000	08/01/98	08/01/98
92–01–C–01–PIB, Laurel-Hattiesburg, MS	08/22/97	119,153	152,639	01/01/98	12/01/98
92–01–1–02–VLD, Valdosta, GA	08/28/97	307,746	408,996	10/01/97	10/01/99
97–02–U–01–VLD, Valdosta, GA	08/28/97	NA	NA	10/01/97	10/01/99
93–01–C–02–CRP, Corpus Christi, TX	09/05/97	5,566,940	6,337,528	01/01/98	05/01/98
93–01–C–03–RHI, Rhinelander, WI	09/19/97	188,951	198,951	10/01/00	01/01/01
95–02–U–01–RHI, Rhinelander, WI	09/19/97	NA	NA	10/01/00	01/01/01
92–01–C–03–MCO, Orlando, FL	09/23/97	46,752,627	36,171,833	03/01/98	06/01/98
95–03–C–01–MCO, Orlando, FL	09/23/97	19,138,741	21,527,408	03/01/98	06/01/98

Issued in Washington, DC, on October 16, 1997.

Eric Gabler,

Manager, Passenger Facility Charge Branch.

[FR Doc. 97–28162 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[Docket No. 97–071; Notice 1]

New Flyer of America, Inc.; Receipt of Application for Decision of Inconsequential Noncompliance

New Flyer of America of Crookston, Minnesota, has determined that 115 buses fail to comply with 49 CFR 571.217, Federal Motor Vehicle Safety Standard (FMVSS) No. 217, ''Bus Emergency Exits and Window Retention and Release,'' and has filed an appropriate report pursuant to 49 CFR Part 573, ''Defect and Noncompliance Reports.'' New Flyer has also petitioned to be exempted from the notification and remedy requirements of 49 U.S.C. Chapter 301—''Motor Vehicle Safety'' on the basis that the noncompliance is inconsequential to motor vehicle safety.

This notice of receipt of a petition is published under 49 U.S.C. 30118 and 30120 and does not represent any agency decision or other exercise of judgment concerning the merits of the petition.

FMVSS No. 217, Paragraph S5.2.2.1 requires that buses provide emergency exit area, in total square centimeters, of at least 432 times the number of designated seating positions. It requires that 40 percent of the emergency exit be distributed on each side of the bus. It also limits the amount of area to 3,458 square centimeters that can be credited for an emergency exit.

During the 1995–1997 model year, New Flyer produced 115 transit buses, models D35LF (Diesel 35 ft Low Floor) and C35LF (CNG 35 ft Low Floor) which do not comply with FMVSS No. 217. The subject transit buses have only one emergency exit on the right side of the bus instead of two, as required by the standard.

New Flyer supports its application for inconsequential noncompliance with the following:

The buses exceed the exit area requirements on all sides. The left side has two exit windows for a total of 25,000 square centimeters or 4.67 times the required area. The right side has one exit window with 12,500 square centimeters of exit area or 2.33 times the required area. The standard does not allow any one exit to claim more than 3,458 square centimeters. Therefore, the right side of the bus does not have the required number of emergency exits although it exceeds the required area. Each bus has two roof exits, where the standard only requires one roof exit. Overall, the buses have 3.28 times the required exit area.

Retrofitting these buses to comply with the standard would require modifying and retesting the existing exit door or replacing the right side window with an emergency exit window, which is not possible because the wheel housing limits accessibility. The seating position relative to the window allows for easy exit; but if the window was accidentally opened, there is potential for someone to fall out. Modifying the exit door to conform to the release force requirements is a possible solution, but would require redesigning the door. Considering the bus already has 3.28 times the required exit area, modifying the buses to include an additional exit would not add to motor vehicle safety.

New Flyer does not believe that the buses are a safety hazard since the bus has excessive accessible emergency exit area. These buses are operated by transit authorities with trained professional drivers; none are operated by the general public. New Flyer has a close relationship with the operators of the buses and is continuously informed of any problems or concerns, and has never had an incident or complaint involving the number or location of emergency exits.

Interested persons are invited to submit written data, views, and arguments on the application of New Flyer described above. Comments should refer to the docket number and be submitted to: Docket Section, National Highway Traffic Safety Administration, Room 5109, 400 Seventh Street, SW, Washington, DC 20590. It is requested but not required that six copies be submitted.

All comments received before the close of business on the closing date indicated below will be considered. The application and supporting materials, and all comments received after the closing date, will also be filed and will be considered to the extent possible. When the application is granted or denied, the notice will be published in the **Federal Register** pursuant to the authority indicated below.

Comment closing date: November 24, 1997.

(49 U.S.C. 30118 and 30120; delegations of authority at 49 CFR 1.50 and 501.8)

Issued on: October 17, 1997.

L. Robert Shelton,

Associate Administrator for Safety Performance Standards.

[FR Doc. 97–28106 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

[NHTSA Docket No. 97–062–N01]

Traffic Safety Programs—Office of Research and Traffic Records; Strategic Plan for Behavioral Research in Traffic Safety

AGENCY: National Highway Traffic Safety Administration (NHTSA); Transportation.

ACTION: Request for comments on strategic issues and research requirements to support research planning.

SUMMARY: NHTSA's Office of Research and Traffic Records, Research and Evaluation Division (ORTR/RED) is engaged in the process of planning its research programs for fiscal years 1998 through 2002. In conformance with the Government Performance and Results Act of 1993 (P.L. 103–62), ORTR/RED is seeking public comment on the draft strategic plan presented in this notice. These comments will be used to help form a strategic implementation plan to direct the division's research program during the next five years.

DATES: Written comments will be accepted through November 30, 1997.

ADDRESSES: Please direct all written comments to the National Highway Traffic Safety Administration, Docket Section, Room 5111, Docket # 97–062-N01, 400 Seventh Street, S.W., Washington, DC 20590. (Docket hours are from 9:30 am to 4:00 pm.) Comments submitted to the docket will become a matter of public record.

FOR FURTHER INFORMATION CONTACT: Jesse Blatt, Office of Research and Traffic Records (NTS–30), Room 6240, 400 Seventh Street, S.W., Washington, DC 20590. (Telephone 202–366–5588 or Email at jblatt@nhtsa.dot.gov)

SUPPLEMENTARY INFORMATION: More than 3 million persons were reported injured and over 40 thousand persons died in motor vehicle crashes in 1996 (Traffic Safety Facts: 1996, National Center for Statistics and Analysis). While a small proportion of the crashes causing these injuries and fatalities were attributed to vehicle and roadway problems, the vast majority were caused by human

performance problems. Within the National Highway Traffic Safety Administration (NHTSA), the Office of Research and Traffic Records, Research Evaluation Division (ORTR/RED) conducts research on human behaviors that can bring about improvements in traffic safety. The research is conducted in support of traffic safety programs directed at reducing the incidence and consequences of motor-vehicle crashes.

ORTR/RED is responsible for research in the following program areas: Impaired Driving; Occupant Protection; Speeding and Unsafe Driving Actions; Older Drivers; and Pedestrians, Bicyclists, and Motorcyclists. In addition, ORTR/RED efforts address Novice Driver Education, Emergency Medical Services, evaluation of the Safe Communities program, and the use of emerging safety and enforcement technologies.

ORTR/RED is reexamining its research strategies in accordance with the Government Performance and Results Act, or GPRA, of 1993 (P.L. 103–62). The Act requires the establishment of a program mission, assessment of external needs, development of specific strategic objectives and accompanying performance measures, and the use of actual performance results to redirect subsequent planning efforts. In response to these requirements, ORTR/RED is requesting public comment on its Draft Strategic Plan.

The Draft Strategic Plan is intended to guide behavioral traffic safety research efforts from FY 1998 through FY 2002. It is heavily influenced by the needs and outcomes identified as part of ongoing budget planning processes. Input received as a result of this notice will be used to reassess currently identified needs and projects for fiscal years 1998 and 1999 and to further define the needs and outcomes for fiscal years 2000 through 2002.

Electronic Access

This document is posted on NHTSA's site on the world-wide web (http://www.nhtsa.dot.gov). To access it from NHTSA's home page , select ''People,'' then ''Injury Prevention,'' then ''Research and Evaluation.'' To go directly to the appropriate page, enter: http://www.nhtsa.dot.gov/people/injury/research/. Then select ''Draft Strategic Plan for Behavioral Research.''

Comments Requested

The purpose of this notice is to provide an opportunity for the public and other interested parties to review and comment on ORTR/RED's assessment of each program area, the strategic objectives which are identified, and the activities or outcomes that ORTR/RED intends to pursue. Reviewers are invited to comment on program areas or issues that are not addressed, recommend priorities, or provide rationales for alternative approaches. Comments must be submitted in writing. Respondents are requested to identify the program or program area towards which their comments are directed.

The Office of Research and Traffic Records, Research and Evaluation Division (ORTR/RED) will review comments received in response to this notice and the draft plan described herein. These comments will be considered as part of the development of a five-year strategic implementation plan for the period between 1998 and 2002. The final plan will include a section summarizing the comments received in response to this notice and in response to other inputs.

Organization of the Draft Plan

The Draft Strategic Plan consists of two parts. Appendix A provides a brief discussion of the most significant human performance problem areas identified by the agency, followed by the mission and strategic objectives of the Office of Research and Traffic Records, Research Evaluation Division (ORTR/RED). Within each objective, the anticipated outcomes from the research effort during the period from 1998 to 2002 are summarized by program area. Appendix B presents a more detailed discussion of the agency's understanding of the problems, its current research and evaluation efforts, and strategic issues for research in each program area. The following Table of Contents provides an overview of the plan and supporting documentation.

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Issued on: October 17, 1997.

James L. Nichols,

Director, Office of Research & Traffic Records, National Highway Traffic Safety Administration.

Appendix A—Draft Strategic Plan for Behavioral Research in Traffic Safety

Background

More than 3,000,000 persons were reported injured and over 40,000 persons died in motor vehicle crashes in 1996 (Traffic Safety Facts: 1996, National Center for Statistics and Analysis). While a small proportion of the crashes causing these injuries and fatalities can be attributed to vehicle and roadway problems, the vast majority are caused by human performance problems. Despite impressive reductions over the past two decades, the annual traffic-related fatalities and injuries are increasing slightly since reaching a low in 1992. An increase in travel has contributed to the fatality rates, expressed as number of fatalities per 100 million vehicle miles traveled, remaining at approximately 1.7 during this period.

In developing a response to this challenge of improving human performance, NHTSA focuses its traffic safety efforts on the most significant causes or problems contributing to fatality-and injury-causing crashes. ORTR/RED conducts behavioral research in the following areas: Impaired Driving, Occupant Protection; Speeding and Unsafe Driving Actions; Older Drivers; and Pedestrian, Bicyclists, and Motorcyclists; Novice Driver Education, Emergency Medical Services, Safe Communities, and Technology Applications. A brief description of the extent of these problems is provided here. A more detailed discussion can be found in Appendix B

Impaired Driving. In 1996, alcohol was cited as a contributing factor in crashes leading to approximately 17,000 traffic fatalities, and over 1,000,000 injuries. In addition, there has been an increase in alcohol-related fatalities by approximately 4 percent between 1994 and 1996. Driving while impaired by drugs other than alcohol may also constitute a significant highway safety problem, although it appears to be much smaller than the alcohol-related problem.

Occupant Protection. The national average safety-belt usage rate has hovered at about 68 percent for several years, despite widespread educational efforts. However, belt use by people involved in potentially fatal crashes is much lower, at about 50 percent. The need to use child safety seats appears to be more widely accepted, with usage rates currently ranging between 60 and 90 percent, depending on the age of the child. Investigations of recent air bag related injuries and fatalities to young children and short-statured adults has reemphasized the need to increase proper safety belt and child safety seat use, particularly for all children under 12.

Speeding and Unsafe Driving Actions. Many crashes are attributable to unsafe driving behaviors such as following too

closely, inattention, speeding, and aggressive driving. In 1996, speed was a factor in over 13,000 fatalities. Many states repealed speed limit laws based on the national maximum speed limit, and now average speed limits are higher. Aggressive driving actions—such as excess speed, running red lights, and disregard of traffic signs and signals—have a high likelihood of causing crashes.

Older Drivers. People over 70 years of age represented 13 percent of all fatalities and are slightly over-represented in crashes, when compared to the general population of drivers. As the proportion of older drivers increases over the next few years, over-involvement of this population group in fatalities and injuries could become a more significant problem.

Pedestrians, Bicyclists, and Motorcyclists. About 30,000 pedestrian crashes involving young people occur annually. Older persons are significantly over involved in pedestrian fatalities. Alcohol and environmental factors are also significant components of the pedestrian crash problem. In large urban areas, nearly half of all those killed in motor vehicle crashes are pedestrians. There has been little or no change in bicyclist fatalities, which are reported as 830 in 1995, and injuries during the past few years. Currently, bicyclist helmet use laws include requirements for children only, even though one-half of the annual fatalities occur to people of age 21 years or older. Motorcyclists are about 16 times as likely as vehicle occupants to die in a crash, and about 4 times as likely to be injured. In 1996, 43 percent of the approximately 2,200 fatally injured motorcyclists were not wearing helmets at the time of the crash. These motorcyclists tended to have high intoxication rates as well.

Novice Driver Education. Young drivers between the ages of 16 and 20 experience the highest fatality and injury rates per capita. At the request of Congress, NHTSA submitted a program in 1994 to improve novice driver education that has two-stages of education that would parallel stages of a graduated licensing system.

Emergency Medical Services. Emergency Medical Services (EMS) differs from the other program areas receiving research attention in that it is entirely focused on post-crash rather than pre-crash events. Gaps in our knowledge of effective out-of-hospital care, due to the absence of well-defined, uniform, and complete data, impeded efforts to define the extent to which the post-crash environment contributes to injuries and fatalities.

Safe Communities. Safe Communities is a recent initiative intended to bring together citizens and a wide range of community institutions—such as law enforcement, hospitals, managed care facilities, emergency medical services, schools, insurance companies, other public and private businesses and local governments—to work on solving local traffic safety problems within the broader context of meeting the injury control challenge. Knowledge gained from successes and setbacks will provide guidance to expansion of this effort.

Technology Applications. Future increases in vehicle travel and risks of crashes are anticipated, even as fewer resources are being allocated to traffic-law enforcement. Emerging technologies—such as ''smart card'' drivers licenses that prevent fraudulent ID, ignition interlock devices, electronic monitoring wristbands, and electronic vehicle and driver identification systems—offer the promise to improve the effectiveness and efficiency of safety and enforcement programs. Adaptations of emerging electronics and communications technologies, as part of the Intelligent Transportation Systems (ITS) program, could have significant potential to aid emergency rescue services, crash investigations, traffic law enforcement, and other traffic safety efforts.

Traffic Safety Programs at NHTSA

The National Highway Traffic Safety Administration (NHTSA) is one of seven operating administrations of the U.S. Department of Transportation. Oversight of highway travel is split between the Federal Highway Administration (FHWA) and NHTSA. NHTSA's responsibilities focus on safety issues of motor vehicles and non-commercial roadway users.

NHTSA's mission is to save lives, prevent injuries and reduce traffic-related health care and other economic costs. The agency develops, promotes and implements effective educational, engineering, and enforcement programs toward ending preventable tragedies and reducing economic costs associated with vehicle use and highway travel. This is accomplished through research, demonstration, and evaluation; setting and enforcing safety performance standards for motor vehicles and items of motor vehicle equipment; consumer outreach activities, and awarding grants to state and local governments for implementation of safety programs. The complex relationship between a motor vehicle and its driver is of major interest. Factors influencing this relationship include the driver's physical and mental abilities and driving experience, the nature of driving, the responsiveness of the motor vehicle to the driver's demands, and environmental conditions.

NHTSA employs two major approaches to improving highway safety. One approach focuses on motor vehicles and investigates methods to make them safer, in terms of improving vehicles' characteristics that both reduce their likelihood to be involved in crashes and increase their capabilities to protect occupants from crash forces. The other addresses the behavior of roadway users—drivers, bicyclists, motorcyclists, pedestrians. Approaches may be direct, by influencing the users themselves, or indirect, by influencing intermediary change agents—friends and family members, educators, police, judges, legislators, licensing officials, emergency medical service and health care practitioners—who may exert influence over certain groups of roadway users.

The responsibility within NHTSA for improving safety-related behaviors lies within the Associate Administrator for Traffic Safety Programs (TSP). TSP's Mission is to: (1) Lead the national traffic safety effort, including emergency medical services; (2) save lives and reduce injury through behavioral research, demonstration, and evaluation; and (3) develop safety programs and strategies for use by public and private organizations. Program areas include impaired driving, occupant protection, traffic law enforcement, speed and other unsafe driving actions, motorcyclists, bicyclists, pedestrians, older drivers, driver education and licensing, and emergency medical services. Traffic Safety Programs (TSP) comprises three offices: the Office of Traffic Injury Control Programs (OTICP), the Office of Communications and Outreach (OCO), and the Office of Research and Traffic Records (ORTR).

Within the Office of Research and Traffic Records, the Research and Evaluation Division (ORTR/RED) conducts research in each of the program areas listed above to specify traffic-safety problems that can be addressed through behavioral approaches; identify populations in need of intervention; and determine appropriate legislative, enforcement, adjudicative, and educational countermeasure approaches for those problems. In addition to developing and testing the effectiveness of new countermeasures, ORTR/RED also evaluates the implementation of existing traffic safety programs in actual practice, thus establishing a foundation for broader adoption of effective programs. Information developed by ORTR/RED is integrated into traffic safety programs administered by other offices of TSP and the Office of State and Community Services for use by community, state, and national organizations and distributed through other NHTSA offices.

1ORTR/RED must strike a balance between these activities in order to meet the shorter term needs of other offices and still conduct problem identification and countermeasure development activities which have a longer time horizon associated with achieving an outcome. Programs in the field now are based on past research efforts; current research establishes a foundation for programs in the future. A major challenge to Traffic Safety Programs is to align the activities in all three offices to be most effective in meeting overall agency objectives, which are to reduce traffic-related fatalities and injuries. ORTR/RED sets priorities and apportions its work among the competing interests through the budget process and internal decision making. The Strategic Plan exercise is an effort to further improve the alignment and outcomes of ORTR/RED programs and resources.

Summary of the 1998 ORTR/RED Strategic Plan

ORTR/RED Vision and Mission

Vision Statement: Lead the nation, department, and agency with high quality research and evaluation in traffic safety issues, conducted in a professional environment, and responsive to the input and needs of the public and the traffic safety community.

Mission Statement: Plan and conduct a national research program to identify and analyze road user problems; develop and test scientifically sound programs; and evaluate traffic safety programs of significant potential.

Strategic Objectives

Problem Analysis: anticipate and understand the nature and magnitude of various aspects of the highway crash problem and monitor trends and public perceptions in the various program areas.

Countermeasure Development: develop program actions (e.g., legislation, enforcement, sanctions, incentives, technology applications, public information and education, emergency medical care) to reduce the number of crashes and severity and crash consequences; and determine the effectiveness of these countermeasures in improving behaviors that lead to reducing crashes, deaths, or injuries.

Program Evaluation: determine whether existing countermeasure programs should be continued, expanded, modified, or discontinued.

Key Considerations in the Development of Strategic Objectives

This Draft Strategic Plan is consistent with the 1997 Department of Transportation Draft Strategic Plan entitled ''A Visionary and Vigilant Department of Transportation Leading the Way to Transportation Excellence in the 21st Century.'' The Department's plan outlined five strategic goals:

- Safety: Promote the public health and safety by working toward the elimination of transportation-related deaths, injuries, and property damage;
- Mobility: Shape America's future by ensuring a transportation system that is accessible, seamless and efficient, and offers flexibility of choices;
- Economic Growth and Trade: Advance America's economic growth and competitiveness domestically and internationally through efficient and flexible transportation;
- Human and Natural Environment: Protect and enhance communities and the natural environment affected by transportation; and
- National Security: Advance the nation's vital security interests in support of national strategies such as the National Security Strategy and National Drug Control Strategy by ensuring that the transportation system is secure and available for defense mobility, that our borders are safe from illegal intrusion, and by promoting worldwide economic growth and stability.

The ORTR/RED Draft Strategic Plan directly supports the first two of these departmental goals—safety and mobility—through research, development, and evaluation and indirectly supports the remaining goals through anticipated reductions in the number and severity of crashes and their attendant personal, economic, societal and environmental effects.

Prior to the development of the Departmental Strategic Plan, NHTSA published a long term strategic plan and a five year (1995–99) Strategic Execution Plan (SEP). The NHTSA Strategic Plan presents 11 goals is support of three strategies: Provide Leadership and Set an Agenda; Support Research and Apply the Results to Education, Engineering, and Enforcement to Reduce Road Casualties and Costs; and Transform NHTSA Through Continuous Improvement. The ORTR/RED Behavioral Research Strategic Plan is consistent with the objectives outlined in goals 5 and 6 of the SEP, which focus on research and the application of the results to crash avoidance challenges.

NHTSA was a pilot agency under GPRA from 1994 to 1996. The Act requires federal agencies to plan around outcomes, rather than outputs, and measure performance. The agency has stratified its performance measures into three levels: overall outcomes; intermediate outcomes; and program outputs. NHTSA's overall outcome goals are to reduce fatalities and injuries per 100 million vehicle miles traveled; and to reduce fatalities and injuries per 100,000 resident population. The agency has stated intermediate outcome goals for key behavioral patterns, such as seat belt use and impaired driving. For example, the goal for seat belt usage is to increase use rates to 85 percent by 2000 and 90 percent by 2005. The agency has committed to reduce the number of alcohol-related traffic fatalities to 11,000 in 2005 from 17,126 in 1996. These and other traffic safety goals are restated in NHTSA planning documents that have been published since the Strategic Execution Plan, such as the Presidential Initiative for Increasing Seat Belt Use Nationwide, EMS Agenda for the Future, GPRA Performance Plans; and annual Budget submissions to Congress. Achieving these goals helps the agency to achieve its overall outcome goals. The agency measures program outputs to ensure that products help to achieve the intermediate outcome goals, that will, in turn, achieve the overall outcome goals. The ORTR/RED plan describes how behavioral research will help the agency achieve its stated goals and anticipate future needs of the agency and the Department of Transportation.

Approach to Meeting the Strategic Objectives

Before undertaking any problem analysis or countermeasure development effort, ORTR/RED considers, at least implicitly, several general issues. Although these issues are described as ''either-or'' alternatives, they overlap to a certain extent, depending on the problem and the countermeasures under consideration.

- Involved Population versus Change Agents. Historically, countermeasure research efforts have focused on the individuals engaged in problem behaviors (e.g., drinking drivers, safety belt non-users, motorcyclists who do not wear helmets). An alternative approach is to target research on intermediary change agents (e.g., police officers, legislators, community traffic safety officials) to obtain their support and action (e.g., to support legislation, provide political permission for enforcement of traffic safety laws).
- Gradual Improvement versus Major Advancement. For the most part, agency research and development has fashioned continuous and gradual improvements to existing programs and activities. However, experience has shown that some of the most profound and dramatic advances in traffic safety have resulted from innovative (and often controversial) programs that have resulted in significant media attention and public awareness (e.g., enactment of Minimum Drinking Age (21) Laws, passage of child passenger safety laws).
- People versus Equipment and Technology. Except for supporting technological innovation in the early years of alcohol-impaired driving research, ORTR/RED's attention to technology has been limited. There is currently increased interest in developing technological solutions to behavioral problems that have resisted change (e.g., automated speed enforcement, detection and ticketing of red-light runners, impaired driver detection and interlocks, repeated warnings of safety-belt non-use in vehicles) or that would improve the efficiencies or lower the costs of current programs.

The interaction of these strategic countermeasure-development issues and the needs of problem analysis resulted in the following questions that ORTR/RED staff used to assess the status of each traffic safety program area during the development of this plan:

1. What is the current status of problem assessment in this area? Do we have a good understanding of the magnitude and characteristics of the problem? Where are the gaps in our knowledge?
2. Is there a need for continuous tracking or monitoring to support internal and external decision making about this program area? What kind of monitoring is needed?
3. Do we know enough about the people whose behavior we wish to modify? How much do we need to know to effect the desired changes?
4. Are our research products and information designed for and reaching appropriate decision makers or intermediaries? What kinds of research are needed to improve the effectiveness or distribution of such products and information?
5. Are there operational countermeasures that need to be evaluated to support decision making regarding continued or wider implementation?
6. Are there operational countermeasure approaches where incremental improvements in effectiveness or efficiency could be made? What kind of research and development activity is needed?
7. Are there innovative or controversial approaches that have the potential for major gains? Are there new technologies that could be applied to make significant gains? What kind of research and development activity is needed?
8. Are there countermeasures that now appear impractical because of a lack (or shift) of change agent interest or support? What kind of research and development activity is implied?
9. In general, is public interest and support for this area sufficient to effect change? If not, what kind of research and development activity is needed?

The answers to these questions provided the raw materials from which the plan was developed, and emphasized the division of behavioral research efforts into three distinct categories: Problem Analysis, Countermeasure Development and Test, and Program Evaluation.

Strategic Objective: Problem Analysis

Identify opportunities to intervene in unsafe behaviors by analyzing traffic safety problems and monitoring changes in public knowledge, attitudes, and practices regarding highway safety issues. These efforts may identify individuals whose behavior threatens their own or the public's safety, or situations that predispose or precipitate unsafe actions.

The outcome objectives listed under each program area represent the critical problem assessment factors for that area. Such factors include: (1) Specifying quantitative relationships; (2) identifying particular groups that are over-represented in crashes or fatalities, or that have a direct influence on those groups; (3) establishing the predisposing or precipitating situations or events leading to crashes; (4) defining factors that impede or facilitate implementation of traffic-safety programs; (5) determining the feasibility of implementing potential changes in programs or establishing new ones; and (6) identifying critical trends or deficiencies in public knowledge, attitudes, and practices.

Success in achieving this strategic objective will be measured by progress in accomplishing the following outcome objectives:

Impaired Driving

- Verify the relationship between blood alcohol concentration (BAC) and crash risk for low BACs.
- Establish the degree of public support for different types and levels of legislative and enforcement efforts to reduce alcohol-impaired driving.
- Further define the degree to which drugs other than alcohol contribute to traffic crashes.
- Acquire more detailed information regarding the driver characteristics and situations that lead to drinking and driving.
- Monitor levels of public disapproval of drinking and driving and their acceptance of legislation, enforcement, sanctioning, and other actions to prevent drinking and driving.

Occupant Protection

- Identify factors that impede communities from adopting highly visible traffic law enforcement efforts (e.g., Selective Traffic Enforcement Programs) to increase the use of safety belts.
- Determine the potential impact of incentive and reward programs for different target audiences (e.g., belt users, police groups or community groups) for increasing belt use.
- Monitor public knowledge, attitudes, and practices regarding the use of safety belts, child safety seats, and air bags, as well as support for stronger laws, enforcement, and sanctions.
- Determine characteristics of safety belt users, part-time users, and non-users, especially among drivers who are most at risk of being involved in a fatal or serious injury crash.
- Acquire information from users of child safety seats regarding the reasons for misuse of safety seats and premature graduation of toddlers from safety seats to vehicle safety belts.

Speeding and Unsafe Driving Actions

- Define the relationships among speed, driver characteristics, roadway conditions, situational factors, and crash rates.
- Identify unsafe behaviors and drivers most likely to be involved in crashes.
- Define ''aggressive'' driving and determine its incidence and relation to crash causation.
- Determine the extent to which drivers who speed are over involved in crashes.
- Determine situations and conditions under which the public and the enforcement community would accept automated enforcement efforts and describe the legislative and administrative actions necessary to implement automated enforcement procedures.

Older Drivers

- Identify factors responsible for increased crash rates (per mile) of older drivers and determine the extent to which these factors account for the higher fatality rates of older drivers.
- Determine the likelihood that older drivers would purchase vehicles that offer vehicle modifications for improved crash protection for older occupants.
- Explore the acceptability of various in-vehicle technologies designed to extend mobility by providing assistance in compensating for disabling conditions.

Pedestrians, Bicyclists, and Motorcyclists

- Develop measures of pedestrian and bicyclist crash exposure and determine trends in exposure.
- Assess the attitudes of pedestrians, cyclists, and drivers toward each other; their awareness of high crash-risk situations and ways to avoid them; their knowledge or the laws, signals, and signage; and their walking, riding, and driving experiences.
- Identify and assess materials and procedures for increasing conspicuity of pedestrians and cyclists.
- Review federal, state, and local ordinances pertaining to the interactions of drivers, pedestrians, and bicyclists; examine the practices of these road users that lead to crashes; and assess the need for model legislation and traffic enforcement efforts.
- Monitor helmet usage rates in states with laws, including age specific laws, and those without laws.
- Analyze motorcycle crash data to classify crash types.

Novice Driver Education

- Determine the consequences, including costs and hardships, on novice drivers and their families of requiring a two-staged driver education as part of a graduated licensing system.
- Determine the impact of various options for paying for driver education and licensing, including the option of requiring license applicants to pay some or all of the cost.
- Identify and assess alternative systems for implementing two-staged driver education and determine the costs and benefits of each alternative.
- Determine the extent to which novice drivers over the age of 25 would benefit from graduated licensing and determine any special training needs they present.
- Examine and determine the appropriate role of the Federal government in developing a model driver education program for use by others in training novice drivers.
- Obtain input from partners regarding the education of novice drivers to develop consensus regarding the basic training content required for novice drivers.

Emergency Medical Services (EMS)

- Determine the factors contributing to higher mortality rates for persons who die in motor vehicle crashes in rural areas.
- Identify the barriers to collection of reliable and relevant data in the current EMS data collection system, and identify the barriers to linking EMS data with other databases.
- Examine the potential for and public acceptability of using EMS personnel as injury-prevention trainers or spokespersons at the community level.
- Examine the potential consequences of increased enrollment in managed-care health plans, and their requirements (e.g., for approvals prior to the delivery of services) on the provision of emergency medical services to the public.
- Develop a well defined, long term research plan for EMS, based on participation of relevant partners.

Safe Communities

- Determine the feasibility and utility of including rehabilitation records on drug- or alcohol-impaired drivers in linkages with other Safe Communities data.

Technology Applications

- Conduct an inventory of existing and planned Intelligent Transportation System (ITS) products, determine which products have potential for traffic-safety applications, assess the degree to which candidate products would require modification, and describe the adaptations necessary.
- Identify relevant factors that affect costs of production, deployment, operations, training, and maintenance of various technological safety applications; determine how best to foster the integration of technologies and the sharing of common hardware or systems.
- Identify institutional partners and barriers to full acceptance and implementation of traffic safety-related technologies; define the nature and extent of public concerns and resistance to using technology to improve traffic safety; and identify effective strategies for allaying public fears and for gaining support for technological solutions to traffic-safety problems.

Strategic Objective: Countermeasure Development

Develop and test methods to intervene with problem individuals or to aid those in a position to modify problem situations. These efforts may address individuals or situations needing attention either directly, through information and education, or indirectly, through legislation, enforcement, and adjudication.

The outcome objectives listed under each program area specify one or more critical products that are needed to address an

identified safety problem. These products involve activities (e.g., research, development, and testing) that result in materials or procedures to accomplish one or more of the following: assessment, education, information, motivation, training, and instruction. In addition, some outcome objectives produce materials documenting strategies, technology applications, and model programs or legislation.

Success in achieving this strategic objective will be measured by progress in accomplishing the following outcome objectives:

Impaired Driving

- Develop and test better methods for detecting impaired drivers on the roadways.
- Develop and test improvements to enforcement procedures that make alcohol impaired driving arrests less cumbersome and that improve the efficiency of conducting sobriety checkpoints.
- Develop and test countermeasures for reducing the recidivism of repeat DWI offenders and those who drive with a suspended license.
- Validate a problem-driver screening instrument for use in field sobriety testing situations.
- Develop model specifications for alcohol test devices.
- Develop and test procedures to detect problem drinkers at their first alcohol-related offense.
- Develop and test countermeasures for various target groups (e.g., youthful drinkers, servers, companions, police officers, etc.), based on more detailed information regarding the interaction of driver characteristics and the situations that lead to drinking and driving.
- Develop and test strategies to counter decreasing interest and support among legislators, police, and other public officials for efforts to reduce alcohol-impaired driving.
- Develop and test methods for extending the effectiveness of ignition interlocks for convicted DWI offenders beyond the period during which such devices are installed on the offenders vehicle.

Occupant Protection

- Develop and test materials and procedures specifically designed for part-time users to increase their perceptions of risk in those situations in which they currently do not buckle up.
- Develop and test improved methods for disseminating the results of occupant-protection research to program developers to ensure effective targeting and up-to-date materials.
- Develop and test more effective materials for convincing police officials and lawmakers that good laws and well-publicized enforcement have great potential to increase safety belt and child seat usage and thus to prevent deaths and injuries.
- Develop and test various technological approaches to increase belt use.

Speeding and Unsafe Driving Actions

- Develop and test materials and procedures to reduce the tendency (or ability) of drivers to endanger themselves and others by driving aggressively.
- Develop and test materials and procedures to increase the acceptance of automated law enforcement by the public and the law enforcement community.
- Develop and test materials to educate drivers and the general public about the impact of speed on crashes and resulting deaths and injuries.

Older Drivers

- Develop and test guidelines and procedures for training driver licensing personnel how to evaluate the safe driving abilities of older persons applying for licensing or license renewal.
- Develop and test guidelines and procedures for assisting older drivers to make a smooth transition from driving to other ways to meet their transportation needs.
- Develop and test guidelines for medical personnel and social service personnel to help older drivers regulate their driving.
- Establish the potential for licensing personnel to judge older drivers' ability to drive, based on an assessment of their skills, capabilities and training needs.
- Identify and evaluate alternative federal, state, and local roles and actions to assist older drivers in meeting both safety and mobility needs; assess the costs and benefits of these alternatives.

Pedestrians, Bicyclists, and Motorcyclists

- Develop and test procedures for reducing the occurrence of pedestrian crashes among major identified target groups (e.g., young children, alcohol-impaired adults, elderly) in large cities.
- Field test software that permits communities to identify the extent of their pedestrian and bicyclist crash problems and suggests appropriate countermeasures to address them.
- Develop and test materials and procedures to educate drivers and the general public about the seriousness of the pedestrian and bicyclist crash problem and how they can prevent becoming involved in such crashes.
- Develop refined countermeasures for reducing the ocurrences of crashes involving bicyclists.
- Develop and test elementary school curriculum materials that provide information and resources to improve pedestrian and bicyclist safety for school-aged children.
- Develop and test countermeasures for reducing the incidence of operating a motorcycle while impaired by alcohol or other drugs.

Novice Driver Education

- Develop and test materials and procedures to increase the involvement of parents and other adults in the process of providing effective and safe driving practice for novice drivers.

Emergency Medical Services

- Develop and test materials and procedures for training rural EMS personnel in providing appropriate care and clinical interventions to victims of motor vehicle crashes.
- Develop and test countermeasures to prevent mortality in rural motor-vehicle crashes.

Technology Applications

- Develop and test strategies to incorporate emerging technologies in behavioral aspects of traffic safety.
- Develop and test strategies for allaying public and institutional fears of technological solutions to traffic-safety problems and for gaining support for prudent applications of technology.

Strategic Objective: Program Evaluation

Ensure that programs implemented by states and communities to combat traffic safety problems are effective in achieving their intended purpose. Evaluation may address program implementation procedures, outcomes, or both.

The outcome objectives listed under each program area focus on determining the effectiveness of a program in terms of specified dependent variables. Some are designed to identify the operational characteristics of effective programs. Final reports on completed evaluations provide information to aid the expansion of effective countermeasure programs by states and communities and other organizational entities. They also help to establish useful boundaries for adaptations of programs to local needs.

Success in achieving this strategic objective will be measured by progress in accomplishing the following outcome objectives:

Impaired Driving

- Evaluate the effectiveness of the Section 410 Alcohol Incentive Grant Program in reducing alcohol-related fatalities in the states.
- Evaluate the effectiveness of programs with major potential to reduce alcohol impaired driving, such as frequent and widespread sobriety checkpoints, administrative and judicial license and vehicle sanctions (including ignition interlocks), zero BAC tolerance laws for youth, and .08 BAC laws for adult drivers.
- Evaluate the effectiveness of various alternative transportation programs in reducing the incidence of impaired driving.

Occupant Protection

- Evaluate the effectiveness of state legislative changes that provide for standard (primary) enforcement of safety belt usage laws, penalty points for violators, or higher fines.
- Evaluate the effectiveness of materials, incentive programs, and strategies on increasing safety-belt usage of part-time users.
- Evaluate the effectiveness of the President's Initiative to Increase Safety Belt Usage.

Speeding and Unsafe Driving Actions

- Evaluate the effectiveness of automated enforcement programs such as photo radar for speeding and red-light running.
- Evaluate the effectiveness of enforcement (and other) programs that target situations where speeding is most likely to lead to crash involvement.

Older Drivers

- Evaluate model driver licensing programs that restrict or deny licensing for

those older drivers who do not appropriately restrict their driving.

• Evaluate model medical and social-service programs that are designed to help older people make appropriate decisions about driving and maintaining their mobility.

Pedestrians, Bicyclists, and Motorcyclists

• Evaluate the effectiveness of NHTSA-developed school-bus safety training program that has been adopted and distributed by the National Safety Council.

• Evaluate the effectiveness of a comprehensive pedestrian countermeasures program, adapted for use in large urban settings.

• Determine the costs of motorcycle helmet law repeal, relative to changes in injuries, fatalities and medical care expenditures.

• Evaluate the effectiveness of programs designed to reduce the incidence of impaired motorcycle operation.

Novice Driver Education

• Evaluate the effectiveness of a two-stage driver education relative to citations and crashes, controlling for the influence of graduated licensing on these outcomes.

Emergency Medical Services (EMS)

• Evaluate locally implemented procedures to reduce rural preventable mortality.

• Using outcome measures determined by current research, evaluate the effectiveness of EMS pre-hospital interventions on health outcomes.

• Determine the efficacy of training methods, retention periods, and the need to provide training in new clinical practices for EMS personnel.

Safe Communities

• Determine the characteristics of Safe Communities that are thriving and those that have faltered, where they are similar, and where they are different.

• Study Safe Communities programs to determine the processes involved in establishing strong coalitions among partners, and the mechanisms that enable, facilitate, and strengthen the formation of such inter-organizational ties.

• Determine how each partner organization's objectives contribute toward the perpetuation of the Safe Communities coalition, how organizations' objectives interact, and what steps are necessary to counter the forces that contribute to a program's demise; identify the short- and long-term successes of the Safe Communities program for each of the constituent groups in the coalition.

Technology Applications

• Evaluate the effectiveness of various technologies to detect drivers with suspended licenses.

• Evaluate the effectiveness of various technologies that may help increase safety-belt usage.

• Evaluate the effectiveness of various technologies with potential for reducing unsafe driving acts.

Appendix B—Program Area Summaries

Following are summaries of each program area, including a description of the program area, past and current research in the area, and some of the highest priority issues needing attention. Comments are invited on strategic issues, objectives, or outcomes, as well as on any other aspect of these summaries.

Impaired Driving

Background

In 1996, alcohol was involved in approximately 17,000 traffic fatalities, and over 1,000,000 injuries. Arrests for Driving Under the Influence (DUI) or Driving While Impaired (DWI) have reached a plateau at about 1.4 million arrests annually, after reaching a high of 1.8 million in the late 1980s. Substantial progress has been made in reducing alcohol related crashes over the past decade. From 1986 to 1996, alcohol related fatalities fell from about 52 percent to 41 percent of total traffic fatalities. The actual number of alcohol-related fatalities dropped from 24,000 to 17,000 over that period. Countermeasures found to contribute to these reductions include legislation increasing the drinking age and decreasing legal blood alcohol concentration (BAC) limits, highly visible enforcement, and swift and certain license sanctions. Increased awareness of the drinking and driving problem and its gradual social unacceptability have also helped reduce the problem.

Driving while impaired by drugs other than alcohol may also constitute a significant highway safety problem, although it appears to be much smaller than the alcohol-related problem. One of the most representative studies in this area, a study of 2,000 fatally injured drivers in 1990, showed that 18 percent involved other drugs, either alone or in combination with alcohol.

What We Have Learned

Research has shown that driving performance can be impaired at low alcohol levels and that the risk of crashing increases significantly after just one or two drinks. It has also been shown that many drugs other than alcohol can also impair driving. Marijuana poses significant potential for driving related problems.

Two high risk drinking and driving target groups have been identified: young drivers and repeat offenders. Drivers between 15 and 24 years of age comprise less than 14 percent of the population but they are involved in 27 percent of alcohol-related fatalities. Repeat offenders account for about a third of all drivers arrested for DWI. Safe-ride and designated driver programs provide alternatives to drinking and driving, but they are not widely used. Some studies have shown that they can be used inappropriately.

Research has shown that highly visible law enforcement efforts, such as sobriety checkpoints, can have a general deterrent effect on drinking and driving. Jail time for DWI has been shown to have limited effectiveness, usually reducing drinking and driving only during the time the violator spends in jail. Research on both electronic monitoring and intensive-supervision probation has demonstrated reduced DWI recidivism among program participants. Countermeasure research also led to the development of validated DWI detection cues and a standardized field sobriety test (SFST) for use in determining whether drivers are above .10 percent BAC. These tools have contributed significantly to DWI enforcement.

ORTR/RED evaluations have documented the effectiveness of various legislative actions such as: Minimum Drinking Age 21 laws, Zero Tolerance laws for youth, .08 BAC laws for adults, and Administrative License Revocation. In addition, Oregon and Washington enacted laws allowing police to seize the registration of motorists driving on a suspended licenses and to affix an identifying (''zebra'') tag over the vehicle sticker. The law was shown to be effective in Oregon but not in Washington.

Current Research and Evaluation

Currently ORTR/RED is analyzing results of a survey of close relatives of alcohol-related fatal crash victims to refine target group descriptions. Projects are underway to examine how alcohol affects the driving behavior of various age, gender, and drinker-type groups, and to re-examine the relative crash risk among drivers at various levels of alcohol concentration. Additionally, ORTR/RED administers a biennial national survey to track the nature and severity of alcohol-related issues.

Other research efforts include: development of new enforcement and adjudication programs to deter alcohol impaired driving; examination of new technologies for identifying driving-while-suspended (DWS) offenders and improving DWI enforcement; assessment of enforcement system loopholes; examination of DWI detection cues and the SFST at lower BACs; and development of improved techniques for conducting sobriety checkpoints.

Evaluation efforts focus on vehicle-impoundment, -immobilization, and -forfeiture laws for repeat DWI and DWS offenders and other key legislative changes in various states, such as lowering the BAC limit to .08 for adults.

Current drug-focused research includes a survey to determine the nature and severity of the effects of drugs on driving, a study examining drug involvement in serious non-fatal crashes; and an on-the-road study of the combined effects of alcohol and marijuana.

Strategic Issues for Research on Impaired Driving

• The relationship between blood alcohol concentration (BAC) and crash risk was established nearly 40 years ago. More sophisticated research design and alcohol measurement procedures are available today. In addition, the trend toward lower BAC limits necessitates refined data on the relationship of BAC and crash risk at these lower levels.

• Persistent drinking drivers are often not identified until after they have been involved in multiple crashes. Intervention programs would be more effective in reducing crash involvement if these drinkers could be identified at their first alcohol-related offense.

• More than 30 states have enacted laws permitting the use of ignition-interlock devices for drivers convicted on DWI offenses. Research suggests that offenders

who have interlocks installed recidivate less often than those who do not, but the effects do not appear to continue after the devices have been removed. For this approach to be more widely implemented, judges need a better measure of its effectiveness and information about how to make the effects more durable.

• Many legislators are reluctant to pass stronger laws, and police are often reluctant to enforce strong laws. Clear and strong evidence of the types and levels of interventions that the public is willing to support, would aid legislative and enforcement efforts.

• Identification of population subgroups that are over-involved in impaired driving helps to make countermeasures more efficient, when deployed. However, developing countermeasures tailored for specific target populations requires detailed information about the groups and the interaction of driver characteristics and the situations that lead to drinking and driving. The availability of such information would help determine the nature of effective countermeasures and procedures for various groups including drinkers, servers, companions, legislators, police officers, and judges.

• Communities typically demand evidence that countermeasure programs are effective and can be implemented with available resources before they will adopt them. Current candidates for evaluation include highly visible roadside sobriety checkpoints, administrative and judicial license and vehicle sanctions, zero BAC tolerance laws for youth, and .08 BAC laws for adult drivers.

• Over the past 20 years, volumes of laws have been enacted, arrests of alcohol-impaired drivers have increased in numbers, sanctions have been imposed with greater consistency, and the public norm has been increasingly one of non-acceptance of driving while impaired by alcohol. However, the current level of public support may not be adequate for implementation of new and potentially more effective countermeasures. In addition, support for intensified efforts to reduce alcohol-impaired driving may be lower among legislators and other public officials. The pressures of crime prevention have eroded support for traffic enforcement, and there are indications that, after nearly 20 years of focus, many legislators and police officials are ''burned out.''

• Different studies have produced widely varying estimates of the degree to which drugs other than alcohol contribute to traffic crashes and fatalities. Studies of traffic-law offenders and those non-fatally injured in crashes have generally produced higher estimates than have studies of fatally injured crash victims. More accurate and timely data would be helpful in making decisions about resource allocations in this area.

Occupant Protection

Background

The installation of safety belts has been required on passenger cars since the 1960s. Despite reasonably widespread educational efforts, however, the use of these safety devices remained quite low (i.e., less than 15 percent) until 1984, when states began to pass laws requiring vehicle occupants to use safety belts. Following the passage of such laws, most states experienced dramatic increases in safety belt use (e.g., 20–40 percentage points). Belt use is now mandated in 49 states and the District of Columbia, but only 13 states and the District of Columbia allow police to stop a vehicle solely on the basis of observing a safety belt violation (i.e., standard enforcement). Most states require that another law violation must first be observed (i.e., secondary enforcement) before safety belt law violators can be stopped and issued a citation. Under these conditions, national safety belt use has reached a plateau of about 68 percent. President Clinton has established a Presidential Initiative to Increase Safety Belt Usage, setting a goal of 90 percent belt use by the year 2005.

The need to use child safety seats appears to be more widely accepted than the need to use safety belts. The first law requiring children to be in safety seats was passed in 1978 in Tennessee. By 1985, all 50 states and the District of Columbia had passed child passenger laws. Statewide reported usage rates currently range between 60 and 90 percent, depending on the age of the child. Most safety seats, however, are used improperly to some degree or another. Much remains to be done to determine the consequences of the various kinds of misuse and to develop programs to decrease such misuse. Investigations of air bags causing injuries and fatalities to young children and adults of short stature has reemphasized the need to get young children into safety seats, to get parents to install child seats in the back seat, and to put all children under 12 in the back seat.

What We Have Learned

Belt use remains low among various groups, such as young males and rural road users, and the overall rate of increase in belt use is flattening out. Much non-use of safety belts can be attributed to part-time belt users: people who use belts only on some trips or only on certain portions of trips. The main reasons part-time belt users offer for non-use are that, in their view, some trips entail an extremely low crash risk and some, usually because of relatively low speeds, entail a very low risk of serious injury. An estimated 5–10 percent of the population totally resists using safety belts under any condition. They often claim that safety belts are too uncomfortable, possibly dangerous, and that they don't like being told what to do.

Standard (primary) enforcement can have a major impact on belt use. Belt use increases of about 15 percentage points have been observed in states following a switch from a secondary enforcement law to a standard enforcement law. It also appears possible, however, to realize substantial gains in states with secondary enforcement laws. Michigan, Pennsylvania, and Washington, for example, are secondary law states and each reports safety belt use rates greater than 70 percent.

Child safety seat use is currently estimated to be 88 percent for infants and 61 percent for toddlers. Use declines sharply with age of child, although it is not clear if children are prematurely moved out of a child seat to make room for a younger sibling, if parents think their children no longer need the protection, or for some other reason. In a recent study, misuse of child safety seats included the following errors (and frequency of observation): no locking clip used on belts with sliding latch plate (72 percent); no chest clip (59 percent); inappropriate use of harness strap use (46 percent) or vehicle safety belt (17 percent); seat placed in wrong direction (10 percent); and inappropriate harness connection (3 percent).

Current Research and Evaluation

Current research in the area of occupant protection is focused on efforts to increase belt use by part-time users, and to gather data on teenagers and other high-risk, low-usage groups to aid in developing programs to increase their belt use. Projects are also underway to develop guidelines for matching safety education strategies to youth characteristics, to develop strategies for encouraging states to upgrade from secondary to standard enforcement of belt use laws, and to increase belt law enforcement levels. Some useful data regarding these matters will come from analyses of findings from the second biennial national survey of occupant protection issues to be completed in 1997.

Strategic Issues for Research on Occupant Protection

• Highly publicized waves of intense belt-law enforcement (Selective Traffic Enforcement Programs or STEPs) have been successful in raising belt use levels but several factors appear to impede communities from effectively adopting these procedures. Minimum enforcement levels, characteristics of public information messages, need for police training, and use of overtime or regular time are among issues needing further attention.

• Incentive programs have not been seriously investigated since before occupant protection laws became commonplace. While these programs historically provided rewards for belt use, they could be applied to intermediary groups to reward efforts to get others to buckle up. The potential of incentives in conjunction with sanctions appears to be significant but not well documented.

• Most observed non-use of safety belts is due to part-time users who have judged their driving situation to have a low risk of resulting in a crash, an injury or a citation for non-use of a safety belt. Getting part-time users to buckle up will require an increase in their perception of risk in the situations they now believe to be low risk. However, beliefs concerning risk of injury appear to be highly resistant to change.

• There are several ongoing efforts to monitor changes in safety belt use (e.g., state surveys, NHTSA's National Occupant Protection Use Survey [NOPUS], and the Fatality Analysis Reporting System [FARS]) and changes in public knowledge, attitudes, and opinions (e.g., biennial National Occupant Protection Survey). These efforts will be useful in evaluating the President's Initiative to Increase Safety Belt Usage and the Air Bag Safety Campaign.

• Knowledge of the characteristics of safety belt users, part-time users, and non-users is modest. Youth have very low usage

rates, as do impaired drivers and violators of other laws. Usage is lower in rural areas (other than interstate highways) and among drivers of pickup trucks, sport-utility vehicles, and full-sized vans. Public education programs require more detailed knowledge to direct appropriate messages to specific groups using the most efficient communications medium.

• Correcting misuse of safety seats, including premature graduation from safety seats to safety belts, requires a different approach than does promoting safety seat use among non-users. Accordingly, child safety seat programs require more knowledge of the characteristics of users, part-time users, and non-users of safety seats and their respective motivations for use, misuse, or non-use.

• Results of current research tend not to diffuse into new occupant protection programs quickly or completely. Consequently, programs do not target materials to appropriate groups and messages may be ineffective for groups that are targeted.

• In spite of the interest in and support for stronger actions to increase safety belt and child seat usage expressed in most public opinion surveys, the public fails to perceive the risks and costs of not buckling up. State legislators and local police officials fail to be convinced of the potential of safety restraints to prevent death and injury and of the potential for good laws and highly visible enforcement to increase belt usage.

• It has been about 20 years since safety-belt/ignition interlocks were ruled out as a technique for ensuring belt use. Improvements in technology, on-board computers, and wide acceptance of belt-use requirements provide a new environment in which to reexamine technological approaches to increasing belt use levels. ''Smart'' belt-use reminders and interlocks with other automobile features are now possible, but have not been tested with drivers.

Speeding and Unsafe Driving Actions

Background

Research has indicated that most crashes are attributable to human performance (e.g., following too closely, inattention, speeding, ''aggressive'' driving). However, progress in developing countermeasures to reduce the incidence of unsafe driving behaviors has been limited. Two reasons for this limited progress are the difficulty of measuring the incidence of unsafe driving acts (UDAs), and a poor understanding of the circumstances under which various UDAs are most likely to lead to crashes.

One of the most frequently cited UDAs involves speeding. This specific behavior and its effect on crash frequency remains highly controversial. Speeding can be defined in at least two ways: (1) exceeding the posted speed limit; and (2) driving too fast for conditions. Speed affects both crash worthiness and crash avoidance. It is clear that speeding increases the severity of crashes, since the energy released in a crash increases by the square of vehicle velocity. It has also been demonstrated that increasing speed reduces a driver's ability to steer safely around curves or objects in the roadway, extends the distance necessary to stop a vehicle, and thus increases the distance a vehicle travels while the driver reacts to a dangerous situation. According to police crash reports, approximately one third of all fatal crashes involve speeding as a primary cause. While this kind of information may provide a rough estimate of the incidence of speeding in fatal crashes, it does not provide sufficient insight into the causal relationship between travel speed and crash involvement. All things considered, we still have inadequate information relating to the extent to which speed contributes to crash causation and the conditions under which speeding most often results in a crash.

There are a variety of other UDAs that have a high likelihood of causing crashes. They include: running red lights and stop signs, following too closely, passing improperly, weaving through traffic, etc. Recently, the term ''aggressive driving'' has been used to refer to a number of unsafe driving actions that are accompanied by an apparent aggression exhibited by one driver toward another.

What We Have Learned

Crash study work has shown unequivocally that most crashes are attributable to human performance problems including improper lookout, speeding, inattention, improper evasive actions, and distractions. In terms of speed, we know that slower speeds are accompanied by fewer and less severe crashes, but the exact nature of this relationship needs further documentation. We also know that higher levels of speed variance on roadways has been shown to be associated with increased crash risk.

We do know that, among drivers involved in fatal crashes, younger drivers of either sex are more likely to have been speeding than older drivers. Males, at any age, are more likely than females to have been speeding. There also appears to be a strong positive correlation between speed and alcohol involvement in fatal crashes. Drivers at high BACs are more likely to have been speeding than those at lower BACs. With regard to roadway type, 43 percent of crashes reported to have involved speeding occur on non-interstate roads with a speed limit of 55 mph. Forty-five percent occur on roads with speed limits of 50 mph and below. Only 12 percent of fatalities involving speeding occur on interstate highways.

Research suggests that the perceived probability of getting caught is more important than perceived severity of fine in controlling speeding behavior. As in other areas of traffic law enforcement, it appears that enforcement of speed limits must be accompanied by publicity if general deterrence of speeding is to occur. The importance of perceived risk of getting caught, along with decreased resources for traffic law enforcement, have led some officials to view the use of automated speed enforcement as a desirable alternative. Currently, however, public support for automated speed enforcement appears to be limited.

Current Research and Evaluation

The agency is currently conducting three separate research projects dealing with speeding and unsafe driving: (1) A survey of public attitudes and behaviors toward speeding and other unsafe driving actions; (2) a crash investigation study to examine the role of unsafe actions in crashes; and (3) a review and analysis of existing data to suggest guidelines for setting speed limits. The survey of public attitudes regarding speeding and other UDAs will assess views toward enforcement, motivations for speeding, anticipated consequences, and the acceptability of various measures to reduce unsafe driving behaviors. The crash investigation effort involves a clinical case study approach in which a sample of crashes will be reconstructed with a focus on identifying the specific behaviors that lead to the crash. The objective of the speed limits study is to develop data-based guidelines for setting speed limits. This study is co-sponsored by NHTSA, the Federal Highway Administration and the Centers for Disease Control, and is being performed by the Transportation Research Board.

One problem that current studies do not address is the absence of research that estimates the level of crash risk associated with speed levels, under differing traffic and environmental conditions. To address this issue, an epidemiological study is being developed in which the travel speeds of crash-involved vehicles will be compared with travel speeds of matched non-crash involved vehicles. An additional study is being initiated in October of 1997 to test the feasibility of equipping a fleet of vehicles with speed and position recorders to determine the crash-involvement rates of drivers with differing speeding habits.

Strategic Issues for Research on Speeding and Unsafe Driving Actions

• The nature of the relationships among speed, driver characteristics, roadway conditions, situational factors, and crash rates is currently unknown. Without such knowledge, speed limits are set using somewhat arbitrary standards, and are often viewed negatively by the driving public. In order to develop effective countermeasures, the complex relationship between speed and crashes must be much better understood and documented.

• After the relationship between speed and crashes is more clearly defined, drivers and members of the general public need to be made aware of the conditions under which speed leads to crashes.

• When large numbers of drivers ignore posted speed limits, it is difficult to identify drivers who are most likely to be involved in crashes. Appropriate target-group identifiers might be more related to overall driving habits than to events identified in single episodes. Searching for characteristics of at-risk drivers will require in-depth studies of driver behavior.

• ''Aggressive driving'' implies a social-interactive component to the commission of unsafe driving actions. However, there is no common definition of aggressive driving. Without a definition, it is difficult to determine the incidence of such a phenomenon and how it is related to crash causation.

• Automated enforcement of speed and other UDAs are not widely accepted by law

enforcement agencies or the general public. Acceptance may be facilitated by implementation and evaluation of such technology where compliance with speed limits is critical or where offenses are least tolerable to the public (e.g., red-light running or speeding near schools or hospitals).

Older Drivers

Background

NHTSA first developed a plan to address the combined safety and mobility needs of older drivers in 1988. This plan was developed in response to the Transportation Research Board's publication, Transportation in an Aging Society. The plan was last revised in 1993, at the request of Congress. People over 70 currently comprise 9 percent of the population and 13 percent of fatalities. Although older drivers are highly over-represented in crashes per miles traveled, they are only slightly over-represented in fatal crashes per licensed driver. However, demographic trends project that the proportion of older drivers on the road will increase from the current 9 percent to over 14 percent within the next 25 years. Primarily because of increased frailty, the ratio of fatalities to injuries for drivers over age 80 is 4 to 6 times that of crash-involved drivers between 20 and 60. Thus, as the numbers of older drivers on the road increase, it is inevitable that more will be killed in crashes, unless special efforts are made to improve their safety.

What We Have Learned

The majority of older drivers do *not* constitute a major safety problem. Research has indicated that most older drivers adjust their driving practices to compensate for declining capabilities. They reduce or stop driving after dark or in bad weather and avoid rush hours, high speed roads and unfamiliar routes. Men appear to be somewhat more reluctant than women to stop driving and consequently are at a higher risk of crashing than women of comparable age. Conditions such as memory loss, glaucoma, and antidepressant use appear to be related to increased crash risk.

Some older persons are not aware of their changing conditions; most notably, those with cognitive disorders, such as Alzheimer's disease, and certain visual problems. These drivers may not self regulate and, as a result, pose an increased risk of crash involvement. Such individuals may require outside intervention to remove them from traffic. Unfortunately, research suggests that most family members, social service agencies, and health care professionals are either not sufficiently aware or choose not to provide assistance in making driving-related decisions to those who need it. For a variety of reasons, many appear hesitant to get involved with this issue.

Those elderly drivers who remain a problem are not easily detected with standard licensing procedures. Further, there is some doubt as to whether most licensing staff have the skills necessary to detect these problem drivers, even with training and state-of-the art testing techniques. Diagnostic tests currently in use have not been shown to be effective in identifying those older drivers who are at increased crash risk, but some recently developed tests of ''speed of attention'' and ''visual perception'' may have such potential.

One factor that must be considered with regard to interventions is the fact that elderly people who give up driving often lose mobility. For many, the automobile is their primary mode of transportation and acceptable alternatives are simply not available. Decreased mobility is frequently followed by decreased quality of life as elderly people are cut off from the social events, family visits, medical attention, and opportunities for worship that are critical in maintaining their sense of well being.

Current Research and Evaluation

Several long-term efforts are now approaching conclusion. These developmental projects include: (1) Procedures to help elderly drivers make better decisions about adapting their driving to accommodate their changing abilities; (2) procedures for family members, friends, social service agencies, physicians, and other health-care providers to recognize when an older person needs to adjust his or her driving to adapt to functional limitations; (3) procedures for driver licensing agencies to restrict or deny licensing for those who do not appropriately restrict their driving; and (4) model programs for medical and social-service agencies to help older people to make appropriate decisions about driving while maintaining their mobility. Current efforts also include a survey to determine societal perceptions and willingness to assist older drivers to better regulate their driving, and a field test of special licensing requirements for older drivers.

Strategic Issues for Research on Older Drivers

- Older drivers have higher fatality rates, per-mile driven, than do average-age drivers. Two factors that contribute to this measure of increased risk include: (1) the fact that elderly drivers travel fewer miles on interstate highways and other major roadways; and (2) the fact that elderly drivers are more fragile than younger drivers. Roadways most often used by elderly drivers, while involving lower speeds, often have more opportunities for vehicle-to-vehicle conflict. Thus, elderly drivers are exposed to more potential crash situations per mile than is the average driver. Because of their fragility, an elderly person involved in a crash is more likely to be seriously injured or killed than is a younger person. Other factors, such as the types of crashes older drivers are involved in, are also likely to be important and the development of effective countermeasures will require a better understanding of these factors.
- Some state licensing officials have suggested establishing a ''graduated'' licensing system for older drivers, whereby driving would be systematically restricted to certain driving situations based on reduced abilities. Such a system would entail some expense and it would depend upon accurate and validated testing procedures that are not yet available. Also, it must be remembered that most older drivers appear to impose restrictions on themselves. Development and evaluation of such a model graduated licensing programs could provide important information with regard to the potential for widespread adoption of such programs.
- There is some disagreement as to whether licensing personnel can accurately assess an older driver's ability to drive. It may be that individuals with more specialized training and experience will be required. Research is needed to determine if licensing personnel are able to take on this role and, if so, what kinds of selection procedures and training will be required.
- It is likely that more older persons will drive longer in the future than they do now, further increasing their exposure to crashes, injuries, and fatalities. While NHTSA's responsibilities for increasing safety are clearly defined, its role in extending mobility is not. Additional information (e.g., determining the extent to which loss of driving contributes to risk of death or injury as a pedestrian) is needed to clarify the level of effort the agency should place on developing programs to foster safe mobility for older people by helping them continue to drive or by helping them make the transition to other modes of transportation.
- One of the most significant reasons for elderly drivers' over-involvement in fatal crashes is the inability of their bodies to absorb crash forces. What would be a survivable crash for a younger person is often a fatal crash for an older person. Current occupant-protection standards do not specifically address the frailty of older occupants. More information is needed to establish the feasibility of improving the protection of older people when they are in a crash.
- Some of the causes of older-driver crashes could conceivably be corrected using new vehicle technology. Although adaptive devices have a long history of permitting people to overcome various handicaps, older persons are among the last to adapt to new technology. Additional research in this area could provide useful information regarding the acceptability of technology-based innovations designed to help older, functionally less able people continue to drive.

Pedestrians, Bicyclists, and Motorcyclists

Background

Over the past 25 years, NHTSA has made substantial progress in improving the safety of pedestrians and bicyclists, particularly in understanding factors leading to pedestrian and bicyclist crashes. Pedestrian crashes involving young people aged 5–12 have declined by about 25 percent since this training and public education work began. However, pedestrian crashes involving young people remains a severe problem with about 30,000 such crashes occurring annually. Older persons also pose a significant over involvement in pedestrian crashes. While they constitute only 13 percent of the total population, they are involved in about 23 percent of pedestrian crash fatalities.

Another significant component of the pedestrian crash problem involves alcohol. Research has shown that about half of all fatal adult pedestrian crashes involve either an intoxicated pedestrian (31 percent of cases), or an intoxicated driver (14 percent of

cases). Finally, the pedestrian crash problem is especially severe in several large urban areas where nearly half of all those killed in motor vehicle crashes are pedestrians.

While the pedestrian (and bicyclist) crash problems remain serious, the public's attention is not as strongly focused on these issues as it is on other areas, such as impaired driving, aggressive driving, etc. In addition, shifts in traffic safety priorities in the early 1980s resulted in a reduced emphasis of pedestrian and bicyclist issues. In spite of these obstacles, a number of prototype public information and education products have been developed, tested and found to be effective.

What We Have Learned

Crash investigation studies have shown that most crashes involving pedestrians or bicyclists and motor vehicles can be categorized into a few major types based on a combination of behavioral errors and environmental conditions. Research has shown that training and public education programs focused on these main crash types can reduce the incidence of young pedestrian crashes (age 5–12) by as much as 25 percent. Past research indicates that there is more than a 500 percent increase in crash risk for pedestrians at BACs of .15 percent or above. Other studies have determined that Native Americans, male Hispanics, and African-Americans over the age of 25 are over-represented in alcohol-related pedestrian crashes. Alcohol is also a major factor in both bicyclist and motorcyclist crashes, with 25 and 30 percent of such fatalities, respectively, involving BACs over .10 percent.

In 1996, 2160 motorcyclists were killed and an additional 56,000 were injured in traffic crashes. Since 1986 the fatality rate per hundred million vehicle miles traveled decreased dramatically: from 48.6 in 1986 to 22.7 in 1995. Per vehicle mile traveled in 1995, motorcyclists were about 16 times as likely as passenger car occupants to die in a motor vehicle crash and about 4 times as likely to be injured. In 1996, there were 1,048 two-vehicle crashes involving a motorcycle and another vehicle. In 35% of these crashes the other vehicle was turning left while the motorcycle was going straight, passing or overtaking the vehicle. Crash statistics show that helmets are about 29 percent effective in preventing crash fatalities and 67 percent effective in preventing serious injury. Also, we know that states which have enacted mandatory helmet laws for all riders experience almost 100 percent helmet use; however, in states without such laws, helmet use ranges from 34 percent to 50 percent. Motorcycle operators involved in fatal crashes in 1996 had higher intoxication rates than any other type of motor-vehicle driver. In 1996, 31 percent of all fatally injured motorcycle operators were intoxicated and another 11.5 percent had positive BACs between .01–.09. As one way of countering this problem, NHTSA research developed a set of DWI motorcyclist cues (e.g., drifting during turn or curve, trouble with dismount, weaving) that have been found to be predictive of impaired motorcyclist operation. Information about these cues have been widely distributed to police agencies throughout the country.

Current Research and Evaluation

Current research is focused on development and testing countermeasures to reduce pedestrian crashes involving children, alcohol-impaired adults, and elderly persons; investigating the effect of vehicle speed on pedestrian crashes; and developing a catalogue of available measures to reduce bicyclist crashes. Periodic surveys are also being conducted to determine the nature and extent of the public's view of the pedestrian and bicyclist crash problem. In the motorcycle area, efforts are being focused on evaluating the impact of repealing motorcycle helmet laws in various states, on the effectiveness of various means for increasing the visibility of motorcyclists; and on developing and evaluating effective training and licensing programs for novice motorcyclists.

Strategic Issues for Research on Pedestrians, Bicyclists, and Motorcyclists

- Over the past 10 years, fatal crashes have declined substantially for both pedestrians and bicyclists. In order to determine the causes for this decline, we must find a way to measure the magnitude and trends in the exposure of pedestrians and bicyclists to crash situations.
- Most pedestrian crashes occur in urban settings. In some cities, half or more of those killed in motor-vehicle related crashes are pedestrians. Thus, to be effective, existing countermeasures must be adapted to meet the unique demands of the large-city environment. Although existing countermeasures have been tested individually, they have not been tested in combination, in a big-city environment.
- Nearly all of NHTSA's research on pedestrian and cyclist crashes with motor vehicles has emphasized the role of the pedestrian or the bicyclist, rather than the driver of the car or truck. In order to develop more effective comprehensive programs for pedestrians and cyclists, more information is needed regarding driver awareness of these road users and of how they interact.
- In many cities, especially in the eastern portion of the United States, drivers do not yield to pedestrians, as required by law. Past research has found that drivers making a right-turn-on-red maneuver often do not fully stop their vehicles nor adequately search for pedestrians. An assessment of driver compliance with existing laws and ordinances is necessary before a review of current laws governing pedestrians, bicyclists, and drivers can determine whether existing laws should be modified or new model legislation should be drafted.
- NHTSA has developed training materials for a number of professional groups to alert them to the safety problems of pedestrians and bicyclists and how to address them. These groups include police, traffic engineers, city planners, and highway safety specialists. Another important group for which materials need to be produced are elementary school teachers.
- The lack of visibility, including nighttime conspicuity, remains a substantial problem contributing to motor vehicle crashes with pedestrians and bicyclists. More information is needed on the requisite materials and devices that should be worn or used by pedestrians and bicyclists in order to make these road users more visible to traffic.
- Research is underway to catalogue current countermeasures available to address bicyclist safety This effort is intended to identify those areas in need of additional development.
- The Federal Highway Administration is developing a prototype software package to permit communities to assess their unique pedestrian and bicyclist safety problems. Before this software can be widely distributed, it must be tested under real-world conditions.
- A joint effort with the Federal Highway Administration resulted in a pedestrian and bicyclist safety training program for traffic safety professionals. Research to improve awareness levels of public and highway safety professionals has evolved into coalition called the ''Partnership for a Walkable America.'' One of the objectives of this group is to stimulate research to help the general public understand the seriousness of the pedestrian and bicyclist crash problems.
- NHTSA recently developed an extensive program to address school-bus safety issues. This program was adopted by the National Safety Council and has been widely distributed. While the program was tested during its development, it has not yet been evaluated as implemented by local communities.
- In nearly every state with a law requiring motorcyclists to wear helmets, there are efforts to repeal that law. Most of the states that repealed their motorcycle helmet laws in the 1970s and 1980s reinstated them a few years later. However, new efforts are currently underway in most states to repeal these laws. State legislatures change with time, and many current lawmakers, who may not be aware of past history and demonstrated effectiveness of these laws, may be convinced to vote for repeal. Supporters of helmet laws need up-to-date factual information about the increased injury severity, increased fatalities, and increased medical costs that inevitably result from rescinding motorcycle helmet laws.
- Many crashes involving motorcyclists result for drivers who ''looked but did not see'' the cyclist. Past efforts at increasing the conspicuity of motorcyclists resulted in the practice of riding with headlights ''on'' at all times, including daylight hours. Research attention must be refocused on developing more effective means for making motorcyclists visible to car and truck drivers and on developing and testing more effective training and licensing programs for novice riders.
- The most recent systematic analysis of motorcycle crashes was done nearly 20 years ago. During this time, motorcycle designs have changed dramatically, favoring sleeker and faster bikes with lower profiles, urban areas have expanded while roadways have deteriorated, and riding practices have adapted to these changes. These events have an unknown effect on motorcycle crashes and, consequently, the program actions needed to counteract them.

Novice Driver Education

Background

NHTSA was substantially involved in novice driver education research from the late 1960s through the early 1980s. However, the agency reduced efforts in this area after a major demonstration program showed no long-term crash or violation reductions resulting from what was then a state-of-the-art novice driver education and training program. In 1994, Congress requested recommendations from NHTSA on ways to improve novice driver education and the agency developed and submitted to Congress a ''Research Agenda For an Improved Novice Driver Education Program.'' This report reviewed the history of driver education (including, but not limited to NHTSA's research and demonstration efforts), suggested reasons why novice driver education may not be as effective as it could be, and suggested that an improved driver education program should be developed as an integral part of a graduated driver licensing system. The report also provided a summary of research, development, and evaluation activities that could be used to restructure and improve the impact of novice driver education. The proposed program would have two-stages of education that would parallel stages of a graduated licensing system. It would include parent participation, and it would incorporate the use of electronic simulation to provide risk-management training.

What We Have Learned

Driving is a complex task that requires many hours of practice to reach proficiency in all situations. Much of the time the driving task is non-demanding in nature and the basics of vehicle control that are learned in a brief training program generally provide the skills necessary to drive safely in non-demanding situations. However these short courses do not provide the adequate training to meet the occasional, but critical, situations where the driving task becomes very demanding. Clearly, advanced risk-management skills cannot be learned in a short time, nor can they be learned before the basics of vehicle handling are mastered. This suggests the need to separate the teaching of the two kinds of skills into two separate learning situations. Since an additional learning requirement would require strong motivation to get novice drivers involved, it is logical to tie this two-stage driver education approach to the attainment of the drivers' license. Graduated licensing programs provide the structure in which two-stage driver education could be most effective.

Current Research and Evaluation

Current research is focused on developing and pilot testing materials for use in a two-staged driver education training program. Materials include curriculum modules covering essential perceptual and cognitive training as well as materials to guide parental involvement in providing appropriate experience and modeling proper driving behaviors. Current research is also examining interactive electronic media for use in learning and practicing advanced, risk-management skills. Evaluations of graduated driver licensing systems are being conducted in Michigan and in North Carolina. Michigan's system includes a two-stage driver education program with parent participation.

Strategic Issues for Research on Novice Driver Education

- In view of the finding that conventional driver education has little impact in terms of reducing novice driver crashes and violations, any new program approach must show that it has the potential to reduce the number, frequency, or severity of crashes of novice drivers. Since research on two-stage driver education could be confounded by the independent effects of graduated licensing, efforts must be made to control for such effects.
- The success of the two-staged driver education program depends in large part on the novice driver obtaining a significant amount of driving experience under low-threat conditions before he or she moves on to the second stage of training. Graduated-licensing systems attempt to use parents (or other significant adults) to provide this initial experience, but it is not known to what extent parents and other adults will actually participate or what kinds of situations will maximize such participation.
- The two-stage driver education program is designed to be an integral part of a graduated driver licensing system. The intent is to use the prospect of full licensure to provide the motivation to novice drivers to fully participation in the program. However, it may be that mandating such training will impose significant hardships on some individuals. The ramifications of requiring the driver education as a part of graduated driver licensing versus providing it as an optional component need to be explored.
- If a more difficult licensing exam is given as an exit (final) exam, most state licensing authorities could not assume the additional costs. Alternative approaches include having states charge applicants for this test or having training facilities provide this testing service for the licensing agency. Additional information about the potential consequences of these alternatives is needed to provide guidance to the states.
- When public school systems discontinue driver education programs, aspiring novice drivers are faced with the requirement of obtaining training though commercial agencies. A two-stage education program would place even more demands on already burdened school systems. Most foreign countries require that novice drivers take formalized training and pay for it themselves. The ramifications of adopting such a system for this country are currently unknown.
- With increased immigration, there is an increase in older novice drivers. While these older drivers do not show the age-related judgement errors associated with young novice drivers, they still have a higher level of crashes than experienced drivers of their own age. Since these drivers are older, often are less fluent in English, and may have learned to drive in another country, the extent to which they would benefit from a graduated driver licensing and education program oriented to younger, English-speaking novice drivers is not clear.
- Additional information is needed regarding the appropriate role for the Federal government to assume in developing and promoting a novice driver education program for use by states and communities.
- Developers of any complex program such as this, must solicit and consider the viewpoints of partners. A variety of mechanisms and approaches (e.g., consensus workshops) exist to meet these needs. More information about the views and preferences of various partners will be necessary to gain agreement on issues such as the basic training content needed for novice drivers and the development of model education and training programs that meet the needs of the various organizations involved.

Emergency Medical Services (EMS)

Background

EMS differs from the other program areas receiving research attention in that it is entirely focused on post-crash rather than pre-crash events. Much of what is known regarding emergency out-of-hospital medical care stems from clinical studies of stabilized patients in treatment settings. This knowledge is not always applicable to the pre-hospital setting, where EMS is provided to injured, medically-unstable patients in the field. Consequently, there are gaps in our knowledge of effective out-of-hospital care. A key impediment to research on EMS is the absence of a well defined, uniform, and complete data system to track performance of EMS systems at local and the national levels. This lack of data makes it difficult to set a strategy for EMS research.

What We Have Learned

EMS research conducted by NHTSA has focused primarily on the high mortality rate found in rural settings. Results from studies in three states indicate that from 12 percent to 29 percent of deaths from highway trauma in rural settings could be prevented by changes in patient care.

Current Research and Evaluation

Current research projects are developing appropriate outcome measures for measuring EMS effectiveness and are evaluating recommendations for reducing preventable deaths in rural traffic crashes. These recommendations resulted from an earlier study of rural preventable mortality.

Strategic Issues for Research on Emergency Medical Services

- Data provide the foundation for all research efforts but there are significant barriers to collecting relevant and accurate EMS data. Either the data do not exist, are not collected in a reliable fashion, or cannot be linked with other data sets to allow tracking of patient outcomes. The integration of information systems is not possible with most of the EMS data that is currently collected.
- The effectiveness of many EMS interventions currently being delivered by pre-hospital personnel is not adequately documented. Virtually no clinical research has been conducted with injured patients in the pre-hospital setting. Such research is

needed to ascertain the effectiveness of current EMS practices on patient outcomes, including reduction in the classic ''6D's'' (i.e., death, disease, disability, discomfort, destitution, and dissatisfaction).

• Retrospective analysis of EMS treatment of crash victims in rural settings revealed that errors or omissions in care were involved in nearly 30 percent of fatalities. Conclusions from these studies suggest a need to improve training in specific clinical interventions by EMS personnel, particularly in rural settings.

• EMS personnel in most states are trained and periodically re-trained using NHTSA's pre-hospital curricula or similar programs. Little is known about retention periods for the material learned, need for skills updating, best methods for training, and related professional development and certification issues. Research into these areas will be needed to make improvements in NHTSA's curriculum.

• There are many reasons to use pre-hospital personnel to teach injury prevention at the community level. Some of the most obvious include: (1) The positive status and acceptance of these providers among the general population; (2) the public's willingness to accept an injury prevention message from pre-hospital providers; (3) availability of EMS providers, when they are not engaged in EMS activity; and (4) the potential cost savings that could result by preventing injuries. However, it is not clear when or where these people are effectively utilized for this purpose. Such knowledge could enhance injury-prevention activities.

• Accessibility and availability of emergency care to all is a basic EMS principle. However, enrollment in managed care plans is growing at phenomenal rates and most plans require additional levels of review before authorization and payment for EMS services is made. These additional requirements may consume precious time in emergency situations that can literally mean the difference between life and death. Research into the effects of these review requirements on EMS outcomes is needed.

• A comprehensive, well defined, national research plan that could be embraced by the many partners in the EMS community is needed. Such a plan would involve researchers and organizations in both the public and private sectors. NHTSA could provide the leadership for the development of such a plan.

Safe Communities

Background

Safe Communities is a program area managed jointly under NHTSA's Associate Administrations for State and Community Services and Traffic Safety Programs. Safe Communities bring together citizens and a wide range of local agencies and businesses, such as law enforcement, hospitals, managed care facilities, emergency medical services, schools, insurance companies, other public and private businesses and local governments. These organizations then appoint members to work on solving local traffic safety (and other injury causing) problems. Program offices within the agency (e.g., State and Community Services and Traffic Safety Programs' Office of Communications and Outreach) provide the day-to-day management of the Safe Communities Program. The Office of Research and Traffic Records, Research and Evaluation Division (ORTR/RED) provides technical expertise on matters relating to evaluation for this key program area.

The Safe Communities program is similar to the Corridor/Community Traffic Safety Programs (C/CTSP). However, the Safe Communities program uses a ''bottom-up, '' data-based approach to identify and address key injury problems. Additionally, this program includes an expanded base of partners than the C/CTSPs. In addition to the traffic law enforcement, highway safety offices, and emergency medical services groups, a Safe Community includes citizens, business, and other health care providers such as hospitals, managed care facilities, and rehabilitation centers. Presently there are over 300 community-based, locally-supported Safe Communities in various stages of development.

Four key components of a Safe Communities program are: (1) Injury data analysis and (where possible) database linkages; (2) expanded partnerships, especially with health care providers and business; (3) citizen involvement and input; and (4) an integrated and comprehensive injury control system.

What We Have Learned

The safe communities program is a new initiative. Evaluation results and lessons learned will be published in forthcoming annual reports on the program.

Current Research and Evaluation

As of September of 1997, NHTSA has selected two communities to serve as model demonstration sites for the Safe Communities program. They are Dallas, Texas and Greenville, North Carolina. ORTR/RED is currently providing technical evaluation expertise to these two model Safe Community sites. It is anticipated that this service will be extended to two additional model sites that are to be selected in the near future.

Strategic Issues for Research on Safe Communities

• Success in disseminating safety programs to new communities depends in large part on having evidence of success. Accordingly, it is desirable to obtain information about which Safe Communities are thriving and which are faltering and what characteristics the stronger programs have in common. Knowledge regarding these factors and any identified deficiencies in weaker programs will permit intelligent revisions in these programs to maximize success.

• Currently, linkages between crash records and rehabilitation records are usually limited to physical therapy, occupational therapy, and recreational therapy. Information on the feasibility including and linking additional information (e.g., information regarding referral to alcohol or drug rehabilitation programs) would be extremely useful to program managers.

• A Safe Community is a coalition of medical, enforcement, educational, business, and civic groups in a community. Such a coalition must include close ties, communication, and cooperation among member groups. Additional research is needed to define the mechanisms that enable, facilitate, and strengthen the formation of such inter-organizational ties. In order to facilitate the perpetuation of Safe Communities, information is needed regarding the objectives of the various members, how they interact, and how to counter the forces that contribute to a program's disintegration.

• Program evaluation provides the evidence that newly developing Safe Communities need to survive. Information on both short-term and long-term successes is needed, along with a better understanding of which outcomes are most important to each of the participating members of a safe community.

Technology Applications

Background

The traffic safety community is anticipating future increases in vehicle travel and risks of crashes, with no such increases in funding for safety programs. Police agencies, under pressure to fight serious crime with reduced budgets, are allocating fewer resources to traffic-law enforcement—even though well-publicized traffic-law enforcement is the proven key to compliance with safety-based laws. With the easiest gains already made, safety experts will now have to address populations and problems that have historically been most difficult to change (e.g., chronic offenders, risk-takers, rural residents).

In order to improve the effectiveness and efficiency of safety and enforcement programs, ORTR/RED plans to extend its exploration of emerging technologies. Since the early 1980s, the agency has evaluated equipment such as alcohol breath-test sensors and laser speed-measuring devices. More recently, evaluations have focused on newer technologies such as ''smart card'' drivers licenses that prevent fraudulent ID, ignition interlock devices, electronic monitoring wristbands (worn by drivers with suspended licenses) to ensure court-imposed driving restrictions, and electronic vehicle and driver identification systems. ORTR/RED is also monitoring technology developments such as portable computers to assist police when entering crash or ticket citation data, cellular telephones for rescue calls, automated crash-notification systems, and photographic systems to automate ticketing for red-light running.

In recent years, electronics and communication technologies have been developed to improve highways and vehicles. Government agencies and the private sector have allocated significant resources to develop an ''Intelligent Transportation Systems'' (ITS). Their efforts have focused on commercially appealing applications such as congestion relief, navigation information, electronic toll collection, and onboard ''Mayday'' communication systems for personal security.

Adaptations of these emerging technologies could have significant potential to aid emergency rescue services, crash

investigations, traffic law enforcement, and other traffic safety efforts. However, many traffic-safety priorities, such as increasing safety belt use and reducing impaired or aggressive driving, might involve vehicle or driver-license technologies requiring public investment, vehicle regulations, or court-imposed use—a contrasting paradigm from the current ITS ''free-market'' perspective where motorists pay for high-tech services.

What We Have Learned

Applied technology provides demonstrated benefits in safer driving behaviors and reduced crashes. For example, speed enforcement using photo radar reduced injury crashes by 20 percent on Norway's rural roads, and Australia's metropolitan roads saw 20–49 percent reductions in crash severity. At one busy intersection in Maryland, red-light running was reduced by 27 percent, by using an automatic system just to mail warnings to violators. Elsewhere, the risk of alcohol traffic violations by repeat offenders was curtailed by as much as 65 percent in the first year, while their vehicles were equipped with alcohol breath testing equipment and ignition interlocks.

Notwithstanding these possible benefits, the traffic safety community in the U.S. has been reluctant to adopt technology applications. Initial experiences with automated speed enforcement and safety-belt interlocks have generated political opposition. However, increasing public concerns with aggressive driving and red-light running may create a climate of greater acceptance for carefully selected demonstration projects. Widespread public acceptance of traffic safety technologies will depend on the degree to which motorists are convinced that these applications improve traffic safety, are affordable, reliable, fairly generate ticket revenues, deal with laws or matters that are respected by the public, and provide sufficient privacy protection. To help alleviate the public's fears about potential privacy intrusions and abuses by ''Big Brother,'' public information addressing technology design and program management must accompany the introduction of new technology.

Current Research and Evaluation

One project tested a laboratory prototype instrument that uses an infrared laser beam to detect alcohol vapor within the passenger compartment of the vehicle. The instrument is intended for use at checkpoints, stop signs and other traffic environments to screen vehicles for potentially impaired drivers. Another project is developing a system of sensors for use at checkpoints that detect vehicle maneuvers associated with impaired driving. If tests are positive, the system will be field tested in a subsequent study to assess its ability to improve police detection of drinking drivers at checkpoints.

Strategic Issues for Research on Technology Applications

- The ways in which ITS technology could be employed in the service of improving traffic safety are currently not known. Undoubtedly, some systems could be applied to traffic enforcement as currently designed (e.g., traffic observation systems could record data on law-breakers, speed monitoring devices could help enforce speed limits). Other components would need modification or adaptation to be used for traffic safety purposes. And there may exist traffic safety applications for which existing products cannot be modified to fit and will require new developmental efforts. Providing the traffic safety community with improved knowledge of the technological products that exist or are in development would help foster demand for and permit assessments of how the various technologies must be adapted in order to be applied to traffic-safety applications.
- Traffic-safety technologies face a number of practical concerns with which other ITS systems may not have to deal. In addition to being able to withstand crash forces, safety-oriented products must also resist tampering, jamming, counterfeiting, and other problems. Research is needed to identify factors that will influence production and deployment of technological devices and to define system characteristics that will minimize costs of production, deployment, operations, training, and maintenance and will foster the integration of technologies through sharing common hardware or systems.
- Development and deployment of traffic-safety technologies will require increased political support, executive leadership, institutional reforms, legislation, or regulations. Acceptance of these technologies by the traffic safety community will also require considerable attention to various critical concerns (e.g., privacy protection, ''ticketing by mail,'' and other institutional/legal barriers). Identification of the institutional partners and the barriers to full acceptance and implementation of traffic-safety technologies will permit the development of strategies and action plans to assist states and communities to make necessary accommodations for emerging technologies.
- The ultimate success of efforts to employ new technologies to improve traffic safety will depend on the acceptance and support of the public. Successful applications will require proactive dialog with members of the public to overcome their many valid concerns and reservations. Accordingly, research is needed to define the nature and extent of the public's concerns and to develop technical, legal, and administrative strategies to gain public support for technological solutions to traffic-safety problems.

Program Evaluation

Background

ORTR/RED routinely conducts evaluations in the areas of legislative changes, enforcement programs, and educational programs. ORTR/RED has conducted more than 200 program evaluations. Evaluations are conducted on agency-developed countermeasure programs and on selected programs that are implemented at the state level or local level, independent of the agency. For example, ORTR/RED initiated and evaluated a program in Baltimore, Maryland to determine the effect of various NHTSA-developed countermeasures to the alcohol-related pedestrian crash problem. ORTR/RED also evaluated the impact of California's upgrade of its safety belt use law to allow for primary (standard) enforcement procedures, and an evaluation was recently conducted of Maryland's ''zero tolerance'' BAC law for underage drivers.

What We Have Learned

Evaluations provide evidence of impact for several legislative, enforcement, education, and other countermeasure programs. As a result of past evaluations, the impact of several important programs has been documented to provided guidance and support for future federal, state, and local efforts. Some of the completed evaluations have documented the impact of programs such as: sobriety checkpoints and saturation patrols for impaired drivers, impoundment and forfeiture laws for repeat offenders, license plate sticker laws, minimum drinking age (21) laws, lower BAC limits for youth, .08 BAC levels for adults, drug evaluation and classification (DEC) procedures, passive alcohol sensors, alternative ride programs, safety belt laws, primary enforcement provisions of safety belt laws, child passenger safety laws, occupant protection strategies for rural areas, special traffic enforcement programs (STEP) for safety belt laws, enforcement and education efforts to increase toddler restraint use, motorcycle helmet laws (and repeals), motorcycle rider education and training programs, driver education and training programs, pedestrian programs for young children (including elementary school bus riders), publicizing insurance sanctions, speed enforcement programs using radar and laser devices, municipal speed enforcement programs, emergency medical services training, self-sustaining traffic safety programs, etc.

Evaluation efforts span all of the program areas. However, there are constraints involving limited staff and monetary resources. One of the key issues that needs to be addressed in the strategic plan is the practical matter of deciding which evaluations to perform and what level of resources needs to be available for quick turnaround evaluations of unexpected events (e.g. legislation) occurring in the states.

Current Research and Evaluation

Recently completed evaluations have demonstrated that: upgrading a secondary-enforcement safety-belt law to standard enforcement leads to an increase in belt use rates of about 15–19 percentage points; routine traffic enforcement reduces crime rates, both through police presence and by apprehending suspects for whom warrants have been issued; and youth peer-to-peer groups positively can affect attitudes and behaviors of teens regarding drinking and driving.

Current evaluations include: a national evaluation of Selective Traffic Enforcement Programs (STEPs) in 20 states; a national evaluation of child safety seat distribution programs; an evaluation of the repeal of the motorcycle helmet laws in Arkansas and Texas; an evaluation of why alcohol-related fatalities declined substantially more in 5 states than the rest of the nation; an evaluation of the crash problem on the Capital Beltway, and an evaluation of the

effects of the Section 410 Alcohol Incentive Grant Program.

Strategic Issues for Evaluation

- Determining which programs and types of countermeasures to evaluate is a question of setting priorities. Current suggestions for evaluation projects include examining the relative effectiveness of general deterrent legislation (e.g., .08 BAC limits) and specific deterrent legislation (e.g., vehicle impoundment for repeat DWI offenses) on the incidence of alcohol-related crashes.
- Another need is to evaluate the effect of driver license points as a sanction for safety belt use law violations.
- ORTR/RED's ability to offer program evaluation support to individual states and communities is limited. There are usually more programs in need of evaluation than ORTR/RED has capability to serve. One possible method to expand the number of evaluations that can be conducted would be to help develop the capacities of the states to perform evaluations.

[FR Doc. 97–28163 Filed 10–22–97; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 33472]

Fun Trains, Inc.—Operation Exemption—Lines of CSX Transportation, Inc. and the Florida Department of Transportation

Fun Trains, Inc. (Fun Trains), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150, Subpart D—*Exempt Transactions* to operate an excursion rail passenger service pursuant to trackage rights granted by CSX Transportation, Inc. (CSXT) and the Florida Department of Transportation (FDOT) over approximately 241 miles of their lines of railroad between MP 1034 at Hialeah, FL, and MP 793.5 at Poinciana, FL. The transaction was scheduled to be consummated on October 1, 1997.

On October 31, 1996, and January 6, 1997, Fun Trains and its corporate parent, First American Railways, Inc. (First American), entered into an agreement with CSXT entitled ''Trackage Rights Agreement'' and an agreement with FDOT entitled ''Operating Agreement'' (collectively, the Agreements). Pursuant to the Agreements, CSXT and FDOT will grant Fun Trains exclusive overhead trackage rights over their rail properties to operate a privately funded excursion passenger train to be known as the ''*Florida Fun Train.*'' The Agreements are for a 5-year term with an option to renew for another 5-year term, subject to Amtrak's right to operate intercity rail passenger service, the rights of publicly funded government agencies (or their agents) to run passenger service, the rights of others to operate high speed passenger service, and CSXT's right to run freight service over these lines. Amtrak will supply locomotives and crews. First American and Fun Trains will jointly and severally assume the obligations established under the Agreements.

Fun Trains will provide a one-way and a round-trip entertainment service between Hollywood and the Poinciana, FL areas, offering deluxe coach accommodations, food and beverage service, and on-board entertainment. No service will be provided to intermediate points in competition with the service presently provided by Amtrak or Tri-County Commuter Rail Authority and no joint ticketing arrangements will be available.[1]

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio.* A petition 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. 33472, must be filed with the Surface Transportation Board, Office of the Secretary, Case Control Branch, 1925 K Street, N.W., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on John D. Heffner, Rea, Cross & Auchincloss, Suite 420, 1920 ''N'' Street, N.W., Washington, DC 20036.

Decided: October 16, 1997.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 97–27972 Filed 10–22–97; 8:45 am]

BILLING CODE 4915–00–P

[1] Concurrently, Fun Trains filed a Motion to Dismiss for Lack of Jurisdiction, asserting that the proposed service is outside the Board's jurisdiction as a wholly intrastate excursion rail passenger service. The entire Board will address the jurisdictional issue raised by the motion to dismiss in a subsequent decision.

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–52–93]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Pub. L. 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–52–93 (TD 8659), Gasoline and Diesel Fuel Excise Tax; Registration Requirements (§§ 48.4082–2, 48.4101–1, 48.4101–2, 48.6427–8, and 48.6427–9).

DATES: Written comments should be received on or before December 22, 1997 to be assured of consideration.

ADDRESSES: Direct all written comments to Garrick R. Shear, Internal Revenue Service, room 5571, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection should be directed to Carol Savage, (202) 622–3945, Internal Revenue Service, room 5569, 1111 Constitution Avenue NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

Title: Gasoline and Diesel Fuel Excise Tax; Registration Requirements.

OMB Number: 1545–1418.

Regulation Project Number: PS–52–93.

Abstract: This regulation relates to the taxes on gasoline and diesel fuel and affects certain blenders, enterers, industrial users, refiners, terminal operators, throughputters, and certain persons that sell, buy, or use diesel fuel for a nontaxable use. The regulation provides guidance on registration, notification, and recordkeeping requirements which enable the IRS and taxpayers to verify that the proper amount of tax is reported, excluded, refunded, or credited.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations, farms, and state, local or tribal governments.

Estimated Number of Respondents: 322,550.

Estimated Time Per Respondent: Varies.

Estimated Total Annual Burden Hours: 36,885.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) whether the 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 collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: October 17, 1997.

Garrick R. Shear,

IRS Reports Clearance Officer.

[FR Doc. 97–28164 Filed 10–22–97; 8:45 am]

BILLING CODE 4830–01–P

UNITED STATES INFORMATION AGENCY

College and University Affiliations Program (CUAP)

NOTICE—Revised Request for Proposals (RFP). This notice amends the RFP published on October 2, 1997, providing for assistance awards by the Office of Academic Programs of the United States Information Agency to support free trade and market economies, and/or the environment and sustainable development. The RFP is amended to include Israel as an eligible country for proposed bilateral and trilateral projects. The RFP's closing date remains January 16, 1998. Potential applicants should refer to the RFP published on October 2, 1997 for full details about applying for assistance awards under this RFP.

FOR FURTHER INFORMATION CONTACT: Office of Academic Programs; Advising, Teaching, and Specialized Programs Division; College and University Affiliations Program (CUAP), (E/ASU), Room 349, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, phone: (202) 619–5289, fax: (202) 401–1433. Send a message via Internet to: affiliat@usia.gov to request a Solicitation Package. The Solicitation Package includes more detailed award criteria; all application forms; and guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To download a solicitation package via Internet: The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To receive a solicitation package via fax on demand: The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System,'' which is accessed by calling 202/401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify ''College and University Affiliations Program Officer'' on all inquiries and correspondence. Prospective applicants should read the complete **Federal Register** announcement before addressing inquiries to the College and University Affiliations Program staff or submitting their proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Dated: October 15, 1997.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–28067 Filed 10–22–97; 8:45 am]

BILLING CODE 8230–01–M

UNITED STATES INFORMATION AGENCY

Freedom Support Act Junior Faculty Development Program

ACTION: Request for proposals.

SUMMARY: The Academic Exchanges Division, European Branch of the United States Information Agency's Bureau of Educational and Cultural Affairs announces an open competition for an assistance award. Public and private non-profit organizations meeting the provisions described in IRS regulation 26 CFR 1.501(c) may apply to develop and administer a comprehensive faculty and curriculum development program for 82 young faculty from Russia, Ukraine and Kazakhstan who will be affiliated at accredited colleges and universities throughout the United States in the following fields: business administration, economics, educational administration, environmental studies, journalism, law, library science, political science, psychology, public policy, public administration, sociology, architecture and urban planning, cultural anthropology, history, linguistics, philosophy, literature, and American studies.

It is the intent of USIA to provide participants with high quality programs designed to meet their specific academic and professional needs, within the parameters of the JFDP, and to promote long-term sustained interaction between and among participants, U.S. faculty and their home and host institutions.

USIA anticipates awarding one grant for this program. Should an applicant organization prefer to work with other organizations in the implementation of this program, USIA prefers that a subcontract arrangement be developed. USIA will entertain separately submitted proposals for joint program management, but the proposals must demonstrate a value-added relationship, and must clearly delineate responsibilities so as not to duplicate efforts.

Overall grant making authority for this program is contained in the Mutual Educational and Cultural Exchange Act of 1961, Pub. L. 87–256, as amended, also known as the Fulbright-Hays Act. The purpose of the Act is ''to enable the Government of the United States to increase mutual understanding between the people of the United States and the people of other countries * * *; to strengthen the ties which unite us with other nations by demonstrating the educational and cultural interests, developments, and achievements of the people of the United States and other nations * * * and thus to assist in the development of friendly, sympathetic and peaceful relations between the United States and the other countries of the world.'' The funding authority for the program cited above is provided through the Freedom Support Act.

Programs and projects must conform with Agency requirements and guidelines outlined in the Solicitation Package. USIA projects and programs are subject to the availability of funds.

Announcement Title and Number

All communications with USIA concerning this RFP should refer to the announcement's title and reference number *E/AEE–98–04*.

Deadline for Proposals

All copies must be received at the U.S. Information Agency by 5 p.m. Washington, D.C. time on *Thursday, January 8, 1998*. Faxed documents will not be accepted at any time. Documents postmarked by the due date but received at a later date will not be accepted. Grants should begin in March 1998.

FOR FURTHER INFORMATION CONTACT: The Academic Exchanges Division, European Branch, E/AEE, Room 248, U.S. Information Agency, 301 4th Street, S.W., Washington, D.C. 20547, Telephone: (202) 205–0525, Fax: (202) 260–7985, E-mail: treed@usia.gov, to request a Solicitation Package containing more detailed information. Please request required application forms, and standard guidelines for preparing proposals, including specific criteria for preparation of the proposal budget.

To Download a Solicitation Package Via Internet

The entire Solicitation Package may be downloaded from USIA's website at http://www.usia.gov/education/rfps. Please read all information before downloading.

To Receive a Solicitation Package Via Fax on Demand

The entire Solicitation Package may be received via the Bureau's ''Grants Information Fax on Demand System'', which is accessed by calling 202/401–7616. Please request a ''Catalog'' of available documents and order numbers when first entering the system.

Please specify USIA Program Officer *Jill Jarvi* on all inquiries and correspondences. Interested applicants should read the complete **Federal Register** announcement before sending inquiries or submitting proposals. Once the RFP deadline has passed, Agency staff may not discuss this competition in any way with applicants until the Bureau proposal review process has been completed.

Submissions

Applicants must follow all instructions given in the Solicitation Package. The original and *nine* copies of the application should be sent to: U.S. Information Agency, Ref.: *E/AEE–98–04*, Office of Grants Management, E/XE, Room 326, 301 4th Street, S.W., Washington, D.C. 20547.

Applicants must also submit the ''Executive Summary'' and ''Proposal Narrative'' sections of the proposal on a 3.5″ diskette, formatted for DOS. This material must be provided in ASCII text (DOS) format with a maximum line length of 65 characters. USIA will transmit these files electronically to USIS posts overseas for their review, with the goal of reducing the time it takes to get posts' comments for the Agency's grants review process.

Diversity, Freedom and Democracy Guidelines

Pursuant to the Bureau's authorizing legislation, programs must maintain a non-political character and should be balanced and representative of the diversity of American political, social, and cultural life. ''Diversity'' should be interpreted in the broadest sense and encompass differences including, but not limited to ethnicity, race, gender, religion, geographic location, socio-economic status, and physical challenges. Applicants are strongly encouraged to adhere to the advancement of this principle both in program administration and in program content. Please refer to the review criteria under the 'Support for Diversity' section for specific suggestions on incorporating diversity into the total proposal. Public Law 104–319 provides that ''in carrying out programs of educational and cultural exchange in countries whose people do not fully enjoy freedom and democracy'', USIA ''shall take appropriate steps to provide opportunities for participation in such programs to human rights and democracy leaders of such countries.'' Proposals should account for advancement of this goal in their program contents, to the full extent deemed feasible.

SUPPLEMENTARY INFORMATION:

Overview

The Freedom Support Act Junior Faculty Development Program will provide a one-year, non-degree program of guided research, curriculum development, course auditing, course instruction and practical internships for approximately 47 Russian, 25 Ukrainian and 10 Kazakh young faculty. All participants are expected to be placed at U.S. host institutions under the mentorship of American faculty members in their respective academic disciplines. The Junior Faculty Development Program (JFDP) is intended to provide opportunities for young faculty with great potential as scholars and instructors in their disciplines to: (1) upgrade their knowledge of the subjects they teach; (2) acquire new teaching skills and methodologies; (3) produce new curricula; and (4) develop professional contacts and initiate institutional linkages for their home institutions.

The selected organization will administer the U.S. components of the Junior Faculty Development Program (JFDP). Overseas components, such as recruitment and selection of JFDP participants, will be facilitated in Russia by the Moscow Fulbright Representative Office, in Ukraine by USIS Kylv's Exchanges Office and in Kazakhstan by USIS Almaty.

Guidelines

Programs must comply with J–1 visa regulations. Please refer to program specific guidelines (POGI) in the Solicitation Package for further details. Administration of the program must be in compliance with reporting and withholding regulations for federal, state, and local taxes as applicable. Recipient organizations should demonstrate tax regulation adherence in the proposal narrative and budget.

Drafts of all printed materials developed for this program should be submitted to the Agency for review and approval. All official documents should highlight the U.S. government's role as program sponsor and funding source. The USIA requests that it receive the copyright use and be allowed to distribute the material as it sees fit.

Proposed Budget

Organizations must submit a comprehensive line item budget based on the specific guidance in the Solicitation Package. Awards may not exceed *$2,133,000*. Administrative and indirect cost should not exceed 20% of the total grant award. Grants awarded to eligible organizations with less than four years of experience in conducting international exchange programs will be limited to $60,000.

Applicants must submit a comprehensive budget for the entire program. There must be a summary budget as well as a breakdown reflecting both the administrative budget and the program budget. For further clarification, applicants may provide separate sub-budgets for each program component, phase, location, or activity in order to facilitate USIA decisions on funding.

Allowable costs for the program include the following:

(1) General Program Costs.
(2) Participant Costs.
(3) Administrative Costs.

Please refer to the Solicitation Package for complete budget guidelines and formatting instructions.

Review Process

USIA will acknowledge receipts of all proposals and will review them for technical eligibility. Proposals will be deemed ineligible if they do not fully adhere to the guidelines stated herein and in the Solicitation Package. Eligible proposals will be forwarded to panels of USIA officers for advisory review. All eligible proposals will be reviewed by the program office, as well as the USIA Office of Eastern Europe and NIS Affairs and USIA post overseas, where appropriate. Proposals may be reviewed by the Office of the General Counsel or by other Agency elements. Funding decisions are at the discretion of the USIA Associate Director for Educational and Cultural Affairs. Final technical authority for assistance awards (grants or cooperative agreements) resides with the USIA grants officer.

Review Criteria

Technically eligible applications will be competitively reviewed according to the criteria stated below. These criteria are not rank ordered and all carry equal weight in the proposal evaluation:

1. *Program Development and Management:* Proposals should exhibit, originality, substance, precision, innovation, and relevance to Agency mission. Objectives should be reasonable, feasible, and flexible. Proposals should clearly demonstrate how the organization will meet the program's objectives. A detailed agenda and relevant work plan should demonstrate substantive undertakings and logistical capacity. Agenda and plan should adhere to the program overview and guidelines described above.

2. *Multiplier Effect/Impact:* Proposed programs should strengthen long-term mutual understanding, including maximum sharing of information and establishment of long-term institutional and individual linkages. Proposals should also include creative ways to involve students in their U.S. communities.

3. *Support of Diversity:* Proposals should demonstrate the recipient's commitment to promoting the awareness and understanding of diversity.

4. *Institution's Record/Ability:* Proposals should demonstrate an institutional record of successful exchange programs, including responsible fiscal management and full compliance with all reporting requirements for past Agency grants as determined by USIA's Office of Contracts. The Agency will consider the past performance of prior recipients and the demonstrated potential of new applicants. Proposed personnel and institutional resources should be adequate and appropriate to achieve the program or project's goals.

5. *Follow-on and Alumni Activities:* Proposals should provide a plan for continued follow-on activity (without USIA support) which insures that USIA supported programs are not isolated events.

6. *Project Evaluation:* Proposals should include a plan to evaluate the program's success, both during the after the program. USIA recommends that the proposal include a draft survey questionnaire or other technique, plus a description of methodologies that can be used to link outcomes to original project objectives. Award-receiving organizations/institutions will be expected to submit intermediate reports after each project component is concluded or quarterly, whichever is less frequent.

7. *Cost-effectiveness and Cost Sharing:* The overhead and administrative components of the proposal, including salaries and honoraria, should be kept as low as possible. All other items should be necessary and appropriate. Proposals should maximize cost sharing through other private sector support as well as institutional direct funding contributions.

Notice

The terms and conditions published in this RFP are binding and may not be modified by an USIA representative. Explanatory information provided by the Agency that contradicts published language will not be binding. Issuance of the RFP does not constitute an award commitment on the part of the Government. The Agency reserves the right to reduce, revise, or increase proposal budgets in accordance with the needs of the program and the availability of funds. Awards made will be subject to periodic reporting and evaluation requirements.

Notification

Final awards cannot be made until funds have been appropriated by Congress, allocated and committed through internal USIA procedures.

Option for Renewals

Subject to the availability of funding for FY 1999 and FY 2000, and the satisfactory performance of grant programs, USIA may invite grantee organizations to submit proposals for renewals of awards.

Dated: October 15, 1997.

Robert L. Earle,

Deputy Associate Director for Educational and Cultural Affairs.

[FR Doc. 97–28065 Filed 10–22–97; 8:45 am]

BILLING CODE 8230–01–M

Corrections

Federal Register

Vol. 62, No. 205

Thursday, October 23, 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 ENERGY

Federal Energy Regulatory Commission

[Docket No. RP97-146-005]

U-T Offshore System; Notice of Proposed Changes in FERC Gas Tariff

Correction

In notice document 97–27191 appearing on page 53616, in the issue of Wednesday, October 15, 1997, make the following correction:

On page 53616, in the second column, the Docket No. should be as set forth above.

BILLING CODE 1505-01-D

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 920

[MD-043-FOR]

Maryland Regulatory Program

Correction

In proposed rule document 97–24986, appearing on page 49183, in the issue of Friday, September 19, 1997, make the following correction:

On page 49183, in the third column, under **SUPPLEMENTARY INFORMATION**, in the second paragraph, in the 11th line, ''rescue'' should read ''recuse''.

BILLING CODE 1505-01-D

federal register

Thursday
October 23, 1997

Part II

Department of Housing and Urban Development

24 CFR Part 3500, et al.

Strengthening the Role of Fathers in Public Housing Families; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Parts 5, 960, 964, 984, and 990

[Docket No. FR–4087–A–03]

RIN 2577–AB68

Strengthening the Role of Fathers in Public Housing Families

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Advance notice of proposed rulemaking; Notice of withdrawal.

SUMMARY: The Department published an Advance Notice of Proposed Rulemaking (ANPRM) on the subject of ''Strengthening the Role of Fathers in Public Housing Families'' on July 30, 1996 (61 FR 39812), with a 45-day comment period. The ANPRM invited public comments on measures, practices, and authorizations to local public housing agencies in support of efforts to encourage absentee parents, especially but not necessarily limited to absentee fathers, to play a more responsible social and economic role in the lives of families in PHA-owned or assisted developments. Upon review of comments received in response to that ANPRM, the Department has determined that it is unnecessary to go forward with a regulatory change at this point, but that the purposes described in the ANPRM and in this Notice would be best served by proceeding with the development of less formal guidance material, described below.

DATES: The ANPRM on the subject of ''Strengthening the Role of Fathers in Public Housing Families,'' published on July 30, 1996 at 61 FR 39812 is withdrawn as of October 23, 1997.

FOR FURTHER INFORMATION CONTACT: Richard A. Trebelhorn, Technical Assistance and Planning Division, HUD, Room 4236, 451 Seventh Street SW, Washington, DC 20410–5000, telephone (202) 708–3642 (this is not a toll-free number). A telecommunications device for hearing- and speech-impaired persons (TTY) is available at 1–800–877–8339 (Federal Information Relay Services). (This is a toll-free number.)

SUPPLEMENTARY INFORMATION:

I. Background

The Department published an Advance Notice of Proposed Rulemaking (ANPRM) on the subject of ''Strengthening the Role of Fathers in Public Housing Families'' on July 30, 1996 (61 FR 39812), with a 45-day comment period. HUD received comments from 32 entities, most of which were State or local housing agencies, and the substance of those comments is summarized below. In addition to comments received in response to the ANPRM, HUD convened a roundtable discussion on this subject in early September 1996, in which knowledgeable housing professionals and academics shared their thinking on measures that would encourage more responsible roles for fathers, and that would facilitate reuniting public housing families.

The comments on the ANPRM and comments and observations from the roundtable generally suggest that a formal rulemaking might be unnecessary, and in the absence of a compelling need for regulatory action, the Department has determined not to proceed with publication of a Proposed Rule at this time. Therefore, consistent with the majority of the comments on the ANPRM and the draft proposed rule, and with the recommendations of the roundtable, HUD will sponsor development of a ''best practices'' guidebook or source book for use in local fatherhood initiatives. HUD, or a contractor under HUD supervision, will visit a substantial number of sites—probably 12 to 15 locations beginning with and in addition to the known programs in Baltimore and Hartford—to gather information on best practices, procedures, attributes, and similar program elements or components of local programs compatible with the Department's goal of strengthening the role of fathers in public housing families.

Based on information gathered in the course of the site visits, information developed from the roundtable and comments on the ANPRM, and any other information that becomes available, HUD will develop a guidebook or source book of materials for PHA managers planning a fatherhood initiative. The materials in this guide or source book will emphasize ''how- to'' information on program modules or components that can be replicated, as opposed to narrative descriptions or case studies; case studies are expected to be used for illustrative purposes, but are not to be the principal focus of the research project or the resulting guide or source book.

Using inputs from the roundtable and the best practices study, HUD will use contracted resources to develop an Implementation Guide and a training package for use by PHAs electing to develop and implement a ''fatherhood initiative.''

The Guide would be a compendium of current thinking, reflecting but not duplicating the best practices material referenced above, that would be useful to housing authorities in initiating a local program to encourage or facilitate fathers' playing a more positive and responsible role in public housing families and communities. The training and implementation component is expected to include a short video to introduce HUD's interest in strengthening the role of fathers in public housing families, suitable for use with tenant groups and HUD field office staff as well as PHA personnel. It will also include detailed lesson plans and training materials for program managers at the PHA and project-site levels.

II. HUD Responses to Public Comments on the ANPRM

In drafting the Advance Notice of Proposed Rulemaking, HUD assumed an initial goal of reuniting families and bringing absent fathers back into their children's homes. Responses to the ANPRM and explicit comments in HUD's roundtable suggest that the ANPRM blurred necessary distinctions among several important goals. These include, at least, (1) facilitating the return of absentee fathers to their families; (2) encouraging men who are living intermittently or clandestinely with their public housing families to come forward and assert a responsible social and financial role; (3) assuring that estranged parents accept financial responsibility for their children in public housing; and (4) making it possible for absentee fathers to connect or re-connect with their children in public housing communities.

By subsuming these (and probably other) reasonable goals under a general statement of support for ''re-uniting families,'' the ANPRM assumed an active PHA role in areas and issues that generally are beyond the authority and the capacity of local housing agencies. HUD recognizes that the program outlined in the ANPRM required considerable refinement. The Department recognizes that many of the activities that would go into a local program for strengthening the role of fathers and encouraging fathers to play responsible roles in their children's growth and development fall more appropriately within the capacity and responsibility of social service agencies outside the housing authority.

Therefore, any further initiative in this area—including the proposed best practices guide and implementation package—will necessarily place less emphasis on a presumed role for a housing authority. This Notice identifies

PHA actions or activities already authorized in statute and/or regulation that can be employed to further the goals described in the ANPRM. The proposed best practices guidebook will address additional measures that can be undertaken by a PHA and/or another service agency or contractor, and the implications of such measures for PHA management, including financial management.

The ANPRM invited comments on several specific items, and most respondents commented on most of those elements. Those comments are summarized, under the subject area heading of the ANPRM that is addressed by the comment, as follows:

1. To the extent that it may be necessary to encourage responsible behavior by an absent parent, HAs would be encouraged, but not necessarily required, to:

a. Provide a priority for transfer among HA properties;

Summary: The vast majority of respondents pointed out that PHAs already have the latitude to permit, authorize, or require transfers among their properties, and that such policies are spelled out in tenant selection and assignment plans; no further regulation should be necessary.

Response: HUD accepts these comments, and acknowledges that transfer policies are best left to local decision-making. HUD will continue to examine the desirability or practicality of including in a transfer policy explicit recognition of requested transfers that would result in a family's better access to day care, or more convenient access to employment or job training, especially in cases involving a returning parent.

b. Offer a priority for a Section 8 certificate or voucher (consistent with the principles of the Family Unification program);

Summary: Most respondents were opposed to Federal preferences in any guise, including this one. Several comments suggested that a preference, especially a new preference, was unfair to applicants already on waiting lists, some for several years. Other comments made the point that offering public housing residents a priority for Section 8 placement creates vacancies in public housing.

Response: HUD accepts these criticisms, and does not plan to emphasize use of tenant selection preferences to further the goals described in the ANPRM.

c. Exempt from rent determinations the incremental income of the returning parent for a period of up to three years without adverse effect on the HA's eligibility for operating subsidy under the PFS.

Summary: Income disregards, rent forgiveness, and rent credits elicited more comment than almost any other part of the ANPRM. Only two respondents—both state housing agencies—opposed incentives of this kind, and several respondents recommended expansion of PHAs' latitude to disregard incremental income from a new job, income from a second job or second wage-earner (whether a new family member or not), or any earned income.

Response: Under section 402 of the 1996 Continuing Resolution, PHAs are permitted to adopt optional earned income deductions in determining adjusted income (but are not eligible for commensurate increases in eligibility for operating subsidy); this provision was extended in section 201 of the Department's 1997 Appropriations Act and is in effect at least through September 30, 1997 pending additional legislation.

In addition, the Department's recently-published Optional Earned Income Exclusions Final Rule, published May 5, 1997 (62 FR 24334), permits PHAs to adopt an exclusion for earned income; PFS Operating Subsidy will not increase to cover rental income reductions resulting from such exclusions, but will allow a PHA that achieves net increases in rents from earned income to maintain eligibility for subsidy up to an amount equal to the PFS operating subsidy shortfall (see also the Interim Rule on Performance Funding System—Incentives, published in the **Federal Register** on September 30, 1996 61 FR 51178).

2. To obtain any benefits or incentives offered by an HA program, a returning parent would be required to enter into a formal agreement or contract, binding him or her to comply with the requirements of the HA lease and to make and honor commitments to family members and to the HA community. HUD requested public comments on the nature of such an agreement, and on the range of obligations that could reasonably be demanded of a returning parent. Should HUD create a model form of agreement for this purpose? Are there certain minimum requirements that HUD could itemize, and permit HAs to make additions to reflect local interests? Or should HAs be given maximum latitude to develop their own standards and agreements?

Summary: Responses to this item were nearly as varied as comments on income disregards, ranging from specific recommendations for contract language, to suggestions that all the requirements for positive parental behavior are already written into marriage vows and lawful marriage ought to be a major goal of fatherhood initiatives.

Response: HUD's first conclusion is that the ANPRM was too narrowly focused to have introduced this subject as a contract between the PHA and a returning parent/father. As was correctly pointed out in the comments, the PHA already has a lease with the subject family, and if a returning father joins that household, he becomes subject to that lease. If there is another agreement, securing additional rights or privileges beyond those of the leasehold, that agreement would be between the program participant—the returning parent, presumably—and the service agency managing the fatherhood program. That service agency may or may not be a PHA; experiences related at HUD's roundtable suggested that in many cases, if not most often, the service agency would not be a PHA, but a wholly separate community services entity whose clientele could include PHA families but would not be limited to PHA families. The substance and the enforcement of any such additional agreement, and the range of benefits secured by the agreement—employment, employment counseling, job training, behavior counseling—would be entirely between the signatories; neither HUD nor the PHA need necessarily be involved in that agreement.

HUD anticipates that the ''best practices'' study will develop a variety of agreements and components of agreements from which service providers, including any PHAs that elect to manage their own fatherhood initiative, can develop agreements suited to their specific situations.

A second major observation is that, particularly in the context of returning parents and re-uniting families, agreements between the absentee parent and the service agency are necessarily secondary to an agreement between the public housing leaseholder and the absentee parent. If the parent or grandparent is living in public housing with the children, then as a practical matter, that person will exert far more influence and control than the PHA or the service agency over the terms under which the absentee parent establishes or re-establishes a relationship with the children.

This observation also responds to several comments to the effect that restoring an absent parent to a household is not necessarily a good idea; sometimes the best resolution is for the absentee to remain absent. HUD's goal in fostering local fatherhood

initiatives is to facilitate plans that will enable absentee parents, especially fathers, to establish or re-establish positive social and/or economic links with their children, but HUD also recognizes that any such links must be mutually agreeable to the absentee and the custodial parent.

Summary: There were specific comments to the effect that HUD and/or the PHAs should encourage, or even require, lawful marriages as part of this effort.

Response: The policies and authorizations incident to this initiative are intended to facilitate the establishment or re establishment of positive social and economic links between absentee parents and their children in public housing communities; any explicit prescription concerning linkages or relationships among adult residents is beyond the scope of HUD rulemaking.

3. HUD's position is that participants must be subject to admissions screening, to assure the rest of the community that the new or re-joining family member would not constitute any special threat to the peace and quiet of the neighborhood.

Summary: Respondents were nearly unanimous in favor of rigorous screening of all applicants, including persons joining or re-joining resident families.

Response: HUD will instruct developers of subsequent guidance material to make explicit that housing authorities have the right to review and to reject persons proposing to join (or re-join) resident families, irrespective of the applicant's relationship to the resident family or of any prior leasehold interest enjoyed by that person: if someone has left the household, return is not necessarily automatic.

Summary: Several comments suggested that there was an apparent conflict between the ''one-strike'' provisions of section 9 of the Housing Opportunity Program Extension Act of 1996 (Pub. L. 104–120, approved March 28, 1996) (the ''Extension Act'') and out-reach efforts to engage absentee parents in public housing communities.

Response: HUD has reviewed those comments and the cited statute, and is of the opinion that there is no conflict between this initiative and the Extension Act. Section 16(e)(2) of the Extension Act sets forth several exceptions to the Extension Act's rule that Public Housing authorities must deny assistance to persons who have a pattern of use of a controlled substance or a pattern of abuse of alcohol that interferes with the health, safety, or right to peaceful enjoyment of the premises by others. The Extension Act states that in determining whether to deny occupancy or assistance, a housing authority may consider whether an individual:

(A) Has successfully completed a supervised drug or alcohol rehabilitation program and is no longer engaging in the use of a controlled substance or abuse of alcohol (as applicable); or

(B) Has otherwise been rehabilitated successfully and is no longer engaging in the use of a controlled substance or abuse of alcohol (as applicable); or

(C) Is participating in a supervised drug or alcohol rehabilitation program (as applicable) and is no longer engaging in the illegal use of a controlled substance or abuse of alcohol (as applicable).

For purposes of screening tenants who would join or re-join public housing resident households, the PHA should take into consideration an applicant's participation in a Fatherhood Initiative. Where that services or counseling program includes a substance abuse counseling component, the housing authority may, but is not required to, accept that as compliance with the rehabilitation provisions of the one-strike limitations in section 16(e)(2), and permit an exemption from the prohibitions of sections 6(r) and 16(e)(1) of the United States Housing Act of 1937 (1937 Act).

In addition to screening for admission or re-admission to residency in a public housing community, the issue of screening for acceptance into an employment, job training, or other social service program was subsumed in the ANPRM's reference to ''screening.'' In response to comments on the ANPRM and information shared at the roundtable, the Department recognizes that criteria for participation in a services program are not necessarily the same as tenant selection criteria. HUD anticipates that the best practices study will include a variety of selection factors and screening techniques from which service providers, including any PHAs that elect to manage their own fatherhood initiative, can develop procedures suited to their specific situations.

4. Returning parents, or a parent newly accepting a responsible role in a family, would be required to participate in a parenting and/or counseling program. To the extent that some returning parents may have been involved in domestic violence or abuse, such counseling or training must have been completed before admission or re-admission to the HA housing. Parenting training or counseling would be allowable budget costs for the HA.

Summary: Respondents were generally in favor of parent training and counseling, and not necessarily limited to new or returning parents, but several PHAs objected to the suggestion that such services could be operated or financed by the housing authority.

Response: HUD's response is to remind all concerned that certain PHA-provided tenant services and management of external services are already allowable costs under PFS procedures, at least to the extent that such services are part of an approved Family Self Sufficiency plan under section 23 of the 1937 Act.

Where participation in a parenting class, anti-abuse counseling, or any other sort of behavior counseling is a component of a non-PHA service agency's program, the PHA has the latitude to accept or reject an applicant for admission (or re-admission) to public housing, irrespective of the applicant's participation in the training or counseling program, in accordance with the PHA's tenant selection and screening policies or procedures.

5. The Hartford Family Reunification model includes an explicit requirement that returning parents be and remain free of substance abuse, including provisions for pre-admission testing and subsequent random testing for substance abuse. Testing is at the expense of the housing authority. HUD is interested in public comments on such drug abstinence and drug testing requirements and policies.

Summary: As stated in the ANPRM, the discussion of drug abstinence and drug testing unfortunately blurs the distinction between public housing residency versus participation in employment, training, and services programs. Responding housing authorities were nearly unanimous in opposition to substance abuse testing requirements for returning fathers (although a few comments were positive toward universal substance abuse testing). Negative comments cited issues of discrimination against a particular segment of PHAs' clientele, the inappropriateness of PHAs' involvement in medical processes, PHAs' lack of capacity to manage or operate a substance abuse testing or identification program, and the costs of such an undertaking.

Response: Where a service provider operates a fatherhood initiative that includes a substance abuse testing component, existing regulations authorize PHAs to take into account the results of testing for controlled substances in screening potential residents, including parents seeking to

re-establish residency with their families.

PHAs can also condition continued rent abatement or income disregard benefits on a resident's successful participation in an employment, training, or services program, including success in abstinence from controlled substances where that abstinence is a condition of the program.

Dated: October 17, 1997.

Kevin Emanuel Marchman,

Acting Assistant Secretary for Public and Indian Housing.

[FR Doc. 97–28080 Filed 10–22–97; 8:45 am]

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The items in this list were editorially compiled as an aid to Federal Register users. Inclusion or exclusion from this list has no legal significance.

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